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Lead Counsel for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

In re VALEANT PHARMACEUTICALS INTERNATIONAL, INC. SECURITIES LITIGATION This Document Relates To: SECURITIES CLASS ACTION.	Master No. 3:15-cv-07658-MAS-LHG CLASS ACTION Judge Michael A. Shipp Magistrate Judge Lois H. Goodman Special Master Dennis M. Cavanaugh, U.S.D.J. (ret.) REPLY DECLARATION OF CHRISTOPHER A. SEEGER IN SUPPORT OF MOTIONS FOR FINAL APPROVAL OF: (1) CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION; AND (2) AN AWARD OF ATTORNEYS' FEES AND EXPENSES AND AWARDS TO PLAINTIFFS PURSUANT TO 15 U.S.C. §78u-4(a)(4)

CHRISTOPHER A. SEEGER, under penalty of perjury, declares and certifies as follows:

1. I am a member of the bar of the State of New Jersey and am admitted to practice before this Court. I am a member of the law firm of Seeger Weiss LLP, one of the counsel of record for Lead Plaintiff in the above-entitled action. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto.

2. I make this Declaration based on my personal knowledge in further support of Motions for Final Approval of: (1) Class Action Settlement and Plan of Allocation; and (2) an Award of Attorneys' Fees and Expenses and Awards to Plaintiffs Pursuant to 15 U.S.C. §78u-4(a)(4).

3. Attached are true and correct copies of the following exhibits:

Exhibit A: Stock Price Data for Bausch Health Companies (formerly known as Valeant Pharmaceuticals International, Inc.) obtained from *Bloomberg*.

Exhibit B: Excerpt from Hearing Transcript of *In re American Realty Cap. Props., Inc. Litig.*, No. 1:15-mc-00040-AKH (S.D.N.Y. Jan. 23, 2020).

Exhibit C: Department of Justice Press Release, dated June 30, 2017.

Exhibit D: SEC Press Release, dated July 17, 2019; VEREIT, Inc. Press Release, dated November 18, 2019.

Exhibit E: Excerpt from VEREIT, Inc., Quarterly Report (Form 10-Q) (Nov. 6, 2019).

Exhibit F: Excerpt from BP p.l.c. Group results (July 26, 2016); SEC Press Release, dated November 15, 2012.

Exhibit G: Excerpt from Lucent Technologies Inc, Quarterly Report (Form 10-Q) (Aug. 13, 2003); Notice, *In re Lucent Techs. Inc. Sec. Litig.*, No. 00-cv-621 (JAP) (D.N.J.).

Exhibit H: January 10, 2020 email from Andrew J. Entwistle.

Exhibit I: Joint Declaration of Vincent R. Cappucci, Jay W. Eisenhofer and Darren J. Robbins, *Florida State Bd. of Admin. v. Deloitte & Touche, LLP*, No. 3:03-0027 (M.D. Tenn.).

Exhibit J: Declaration of Michael A. Marek, *In re Luminent Mortgage Capital, Inc. Sec. Litig.*, No. 07-4073 (N.D. Cal.).

Exhibit K: Declaration of Bjorn I. Steinholt, CFA, *In re Veritas Software Corp. Sec. Litig.*, No. C-03-0283-MMC (N.D. Cal.).

Exhibit L: Notice, *Garden City Emps.' Ret. Sys. v. Psychiatric Sols., Inc.*, No. 3:09-cv-00882-WJH (M.D. Tenn.).

Exhibit M: Notice, *In re Hovnanian Enterprises, Inc. Sec. Litig.*, No. 2:08-cv-00999 (SDW) (MCA) (D.N.J.).

Exhibit N: Excerpts of Notices.

In accordance with 28 U.S.C. §1746, I hereby declare under penalty of perjury that the foregoing is true and correct.

DATED: May 20, 2020

/s/ Christopher A. Seeger
CHRISTOPHER A. SEEGER

EXHIBIT A

Bausch Health Companies Inc. / Valeant Pharmaceuticals International, Inc.		
Source: Bloomberg		
DATES	**VOLUME**	**PRICE**
12/2/2019	3,840,351	$28.54
12/3/2019	3,300,740	$28.27
12/4/2019	3,719,985	$28.68
12/5/2019	3,514,540	$28.95
12/6/2019	4,074,414	$29.11
12/9/2019	4,677,499	$29.21
12/10/2019	4,565,808	$29.24
12/11/2019	5,611,660	$29.33
12/12/2019	13,209,415	$31.89
12/13/2019	4,951,002	$31.00
12/16/2019	5,526,532	$30.32
12/17/2019	4,125,432	$29.50
12/18/2019	3,407,494	$29.12
12/19/2019	3,817,007	$29.90
12/20/2019	2,947,471	$30.00
12/23/2019	1,659,579	$29.91
12/24/2019	778,317	$29.87
12/26/2019	1,427,474	$29.69
12/27/2019	1,808,230	$29.70
12/30/2019	3,153,372	$29.44
12/31/2019	2,200,470	$29.92
1/2/2020	2,833,292	$29.91
1/3/2020	2,704,547	$29.42
1/6/2020	2,493,813	$28.86
1/7/2020	3,837,588	$28.57
1/8/2020	3,122,394	$28.50
1/9/2020	3,549,165	$28.01
1/10/2020	2,782,120	$27.65
1/13/2020	3,071,221	$28.12
1/14/2020	3,914,427	$28.52
1/15/2020	2,751,531	$29.05
1/16/2020	4,836,789	$29.75
1/17/2020	5,212,621	$30.25
1/21/2020	4,093,776	$29.73
1/22/2020	2,654,006	$29.51
1/23/2020	1,997,932	$29.19
1/24/2020	4,813,102	$28.40
1/27/2020	2,189,145	$28.35
1/28/2020	2,438,275	$29.21
1/29/2020	1,880,639	$29.15
1/30/2020	2,394,339	$28.35
1/31/2020	4,708,224	$27.43
2/3/2020	2,371,570	$27.92
2/4/2020	3,472,632	$28.82
2/5/2020	2,037,498	$29.06
2/6/2020	1,382,090	$28.92
2/7/2020	2,318,869	$28.15

2/10/2020	1,730,753	$28.19
2/11/2020	3,825,711	$28.17
2/12/2020	1,925,050	$28.55
2/13/2020	4,603,576	$27.43
2/14/2020	3,621,051	$27.74
2/18/2020	3,462,853	$28.05
2/19/2020	13,545,948	$26.46
2/20/2020	6,885,151	$26.41
2/21/2020	4,197,526	$26.50
2/24/2020	5,075,964	$26.00
2/25/2020	6,098,991	$24.77
2/26/2020	7,018,088	$24.44
2/27/2020	7,963,365	$22.52
2/28/2020	8,332,685	$22.13
3/2/2020	7,152,741	$23.09
3/3/2020	8,672,069	$23.02
3/4/2020	4,211,747	$23.13
3/5/2020	4,654,685	$22.45
3/6/2020	7,639,076	$20.96
3/9/2020	7,891,996	$18.27
3/10/2020	6,628,200	$19.36
3/11/2020	6,336,810	$18.45
3/12/2020	10,725,819	$16.22
3/13/2020	6,963,370	$18.80
3/16/2020	7,643,604	$14.96
3/17/2020	6,972,186	$14.71
3/18/2020	10,129,260	$12.98
3/19/2020	7,162,576	$14.13
3/20/2020	10,121,136	$13.66
3/23/2020	6,983,643	$13.27
3/24/2020	4,898,301	$14.91
3/25/2020	7,518,179	$15.77
3/26/2020	6,341,814	$15.44
3/27/2020	5,141,710	$14.51
3/30/2020	5,998,797	$15.25
3/31/2020	4,296,457	$15.50
4/1/2020	4,360,799	$13.75
4/2/2020	4,162,554	$13.58
4/3/2020	6,869,580	$13.31
4/6/2020	6,191,344	$14.62
4/7/2020	7,380,206	$14.85
4/8/2020	5,413,504	$15.68
4/9/2020	10,867,937	$18.01
4/13/2020	5,593,622	$17.84
4/14/2020	4,268,122	$18.36
4/15/2020	3,219,466	$17.54
4/16/2020	3,285,591	$16.92
4/17/2020	3,713,250	$17.41
4/20/2020	3,829,952	$17.24
4/21/2020	3,997,212	$16.24
4/22/2020	4,321,846	$16.36
4/23/2020	8,244,845	$16.32
4/24/2020	7,142,864	$16.92
4/27/2020	6,147,497	$18.11
4/28/2020	5,312,676	$17.52

4/29/2020	5,189,728	$18.39
4/30/2020	4,748,938	$18.12
5/1/2020	3,486,503	$17.16
5/4/2020	5,841,837	$16.68
5/5/2020	4,938,572	$16.78
5/6/2020	8,051,527	$17.12
5/7/2020	16,839,213	$15.87
5/8/2020	9,562,263	$16.81
5/11/2020	6,332,795	$16.88
5/12/2020	8,471,514	$17.16
5/13/2020	6,800,127	$16.37
5/14/2020	6,218,411	$15.95
5/15/2020	7,652,677	$15.74
5/18/2020	9,117,140	$17.36
5/19/2020	6,492,774	$17.93

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------x

In Re:

15-MC-40 (AKH)

AMERICAN REALTY CAPITAL
PROPERTIES, INC. LITIGATION,

Fairness Hearing

----------x

New York, N.Y.
January 23, 2019
10:15 a.m.

Before:

HON. ALVIN K. HELLERSTEIN

District Judge

APPEARANCES

ROBBINS GELLER RUDMAN & DOWD LLP
Attorneys for TIAA and Class Plaintiffs
BY: DEBRA J. WYMAN, ESQ.
MICHAEL J. DOWD, ESQ.
ROBERT M. ROTHMAN, ESQ.
ELLEN GUSIKOFF-STEWART, ESQ.

GLANCY PRONGAY & MURRAY LLP
Attorneys for the Witchko Derivative
BY: MATTHEW M. HOUSTON, ESQ.

MILBANK LLP
Attorneys for Defendant ARCP
BY: SCOTT A. EDELMAN, ESQ.

You're getting a percentage from TIAA in lieu of pay as you go. Therefore you've had to wait. And therefore, from the perspective of TIAA, which is one of the beneficiaries of many in this lawsuit, it's not really arm's-length bargaining.

MR. DOWD: It is, though, your Honor.

THE COURT: It's an indication.

MR. DOWD: I understand.

THE COURT: I accept it as an indication.

MR. DOWD: I'll telling you just what some other courts have said.

THE COURT: I understand.

MR. DOWD: That 12.4 --

THE COURT: I understand some give lodestar and some give percentages.

MR. DOWD: Right.

THE COURT: I give lodestar. I don't give percentages.

MR. DOWD: But the negotiated fee agreement is given a presumption of reasonableness in courts. And that 12.4 percent, your Honor, it's lower, lower than what a lot of people get. It is a contingent fee. We're not getting paid by the hour. It's contingent-fee litigation. And people do it on a percentage basis. That's how it works. And in this courthouse last year somebody got 25 percent on 250 million. The Second Circuit in November affirmed 13 percent on 2.3

EXHIBIT C

United States Department of Justice

THE UNITED STATES ATTORNEY'S OFFICE
SOUTHERN DISTRICT of NEW YORK

Department of Justice

U S Attorney' Office

Southern District of New York

FOR IMMEDIATE RELEASE Friday, June 30, 2017

Former Chief Financial Officer Of American Realty Capital Partners ("ARCP") Found Guilty After Trial Of Accounting Fraud

oon H. Kim, the Acting United States Attorney for the Southern District of New York, announced that a federal jury today found BRIAN BLOCK, the former chief financial officer of the publicly traded real estate nvestment trust ("REIT") formerly known as American Realty Capital Partners ("ARCP"), guilty of inflating a key metric u ed to evaluate the financial performance of publicly traded REIT in ARCP' filing with the U.S. Securities and Exchange Commission (the "SEC"). BLOCK was convicted after a three-week trial before U.S. District Judge J. Paul Oetken.

BLOCK's co-defendant, former chief accounting officer Lisa McAlister, pled guilty to securities fraud and related charges on June 29, 2016.

Acting Manhattan U.S. Joon H. Kim said: "As a unanimous jury found today, Brian Block, the former CFO of ARCP, intentionally misled investors by overstating the health and profitability of his company. This trial revealed that when it looked like ARCP would not meet investors' expectations, Block made up numbers and fudged the book The integrity of our market re t on the truth of the financial information provided to nvestors. And those like Block who lie and manipulate the markets must be identified and held to account."

According to allegation contained in the Indictment and evidence pre ented during the trial in Manhattan federal court:

n 2014, ARCP wa a publicly traded REIT headquartered in Manhattan, New York ARCP' ecuritie traded under the symbol "ARCP" on the National Association of Securities Dealers Automated Quotations "NASDAQ") exchange.

ARCP, like many REITs, measured its financial performance through metrics besides, or in addition to, traditional measurements of company performance calculated using Generally Accepted Accounting Principles ("GAAP"). ARCP calculated and reported to the investing public a non-GAAP measure called adju ted fund from operation , or AFFO, which wa de igned to more accurately reflect ARCP' ca h flow and financial performance by presenting ARCP's income before consideration of non-cash depreciation and amortization expense and by excluding certain one-time charges and expenses. REITs such as ARCP commonly reported their AFFO figures, including AFFO per share, to the investing public and in filings with the SEC ARCP al o provided forward looking guidance to the inve ting public regarding their anticipated AFFO performance in upcoming time periods.

Prior to the filing of ARCP' Form 10 Q etting forth ARCP' financial tatement for the econd quarter of 2014 (the "Second Quarter 10-Q"), BRIAN BLOCK, along with Lisa McAlister and others, came to understand that the method used by ARCP to calculate AFFO in the first quarter of 2014 and in certain previous quarters was erroneously inflated. Another employee of ARCP ("CC-1") had brought this methodological error to the attention of BLOCK, McAli ter, and other hortly before the filing of ARCP' fir t quarter 2014 10-Q (the "First Quarter 10-Q"), but no corrective change was made to the First Quarter 10-Q hile the issue was under review. Following the filing of the First Quarter 10-Q, CC-1 concluded, and advised BLOCK, McAlister, and others, that the reported AFFO per share calculation for the first quarter of 2014 wa over tated by appro imately $0 03 per hare In tead of $0 26 per hare, which wa publicly reported by ARCP to its shareholders and the investing public, and which placed ARCP on track to meet its full-year AFFO per-share guidance, the correct AFFO for the first quarter of 2014 was $0.23 per share.

Despite his knowledge of a material error in ARCP's previous filings with the SEC, BRIAN BLOCK took no steps to advise the Audit Committee of ARCP's Board of Directors, or ARCP's outside auditors, of the error n the First Quarter 10-Q. Moreover, BLOCK, McAlister, and CC-1 then knowingly facilitated the use of the same materially mi leading calculation in ARCP' Second Quarter 10 Q For e ample, on or about July 24, 2014, a draft of ARCP's Second Quarter 10-Q was circulated to members of ARCP's Audit Committee. The draft included an AFFO calculation for the six-month period ending June 30, 2014, that incorporated AFFO figures from the first quarter of 2014 that BLOCK, McAlister, and CC-1 knew to be erroneously inflated.

On or about July 28, 2014, BLOCK met with McAlister and CC-1 in his office in Manhattan for the purpose of finalizing the financial figures that were to be included in ARCP's Second Quarter 10-Q. Utilization of a proper method to calculate ARCP' econd quarter 2014 AFFO would have e po ed that the reported AFFO and AFFO per share figures from the first quarter were inflated. Accordingly, during the meeting, BLOCK, McA ister, and CC-1 inserted into a spreadsheet BLOCK was using to calculate AFFO and AFFO per share for the first and second quarters of 2014 and for the first six months of 2014 ("YTD 2014") figures that fraudulently inflated the AFFO and AFFO per hare calculation that were to be included in the Second Quarter 10-Q and the related ARCP press release. The fraudulent numbers BLOCK, McAlister, and CC-1 used to inflate the AFFO and AFFO per share figures had no basis in fact, were without documentary support, and did not tie to ARCP's general ledger accounting system, as BLOCK knew and understood at the time The fraudulent number included in the pread heet prepared by BLOCK were then incorporated nto ARCP's Second Quarter 10-Q, which was filed with the SEC the following day. As a result of the manipulative efforts of BLOCK, McAlister, and CC-1, ARCP's SEC filings included AFFO and AFFO per share figures for the second quarter of 2014 and for the first six months of 2014 that were fraudulently nflated

The Second Quarter 10-Q was signed by, among others, BRIAN BLOCK. Additionally, on a certification accompanying the 10 Q, BLOCK fal ely certified, among other thing , that the Second Quarter 10 Q did not contain any materially untrue statements or material omissions. He further falsely certified that he had disclosed to ARCP's auditors and the audit committee of its board of directors: "Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's nternal control over financial reporting " In a econd certification accompanying the 10 Q, BLOCK fal ely certified that: "The quarterly report on Form 10-Q of the Company, which accompanies this Certificate, fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and all nformation contained in this quarterly report fairly presents, in all material respects, the financial condition and re ult of operation of the Company "

ith regard to YTD 2014 specifically, the fraud resulted in an intended overstatement of AFFO by appro imately $13 million and an intended over tatement of AFFO per hare by appro imately $0 03, or approximately 5% of total AFFO per share. By reporting AFFO per share of $0.24 in the second quarter, after having reported AFFO per share of $0.26 in the first quarter, BRIAN BLOCK and his co-conspirators misled ARCP's shareholders and the investing public by falsely representing that ARCP's AFFO per share

for the fir t i month of 2014 wa con i tent with analy t ’ e pectation and on track to meet ARCP’ guidance for AFFO per share for calendar year 2014, when in fact, they were not.

* * *

BRIAN BLOCK, 44, of Hatfield, Pennsylvania, was convicted of one count of conspiracy to commit securities fraud and other offen e (Count One), one count of ecuritie fraud (Count Two), two count of making fal e filings with the SEC (Counts Three and Four), and two counts of submitting false certifications along with required filings with the SEC (Counts Five and Six). The securities fraud, false filings charges, and false certification charges each carry a maximum prison term of 20 years. The charge of conspiracy carries a ma imum pri on term of five year

The maximum potential sentences in this case are prescribed by Congress and are provided here for nformational purpo e only, a any entencing of the defendant wi l be determined by a judge

Mr. Kim praised the investigative work of the FBI and also thanked the SEC.

This case is being handled by the Office’s Securities and Commodities Fraud Task Force. Assistant U.S. Attorneys Brian Blais, Edward Imperatore, and Daniel Tehrani are in charge of the prosecution.

Topic(s):
inancial Fraud

Component(s):
SAO New York, Southern

Press Release Number:
7 201

Updated June 30, 2017

EXHIBIT D

ENFORCEMENT

Accounting and Aud ting Enforcement Releases

Administrative Proceedings

ALJ In tial Decisions

ALJ Orders

Amicus / Friend of the Court Briefs

Delinquent Filings

Fair Funds

Information for Harmed Investors

L tigat on Releases

Opinions and Adjudicatory Orders

Receiverships

Stop Orders

Trading Suspensions

Former Reit Manager and Executives to Settle SEC Charges for More Than $60 Million

Litigation Release No. 24537 / July 17, 2019

Securities and Exchange Commission v. AR Capital, LLC, et al., No. 19 Civ. 6603 (AT) (S.D.N.Y. filed July 16, 2019)

➤ SEC Complaint

On July 16, 2019, the Securities and Exchange Commission charged AR Capital LLC, its founder Nicholas S. Schorsch of Jenkintown, Pennsylvania, and its former CFO Brian Block of Hatfield, Pennsylvania, with wrongfully obtaining millions of dollars in connection with two separate mergers between real estate investment trusts (REITs) that were sponsored and externally managed by AR Capital. The defendants agreed to settle the matter by, among other things, cumulatively agreeing to over $60 million in disgorgement, prejudgment interest and civil penalties.

According to the SEC's complaint, between late 2012 and early 2014, AR Capital arranged for American Realty Capital Properties Inc. (ARCP), a publicly-traded REIT, to merge with two publicly-held, non-traded REITs. The SEC alleges that AR Capital, Schorsch, and Block, acting in breach of the relevant proxy disclosures, inflated an incentive fee in both mergers. As alleged, this improper calculation allowed them to obtain approximately 2.92 million additional ARCP operating partnership units as part of their incentive-based compensation. In addition, the complaint alleges that the defendants wrongfully obtained at least $7.27 million in unsupported charges from asset purchase and sale agreements entered into in connection with the mergers.

The SEC's complaint, filed in federal district court in Manhattan, charges AR Capital and Block with violating the antifraud provisions of Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Exchange Act and Rule 10b-5(b) thereunder, and falsifying books and records of ARCP in violation of Exchange Act Section 13(b)(5) and Rule 13b2-1. The complaint charges Schorsch with negligently violating the antifraud provisions of Sections 17(a)(2) and (3) of the Securities Act of 1933, as well as books and records violations in violation of Exchange Act Rule 13b2-1.

Without admitting or denying the allegations in the complaint, AR Capital, Schorsch, and Block have consented to entry of a final judgment that imposes permanent injunctions from violations of the charged provisions; orders combined disgorgement and prejudgment interest on a joint-and-several basis of over $39 million, which includes cash and the return of the wrongfully obtained ARCP operating partnership units; and imposes civil penalties of $14 million against AR Capital, $7 million against Schorsch, and $750,000 against Block. The settlements are subject to court approval.

The SEC's investigation has been conducted by Victor Suthammanont, Janna I. Berke, Hane L. Kim, Karen Willenken, Nancy A. Brown, and Wendy B. Tepperman of the SEC's New York office, and supervised by Sanjay Wadhwa.

For further information, see Press Release No. 2016-180 (Sept. 8 2016).

Modified: July 17, 2019

VEREIT® Reaches Agreement to Settle Pending SEC Investigation

NEWS PROVIDED BY
VEREIT, Inc. →
Nov 18, 2019, 17:25 ET

PHOENIX, Nov. 18, 2019 /PRNewswire/ -- VEREIT, Inc. (NYSE: VER) and VEREIT Operating Partnership, L.P. (together with VEREIT, Inc., "VEREIT" or the "Company") announced today that the Company and the staff of the Enforcement Division of the Securities Exchange Commission ("SEC") have reached agreement on the material terms of a negotiated resolution relating to the SEC's investigation of the matters disclosed in the Company's October 29, 2014 Form 8-K relating to, among other things, the preliminary results of an investigation conducted by the Company's audit committee regarding certain accounting practices. The agreement with the SEC staff, which is subject to documentation and approval by the SEC's Commissioners, includes payment of $8 million as a civil penalty.

About the Company

VEREIT is a full-service real estate operating company which owns and manages one of the largest portfolios of single-tenant commercial properties in the U.S. The Company has total real estate investments of $14.9 billion including approximately 3,900 properties and 90.7 million square feet. VEREIT's business model provides equity capital to creditworthy corporations in return for long-term leases on their properties. VEREIT is a publicly traded Maryland corporation listed on the New York Stock Exchange. VEREIT uses, and intends to continue to use, its Investor Relations website, which can be found at www.VEREIT.com, as a means of disclosing material nonpublic information and for complying with its disclosure obligations under Regulations FD. Additional information about VEREIT can be found through social media platforms such as Twitter and LinkedIn.

Forward-Looking Statements

Information set forth herein contains "forward-looking statements" (within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended), which reflect the Company's expectations regarding future events and plans, the negotiation of definitive documentation regarding, and approval of, the settlement of the SEC investigation. Generally, the words "expects," "anticipates," "assumes," "targets," "goals," "projects," "intends," "plans," "believes," "seeks," "estimates," variations of such words and similar expressions identify forward-looking statements. The forward-looking statements involve a number of assumptions, risks, uncertainties and other factors which are difficult to predict, may be beyond the Company's control and that could cause actual results to differ materially from those contained in the forward-looking statements. The following factors, among others, could cause actual results to differ from those set forth in the forward-looking statements: risks associated with obtaining SEC approval of the settlement, and the other factors contained in the Company's filings with the Securities and Exchange Commission, which are available at the Securities and Exchange Commission's website at www.sec.gov. The Company disclaims any obligation to publicly update or revise any forward-looking statements contained in this press release whether as a result of changes in underlying assumptions or factors, new information, future events or otherwise, except as required by law.

SOURCE VEREIT, Inc.

Related Links

http://www.vereit.com

EXHIBIT E

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

(Mark One)

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2019

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from _____ to _____

Commission file numbers: 001-35263 and 333-197780

VEREIT, Inc.

VEREIT Operating Partnership, L.P.

(Exact name of registrant as specified in its charter)

Maryland	**(VEREIT, Inc.)**	**45-2482685**
Delaware	**(VEREIT Operating Partnership, L.P.)**	**45-1255683**
(State or other jurisdiction of incorporation or organization)		(I.R.S. Employer Identification No.)

2325 E. Camelback Road, 9th Floor	**Phoenix**	**AZ**	**85016**
(Address of principal executive offices)			(Zip Code)

800 606-3610

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934:

Title of each class:		*Trading symbol(s):*	*Name of each exchange on which registered:*
Common Stock	$0.01 par value per share (VEREIT, Inc.)	VER	New York Stock Exchange
6.70% Series F Cumulative Redeemable Preferred Stock	$0.01 par value per share (VEREIT, Inc.)	VER PF	New York Stock Exchange

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. VEREIT, Inc. Yes ☒ No ☐ VEREIT Operating Partnership, L.P. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). VEREIT, Inc. Yes ☒ No ☐ VEREIT Operating Partnership, L.P. Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

VEREIT, Inc.	Large accelerated filer	☒	Accelerated filer	☐	Non-accelerated filer	☐
	Smaller reporting company	☐	Emerging growth company	☐		
VEREIT Operating Partnership, L.P.	Large accelerated filer	☐	Accelerated filer	☐	Non-accelerated filer	☒
	Smaller reporting company	☐	Emerging growth company	☐		

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards pursuant to Section 13(a) of the Exchange Act. VEREIT, Inc. ☐ VEREIT Operating Partnership, L.P. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).
VEREIT, Inc. Yes ☐ No ☒ VEREIT Operating Partnership, L.P. Yes ☐ No ☒

There were 1,067,688,887 shares of common stock of VEREIT, Inc. outstanding as of November 1, 2019.

Table of Contents

VEREIT, INC.
CONSOLIDATED BALANCE SHEETS
(In thousands, except for share and per share data) (Unaudited)

PART I — FINANCIAL INFORMATION

Item 1. Unaudited Financial Statements

	September 30, 2019	December 31, 2018
ASSETS		
Real estate investments, at cost:		
Land	$ 2,728,560	$ 2,843,212
Buildings, fixtures and improvements	10,287,047	10,749,228
Intangible lease assets	1,909,932	2,012,399
Total real estate investments, at cost	14,925,539	15,604,839
Less: accumulated depreciation and amortization	3,559,403	3,436,772
Total real estate investments, net	11,366,136	12,168,067
Operating lease right-of-use assets	218,393	—
Investment in unconsolidated entities	69,025	35,289
Cash and cash equivalents	1,029,315	30,758
Restricted cash	20,742	22,905
Rent and tenant receivables and other assets, net	347,455	366,092
Goodwill	1,337,773	1,337,773
Real estate assets held for sale, net	66,684	2,609
Total assets	$ 14,455,523	$ 13,963,493
LIABILITIES AND EQUITY		
Mortgage notes payable, net	$ 1,717,817	$ 1,922,657
Corporate bonds, net	2,622,320	3,368,609
Convertible debt, net	397,726	394,883
Credit facility, net	895,351	401,773
Below-market lease liabilities, net	147,997	173,479
Accounts payable and accrued expenses	1,125,703	145,611
Deferred rent and other liabilities	101,828	69,714
Distributions payable	201,451	186,623
Operating lease liabilities	223,288	—
Total liabilities	7,433,481	6,663,349
Commitments and contingencies (Note 10)		
Preferred stock, $0.01 par value, 100,000,000 shares authorized and 38,871,246 and 42,834,138 issued and outstanding as of September 30, 2019 and December 31, 2018, respectively	389	428
Common stock, $0.01 par value, 1,500,000,000 shares authorized and 1,067,688,887 and 967,515,165 issued and outstanding as of September 30, 2019 and December 31, 2018, respectively	10,677	9,675
Additional paid-in capital	13,360,675	12,615,472
Accumulated other comprehensive loss	(47,886)	(1,280)
Accumulated deficit	(6,306,590)	(5,467,236)
Total stockholders' equity	7,017,265	7,157,059
Non-controlling interests	4,777	143,085
Total equity	7,022,042	7,300,144
Total liabilities and equity	$ 14,455,523	$ 13,963,493

The accompanying notes are an integral part of these statements.

EXHIBIT F

BP p.l.c.
Group results
Second quarter and half year 2016(a)

FOR IMMEDIATE RELEASE

London 26 July 2016

Second quarter 2015	First quarter 2016	Second quarter 2016	$ million	First half 2016	First half 2015
(5,823)	(583)	**(1,419)**	Profit (loss) for the period(b)	**(2,002)**	(3,221)
(443)	98	**(828)**	Inventory holding (gains) losses*, net of tax	**(730)**	(942)
(6,266)	(485)	**(2,247)**	Replacement cost profit (loss)*	**(2,732)**	(4,163)
7,579	1,017	**2,967**	Net (favourable) unfavourable impact of non-operating items* and fair value accounting effects*, net of tax	**3,984**	8,053
1,313	532	**720**	Underlying replacement cost profit*	**1,252**	3,890
(34.25)	(2.63)	**(12.03)**	Replacement cost profit (loss) per ordinary share (cents)	**(14.71)**	(22.77)
(2.05)	(0.16)	**(0.72)**	per ADS (dollars)	**(0.88)**	(1.37)
7.17	2.88	**3.85**	Underlying replacement cost profit per ordinary share (cents)	**6.73**	21.27
0.43	0.17	**0.23**	per ADS (dollars)	**0.40**	1.28

- Replacement cost (RC) loss for the second quarter was $2,247 million, compared with a loss of $6,266 million a year ago. After adjusting for a net charge for non-operating items of $2,819 million and net unfavourable fair value accounting effects of $148 million (both on a post-tax basis), underlying RC profit for the second quarter was $720 million, compared with $1,313 million for the same period in 2015. For the half year, RC loss was $2,732 million, compared with a loss of $4,163 million a year ago. After adjusting for a net charge for non-operating items of $3,597 million and net unfavourable fair value accounting effects of $387 million (both on a post-tax basis), underlying RC profit for the half year was $1,252 million, compared with $3,890 million for the same period in 2015. The lower result arises mainly due to the impact of lower oil and gas realizations on the Upstream result. Non-operating items include a restructuring charge of $68 million for the quarter and $414 million for the half year. Cumulative restructuring charges from the beginning of the fourth quarter 2014 totalled $1.9 billion by the end of the second quarter 2016.

- All amounts, including finance costs, relating to the Gulf of Mexico oil spill have been treated as non-operating items, with a net pre-tax charge of $5,229 million for the second quarter and $6,146 million for the half year. As announced on 14 July 2016, following significant progress in resolving outstanding claims arising from the 2010 Deepwater Horizon accident and oil spill, a reliable estimate has now been determined for all remaining material liabilities arising from the incident, and a charge has been recorded this quarter. For further information on the Gulf of Mexico oil spill and its consequences see page 9 and Note 2 on page 17. See also Legal proceedings on page 33.

- Net cash provided by operating activities for the second quarter and half year was $3.9 billion and $5.8 billion respectively, compared with $6.3 billion and $8.1 billion for the same periods in 2015. Excluding post-tax amounts related to the Gulf of Mexico oil spill, net cash provided by operating activities for the second quarter and half year was $5.3 billion and $8.3 billion respectively, compared with $6.4 billion and $8.9 billion for the same periods in 2015.

- Net debt* at 30 June 2016 was $30.9 billion, compared with $24.8 billion a year ago. The net debt ratio* at 30 June 2016 was 24.7%, compared with 18.8% a year ago. Net debt and the net debt ratio are non-GAAP measures. See page 24 for more information.

- Capital expenditure on an accruals basis* for the second quarter was $4.2 billion, of which organic capital expenditure* was $3.9 billion, compared with $4.7 billion for the same period in 2015, of which organic capital expenditure was $4.5 billion. For the half year, capital expenditure on an accruals basis was $8.1 billion, of which organic capital expenditure was $7.9 billion, compared with $9.1 billion for the same period in 2015, of which organic capital expenditure was $8.9 billion. See page 26 for further information.

- Disposal proceeds, as per the cash flow statement, were $0.4 billion for the second quarter and $1.6 billion for the half year, compared with $0.5 billion and $2.3 billion for the same periods in 2015. In addition, $0.3 billion was received in the second quarter in relation to the sale of approximately 11.5% from our shareholding in Castrol India Limited.

- BP today announced a quarterly dividend of 10.00 cents per ordinary share ($0.600 per ADS), which is expected to be paid on 16 September 2016. The corresponding amount in sterling will be announced on 6 September 2016. See page 23 for further information.

* For items marked with an asterisk throughout this document, definitions are provided in the Glossary on page 30.

(a) This results announcement also represents BP's half-year financial report (see page 10).
(b) Profit attributable to BP shareholders.

The commentaries above and following should be read in conjunction with the cautionary statement on page 35.

Group balance sheet

$ million	30 June 2016	31 December 2015
Non-current assets		
Property, plant and equipment	125,946	129,758
Goodwill	11,288	11,627
Intangible assets	18,444	18,660
Investments in joint ventures	8,324	8,412
Investments in associates	11,221	9,422
Other investments	1,002	1,002
Fixed assets	176,225	178,881
Loans	500	529
Trade and other receivables	2,193	2,216
Derivative financial instruments	5,286	4,409
Prepayments	1,020	1,003
Deferred tax assets	4,573	1,545
Defined benefit pension plan surpluses	774	2,647
	190,571	191,230
Current assets		
Loans	242	272
Inventories	16,398	14,142
Trade and other receivables	22,672	22,323
Derivative financial instruments	2,934	4,242
Prepayments	1,941	1,838
Current tax receivable	374	599
Other investments	107	219
Cash and cash equivalents	23,517	26,389
	68,185	70,024
Assets classified as held for sale (Note 3)	4,380	578
	72,565	70,602
Total assets	263,136	261,832
Current liabilities		
Trade and other payables	36,561	31,949
Derivative financial instruments	2,139	3,239
Accruals	4,918	6,261
Finance debt	5,120	6,944
Current tax payable	1,310	1,080
Provisions	5,637	5,154
	55,685	54,627
Liabilities directly associated with assets classified as held for sale (Note 3)	2,525	97
	58,210	54,724
Non-current liabilities		
Other payables	13,870	2,910
Derivative financial instruments	4,268	4,283
Accruals	502	890
Finance debt	50,607	46,224
Deferred tax liabilities	7,797	9,599
Provisions	23,693	35,960
Defined benefit pension plan and other post-retirement benefit plan deficits	10,081	8,855
	110,818	108,721
Total liabilities	169,028	163,445
Net assets	94,108	98,387
Equity		
BP shareholders' equity	92,726	97,216
Non-controlling interests	1,382	1,171
Total equity	94,108	98,387

Press Release

BP to Pay $525 Million Penalty to Settle SEC Charges of Securities Fraud During Deepwater Horizon Oil Spill

FOR IMMEDIATE RELEASE
2012-231

Washington, D.C., Nov. 15, 2012 — The Securities and Exchange Commission today charged BP p.l.c. with mi leading inve tor while it Deepwater Horizon oil rig wa gu hing into the Gulf of Me ico by ignificantly understating the flow rate in multiple reports filed with the SEC.

The SEC allege that the global oil and ga company headquartered in London made fraudulent public tatement indicating a flow rate estimate of 5,000 barrels of oil per day. BP reported this figure despite its own internal data indicating that potential flow rates could be as high as 146,000 barrels of oil per day. BP executives also made numerous public statements after the filings were made in which they stood behind the flow rate estimate of 5,000 barrel of oil per day even though they had internal data indicating otherwi e In fact, they criticized other much higher estimates by third parties as scaremongering. Months later, a government task force determined the flow rate estimate was actually more than 10 times higher at 52,700 to 62,200 barrels of oil per day, yet BP never corrected or updated the misrepresentations and omissions it made in SEC filings for investors.

BP agreed to settle the SEC's charges by paying the third-largest penalty in agency history at $525 million. The SEC plans to establish a Fair Fund with the BP penalty to provide harmed investors with compensation for losses they u tained in the fraud The SEC announced the ca e today along with the Attorney General and other enior officials at the Justice Department, which brought a criminal action against BP.

"The oil pill wa cata trophic for the environment, but by hiding it everity BP al o harmed another con tituency – its own shareholders and the investing public who are entitled to transparency, accuracy, and completeness of company information, particularly in times of crisis," said Robert Khuzami, Director of the SEC's Division of Enforcement. "Good corporate citizenship and responsible crisis management means that a company can't hide critical information imply becau e it fear the backla h "

Daniel M. Hawke, Director of the SEC's Philadelphia Regional Office and Chief of the Enforcement Division's Market Abu e Unit, aid, "Without accurate critical flow rate data known only to BP, the company denied it shareholders and investors the opportunity to fairly assess BP's potential liabilities and true financial condition."

According to the SEC' complaint filed in the U S Di trict Court for the Ea tern Di trict of Loui iana, BP tated that the flow rate was estimated to be 5,000 barrels of oil per day (bopd) in three separate Forms 6-K filed with the SEC following the Deepwater Horizon oil rig explosion on April 20, 2010. In a 6-K filed on April 29, BP stated in part, "[e]fforts continue to stem the flow of oil from the well, currently estimated at up to 5,000 bopd[.]" BP filed another report the ne t day imilarly referencing "[e]ffort to tem the flow from the well, currently e timated at up to 5,000 barrels a day are continuing[.]"

The SEC allege that when the company made tho e tatement , BP po e ed at lea t five different flow rate calculations, estimates, or data indicating a much higher flow rate. BP did not possess or generate any piece of data suggesting that 5,000 bopd represented a ceiling for the rate of oil flowing into the Gulf of Mexico or was the

be t e timate The failure to di clo e the e i tence of the e higher e timate rendered BP' tatement in it Reports on Form 6-K materially false and misleading.

According to the SEC' complaint, BP i ued another 6 K on May 4 that tated, "Accurate e timation of the rate of flow is difficult, but current estimates by the U.S. National Oceanic and Atmospheric Administration (NOAA) suggest that some 5,000 barrels (210,000 US gallons) of oil per day are escaping from the well."

The SEC alleges that BP omitted from its disclosure the material fact that, by this date, it possessed at least six estimates, calculations and data indicating that the oil flow rate far exceeded 5,000 bopd. Therefore, it was no longer accurate to suggest that 5,000 bopd was the best estimate or that the NOAA estimate was the current e timate

The SEC's complaint further alleges that BP executives made numerous public statements in May 2010 supporting the 5,000 bopd flow rate e timate and criticizing other e timate de pite internal evidence howing that flow rate were likely well in excess of 5,000 bopd. Eventually on August 2, the Flow Rate Technical Group consisting of government and academic experts tasked with reaching a final official flow rate estimate announced that the flow rate estimate was 52,700 to 62,200 bopd. BP never corrected or updated its material misrepresentations and omi ion about the flow rate

BP has consented to the entry of a final judgment ordering it to pay the $525 million penalty and permanently re training and enjoining the company from violating Section 10(b) and 13(a) of the Securitie E change Act of 1934 and Rules 10b-5, 12b-20 and 13a-16. The proposed final judgment is subject to court approval.

The SEC' inve tigation, which i continuing, ha been conducted by Brian P Thoma , Matthew S Raalf, Kelly L Gibson, Michael F. McGraw, John S. Rymas, Colleen K. Lynch, Jeffrey Boujoukos, Michael J. Rinaldi, and Elaine C. Greenberg in the Philadelphia Regional Office. The SEC appreciates the assistance of the Department of Justice's Deepwater Horizon Task Force and the United Kingdom Financial Services Authority.

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Related Materials

- SEC Enforcement Director Robert huzami Remarks at News Conference
- SEC Complaint

EXHIBIT G

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<DESCRIPTION>LUCENT TECHNOLOGIES
<TEXT>

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AS FILED WITH THE SEC ON AUGUST 13, 2003

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

[X] QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE

SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended June 30, 2003

OR

[ ] TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF

THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____to _____

Commission file number 001-11639

LUCENT TECHNOLOGIES INC.

A Delaware Corporation	I.R.S. Employer No. 22-3408857

600 Mountain Avenue, Murray Hill, New Jersey 07974

Telephone Number: 908-582-8500

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes [X] No [ ]

At July 31, 2003, 4,160,571,938 common shares were outstanding.

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PART 1 - Financial Information

Item 1. Financial Statements

LUCENT TECHNOLOGIES INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Amounts in Millions, Except Per Share Amounts)
(Unaudited)

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	Three months ended June 30,		Nine months ended June 30,	
	2003	2002	2003	2002

<S>	<C>	<C>	<C>	<C>
Revenues:				
Products	$ 1,526	$2,304	$ 5,099	$7,883
Services	439	645	1,344	2,161
Total revenues	1,965	2,949	6,443	10,044
Costs:				
Products	1,041	1,738	3,523	6,376
Services	351	560	1,131	1,780
Total costs	1,392	2,298	4,654	8,156
Gross margin	573	651	1,789	1,888
Operating expenses:				
Selling, general and administrative	412	871	1,299	2,992
Research and development	382	480	1,153	1,625
Goodwill impairment	35	811	35	811
Business restructuring charges (reversals) and asset impairments, net	13	791	(137)	653
Total operating expenses	842	2,953	2,350	6,081
Operating loss	(269)	(2,302)	(561)	(4,193)
Other income (expense), net	31	(261)	(436)	242
Interest expense	85	107	258	284
Loss from continuing operations before income taxes	(323)	(2,670)	(1,255)	(4,235)
Provision for (benefit from) income taxes	(69)	5,329	(386)	4,782
Loss from continuing operations	(254)	(7,999)	(869)	(9,017)
(Loss) income from discontinued operations, net	-	(27)	-	73
Net loss	(254)	(8,026)	(869)	(8,944)
Conversion cost - 8.00% redeemable convertible preferred stock	(20)	-	(286)	-
Preferred stock dividends and accretion	(21)	(42)	(82)	(124)
Net loss applicable to common shareowners	$ (295)	$(8,068)	$(1,237)	$(9,068)
Loss per common share - basic and diluted				
Loss from continuing operations	$(0.07)	$(2.34)	$ (0.32)	$(2.67)
(Loss) income from discontinued operations	-	$(0.01)	-	$ 0.02
Net loss applicable to common shareowners	$(0.07)	$(2.35)	$ (0.32)	$(2.65)
Weighted average number of common shares outstanding - basic and diluted	4,120.6	3,428.5	3,882.3	3,422.5

</TABLE>

See Notes to Consolidated Financial Statements.

<Page>

LUCENT TECHNOLOGIES INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(Amounts in Millions, Except Per Share Amounts)
(Unaudited)

<TABLE>
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	June 30, 2003	September 30, 2002
<S>	<C>	<C>
ASSETS		
Cash and cash equivalents	$ 4,339	$2,894
Short-term investments	589	1,526
Receivables, less allowance of $272 and $325, respectively	1,620	1,647
Inventories	806	1,363
Contracts in process, net of progress billings of $10,551 and $10,314, respectively	70	10
Other current assets	1,181	1,715
Total current assets	8,605	9,155
Property, plant and equipment, net	1,705	1,977
Prepaid pension costs	4,483	4,355
Goodwill and other acquired intangibles, net	189	224
Other assets	1,954	2,080

Total assets	$ 16,936	$17,791
LIABILITIES		
Accounts payable	$ 1,221	$1,298
Payroll and benefit-related liabilities	776	1,094
Debt maturing within one year	616	120
Other current liabilities	2,866	3,814
Total current liabilities	5,479	6,326
Postretirement and postemployment benefit liabilities	4,935	5,230
Pension liabilities	2,357	2,752
Long-term debt	4,687	3,236
Company-obligated mandatorily redeemable preferred securities of subsidiary trust	1,152	1,750
Other liabilities	1,351	1,551
Total liabilities	19,961	20,845
Commitments and contingencies		
8.00% redeemable convertible preferred stock	933	1,680
SHAREOWNERS' DEFICIT		
Preferred stock - par value $1.00 per share; Authorized shares: 250.0; issued and outstanding shares: none	-	-
Common stock - par value $.01 per share; Authorized shares: 10,000.0; 4,143.8 issued and 4,142.5 outstanding shares at June 30, 2003 and 3,491.6 issued and 3,490.3 outstanding shares at September 30, 2002	41	35
Additional paid-in capital	22,096	20,606
Accumulated deficit	(22,894)	(22,025)
Accumulated other comprehensive loss	(3,201)	(3,350)
Total shareowners' deficit	(3,958)	(4,734)
Total liabilities, redeemable convertible preferred stock and shareowners' deficit	$ 16,936	$ 17,791

</TABLE>

See Notes to Consolidated Financial Statements.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

IN RE LUCENT TECHNOLOGIES INC. SECURITIES LITIGATION	Case No. 00-CV-621 (JAP)

NOTICE OF PENDENCY OF CLASS ACTION, HEARING ON PROPOSED SETTLEMENT AND ATTORNEYS' FEE PETITION AND RIGHT TO SHARE IN SETTLEMENT FUND

TO: ALL PERSONS OR ENTITIES WHO PURCHASED LUCENT TECHNOLOGIES INC. ("LUCENT") COMMON STOCK DURING THE PERIOD OCTOBER 26, 1999 THROUGH AND INCLUDING DECEMBER 20, 2000 (THE "CLASS PERIOD") AND WHO WERE DAMAGED THEREBY.

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. IT RELATES TO A PROPOSED SETTLEMENT OF THIS CLASS ACTION AND, IF YOU ARE A CLASS MEMBER, CONTAINS IMPORTANT INFORMATION AS TO YOUR RIGHTS.

I. SUMMARY OF SETTLEMENT

1. **Statement of Plaintiff Recovery:** Lead Plaintiffs, individually and as representatives of the Class, have entered into a proposed settlement (the "Settlement") of this action (the "Action" or the "Lucent Common Stock Class Action") with Defendants, that will resolve all claims of plaintiffs and the Class against Defendants. The Settlement will create a settlement fund consisting of $113,400,000 in cash; $246,750,000 worth of additional cash or shares of Lucent common stock; $24,000,000 worth of shares of Avaya, Inc. ("Avaya") common stock; and Warrants to purchase 200 million shares of Lucent common stock at a price of $2.75 per share, which, according to Lucent, were worth $128,000,000 at the end of its second quarter (the "Gross Settlement Fund"). Additionally, Lucent will pay up to $5 million to cover the costs of providing notice to the Class and administering the Settlement. The Settlement is currently valued at approximately $517 million. (Please note, the value of the securities issued as part of the settlement consideration will fluctuate depending upon, among other things, the trading prices of Lucent and Avaya common stock.) The average recovery per damaged share will depend on a number of variables, including when and for what price Class Members purchased and/or sold their shares of Lucent common stock, the number of shares of Lucent common stock for which acceptable Proofs of Claim are filed, as well as the value of the securities (common stock and Warrants) being issued and delivered pursuant to the Settlement at the time of their distribution. Plaintiffs' damages expert estimates that approximately 3.352 billion shares of Lucent common stock were traded during the Class Period which may have been damaged as a result of the conduct complained of. Assuming that all affected shares elected to participate in the Settlement, and assuming that the value of the stock and Warrants remains the same as the current estimated value, the average recovery per damaged share of Lucent common stock is estimated by Lead Plaintiffs' damages expert at approximately $0.15 per share before deduction of any Court-awarded attorneys' fees and expenses. Depending on the number of claims submitted, when during the Class Period a Class Member purchased his/her or its shares of Lucent common stock, and whether those shares were held at the end of the Class Period or sold during the Class Period, and if sold, when and for how much they were sold, an individual Class Member will receive more or less than this average amount, as more fully described in the proposed Plan of Allocation set forth below at paragraphs 25 to 35.

2. **Statement of Potential Outcome of Case:** Lead Plaintiffs and Defendants do not agree on the average amount of damages per share that would be recoverable if plaintiffs were to have prevailed on each claim alleged. Plaintiffs' damages expert contended that if plaintiffs established liability, the damages would be in the tens of billions of dollars, far in excess of the net resources available to Defendants. Defendants deny all liability and dispute the maximum amount of damages recoverable if plaintiffs prevailed on each of their claims.

3. **Statement of Attorneys' Fees and Costs Sought:** Plaintiffs' counsel have not received any payment for their services in conducting this litigation, nor have they been reimbursed for their out-of-pocket

expenditures. In this type of litigation it is customary for counsel to be awarded a percentage of the common fund recovered, frequently one-third, as their attorneys' fees and for their expenses to be reimbursed from the fund. Plaintiffs' Co-Lead Counsel intend to apply, on behalf of all plaintiffs' counsel, for an award of attorneys' fees in an amount up to 19% of the Gross Settlement Fund, or up to approximately $0.03 per damaged share. Plaintiffs' counsel will receive any fees awarded in cash, stock and Warrants in the same proportion as they comprise the Gross Settlement Fund. Plaintiffs' Co-Lead Counsel also intend to apply, on behalf of all plaintiffs' counsel, for reimbursement of expenses incurred in connection with the prosecution of this Action in an amount not to exceed $3,500,000 or approximately 0.1¢ per damaged share. Plaintiffs' Co-Lead Counsel will ask that the amount awarded as reimbursement of expenses be payable entirely in cash.

4. **Reasons for Settlement:** Lead Plaintiffs believe that the proposed Settlement is fair, reasonable and adequate, and in the best interests of the Class considering the amount of the Settlement and the immediacy of recovery to the Class. Lead Plaintiffs took into consideration the expense and length of continued proceedings that would be necessary to prosecute the Action through trial and appeals. Lead Plaintiffs have also considered the uncertain outcome and the risk of any further litigation, especially in complex actions such as the Action, as well as the difficulties and delays inherent in any such litigation. Another consideration that strongly supports the proposed Settlement is the limited financial resources available to Defendants to satisfy any large judgment that otherwise might be obtained if plaintiffs were successful at trial. As discussed more fully below, Lead Plaintiffs recognized that Defendants would never be able to satisfy a judgment in the full amount of damages plaintiffs claimed to have been caused by the allegedly fraudulent conduct. The Settlement was achieved after Court-ordered mediation and was negotiated based on Lucent's ability to pay. Thus, even if plaintiffs prevailed as to liability and established a greater amount of damages, there was no assurance of being able to recover significantly more than achieved in the Settlement. Indeed, with the passage of the considerable amount of time it would take to litigate the Action through trial and the appeal that would surely follow if plaintiffs prevailed, there was a real possibility that Lucent's ability to satisfy a judgment would be further diminished and the ultimate recovery could have been significantly less than the proposed Settlement.

5. **Identification of Attorneys' Representatives:** Any questions regarding the Settlement should be directed to Plaintiffs' Co-Lead Counsel: David J. Bershad, Esq., Milberg Weiss Bershad Hynes & Lerach LLP, One Pennsylvania Plaza, New York, New York 10119-0165, Telephone (212) 594-5300, *www.milberg.com*; or Daniel L. Berger, Esq., Bernstein Litowitz Berger & Grossmann LLP, 1285 Avenue of the Americas, New York, New York 10019, Telephone (212) 554-1400, *www.blbglaw.com*.

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II. NOTICE OF SETTLEMENT FAIRNESS HEARING

6. This Notice is given pursuant to Rule 23 of the Federal Rules of Civil Procedure and the Preliminary Order In Connection With Settlement Proceedings, of the United States District Court for the District of New Jersey (the "Court") dated September 23, 2003 (the "Preliminary Approval Order"). The purpose of this Notice is to inform you of the proposed Settlement that has been reached in the Action and that a hearing (the "Settlement Fairness Hearing") will be held on December 12, 2003 at 9:30 a.m. before the Honorable Joel A. Pisano, at the United States Courthouse and Post Office Building, One Federal Square, Newark, New Jersey 07101, for the purpose of determining: (a) whether the proposed Settlement of the claims in the Action pursuant to a Stipulation and Agreement of Settlement dated as of September 22, 2003 (the "Stipulation") for consideration worth approximately $517,000,000 should be approved by the Court as fair, reasonable and adequate; (b) whether the Class Securities to be issued pursuant to the Settlement are exempt from registration with the Securities and Exchange Commission pursuant to Section 3(a)(10) of the Securities Act of 1933, 15 U.S.C. § 77c(a)(10) and may be distributed to Class Members as freely tradeable securities; (c) whether the Action should be dismissed with prejudice as set forth in the Stipulation; (d) whether the proposed Plan of Allocation is fair and reasonable and should be approved; and (e) whether the application by Plaintiffs' Co-Lead Counsel for an award of attorneys' fees and reimbursement of costs and expenses incurred should be approved.

7. Pursuant to the Preliminary Approval Order, the Court certified, for purposes of this Settlement, the following "Class": all persons or entities who purchased Lucent common stock during the period beginning on October 26, 1999 through and including December 20, 2000 (the "Class Period") and who were damaged thereby. Excluded from the Class are: (a) Defendants (i.e., Lucent, Richard A. McGinn, Donald K. Peterson, and Deborah C. Hopkins); (b) members of the immediate family of each individual defendant; (c) any entity in which any Defendant has a controlling interest; (d) any person who was an officer or director of Lucent (or any Lucent subsidiary or affiliate) during the Class Period; and (e) the legal representatives, heirs, successors or assigns of any such excluded party. Also excluded from the Class are any putative Class Members who exclude themselves by filing a request for exclusion in accordance with the requirements set forth in this Notice (see paragraphs 44-45 below).

THE COURT HAS NOT DETERMINED THE MERITS OF PLAINTIFFS' CLAIMS OR THE DEFENSES THERETO. THIS NOTICE DOES NOT IMPLY THAT THERE HAS BEEN OR WOULD BE ANY FINDING OF VIOLATION OF THE LAW OR THAT RECOVERY COULD BE HAD IN ANY AMOUNT IF THE ACTION WERE NOT SETTLED.

III. DESCRIPTION OF THE ACTION

8. Beginning on or about January 7, 2000, numerous class action complaints alleging violations of the federal securities laws on behalf of purchasers of Lucent common stock were commenced against Lucent and certain other defendants in the United States District Court for the District of New Jersey. These actions were consolidated pursuant to Orders of the Court. The Court appointed Teamsters Locals 175 & 505 D&P Pension Trust Fund, The Parnassus Fund and The Parnassus Income Trust/Equity Income Fund as Lead Plaintiffs for the consolidated action and the law firms of Milberg Weiss Bershad Hynes & Lerach LLP and Bernstein Litowitz Berger & Grossmann LLP as Co-Lead Counsel for plaintiffs and the Class.

9. Lead Plaintiffs filed the Fifth Consolidated and Amended Class Action Complaint on July 10, 2001 (the "Complaint"). The Complaint asserts claims for relief against Defendants under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder. The Complaint alleges that, during the Class Period, Defendants made a series of materially false and misleading statements regarding customer demand for Lucent's key optical networking products, Lucent's ability to provide services to its customers, and Lucent's publicly reported financial statements. The Complaint alleges that as a result of Defendants' dissemination of the allegedly false and misleading statements during the Class Period, the market price of Lucent's common stock was artificially inflated, thereby causing damage to Class Members.

10. Defendants deny all wrongdoing as alleged by plaintiffs. The Settlement may not be construed or deemed to be evidence of, or an admission or a concession on the part of any of the Defendants of any fault or liability whatsoever on the part of any of them or infirmity in any defenses they have asserted or intended to assert. Defendants, while affirmatively denying wrongdoing, consider it desirable and in their best interests that this Action be dismissed under the terms of the proposed Settlement in order to avoid further expense, uncertainty and distraction of protracted litigation.

11. Prior to entering into the Stipulation, Plaintiffs' Co-Lead Counsel conducted an investigation relating to the claims and the underlying events alleged in the Complaint. They analyzed the claims and researched the applicable law with respect to the claims asserted and Defendants' potential defenses thereto. Plaintiffs' counsel conducted interviews with more than 100 witnesses and reviewed and analyzed more than three million pages of documents produced by Lucent and more than thirty third parties. Plaintiffs' counsel also consulted with technology, damages and accounting experts. The parties participated in a Court-ordered mediation. At the time the mediation began, plaintiffs' counsel fully understood the strengths and weaknesses of their case.

12. While Plaintiffs' Co-Lead Counsel believe that the claims asserted have merit, they also appreciated the practical reality that it would be impossible for Defendants to satisfy a judgment if plaintiffs prevailed and, therefore, Plaintiffs' Co-Lead Counsel's focus in resolving the Action was based on Defendants' ability to pay.

IV. BACKGROUND TO THE SETTLEMENT

13. Recognizing that Lucent could not survive a plaintiffs' judgment in the Action because Lucent's ability to pay was dwarfed by the damages in the case which, by any plaintiffs' measure, numbered in the tens of billions of dollars, in September 2002, Judge Pisano commenced a mediation proceeding to facilitate a settlement of the Action. Defendants agreed to enter negotiations only if the resulting settlement, in addition to resolving this Action, also resolved all the other related actions then pending against Lucent. Plaintiffs' Co-Lead Counsel secured the agreement of plaintiffs' counsel in each of the other actions to participate in the mediation and to allow Plaintiffs' Co-Lead Counsel to negotiate on their behalf. In the first stage of this mediation, with the assistance of expert consultants, Plaintiffs' Co-Lead Counsel evaluated Lucent's "ability to pay", that is the most that Lucent could realistically pay to settle the litigations pending against it. After several months of arduous negotiations and mediation sessions under the auspices of Judge Pisano, Plaintiffs' Co-Lead Counsel and Defendants' Counsel reached an agreement to settle all the then pending related litigation against Lucent (the "Global Settlement"). Thereafter, with the assistance of the Court, Plaintiffs' Co-Lead Counsel negotiated allocations of the Global Settlement consideration among each of the cases included in the Global Settlement. In conducting the allocation negotiations, Plaintiffs' Co-Lead Counsel evaluated the strength of each case's claims relative to this Action by considering the following factors: (1) the posture of the litigation and the likelihood of success on the merits; (2) the relative damages in the action; (3) the availability of collateral recovery; and (4) the comparative value of the claim relative to the other settling actions.

14. The terms and conditions of the Global Settlement are set forth in the Agreement re: Global Settlement of Lucent Litigations dated as of September 19, 2003 (the "Cover Agreement"), the terms of which are incorporated in and are part of the Stipulation.

15. The other actions being settled as part of the Global Settlement and the amounts allocated to each of those actions from the Global Settlement consideration are as follows:

Other Class Actions:

- "**Lucent Debt Securities Class Action**," on behalf of persons who, between December 21, 2000 and March 27, 2001, purchased certain debt securities issued by Lucent. This action is being settled for $3.75 million in cash. For further information contact: Olimpio Lee Squitieri, Esq., Squitieri & Fearon, LLP, 420 Fifth Avenue, 18th Fl., New York, New York 10018, Telephone (212) 575-2092.

- "**ERISA Class Actions**," on behalf of participants and beneficiaries of the Lucent Savings Plan (the "LSP") and the Lucent Technologies, Inc. Long Term Savings and Security Plan (the "LTSSP") (collectively the "ERISA Plans")[1] at any time between December 31, 1999 through March 27, 2003 who made or maintained investments in the Lucent Stock Fund. This action is being settled for $69 million, consisting of $68.25 million worth of Lucent common stock and $750,000 cash. For further information contact: Todd S. Collins, Esq., Berger & Montague, P.C., 1622 Locust Street, Philadelphia, Pennsylvania 19103, Telephone (215) 875-3000.

- "**Winstar Class Action**," on behalf of persons and entities who were damaged as a result of purchases between March 10, 2000 and April 2, 2001 of Winstar Communications common stock or certain debt securities issued by Winstar. This action is being partially settled for $12 million in cash. For further information contact: James P. Bonner, Esq., Shalov Stone & Bonner LLP, 485 Seventh Avenue, Suite 1000, New York, New York 10018, Telephone (212) 239-4340.

- "**Lucent Note/Preferred Class Action**," on behalf of persons who held certain notes and redeemable convertible preferred stock of Lucent at any time between April 13, 1999 and September 13, 2002. This action is being settled for $4.6 million in cash. For further information contact: Robert I. Harwood, Esq., Wechsler Harwood LLP, 488 Madison Avenue, New York, New York 10022, Telephone (212) 935-7400.

[1] The Lucent Technologies, Inc. Long Term Savings Plan for Management Employees and the Lucent Technologies, Inc. Retirement Savings and Profit Sharing Plan were merged into the LSP in 2000.

PLEASE NOTE:

(a) If you fall within the definition of any of the classes in these other settled actions, your rights will be affected by the settlement(s) of that (those) action(s). If you believe you may be a member of the class in any of those actions and, if you have not as yet received notice of the proposed settlement(s) of that (those) action(s), you should immediately contact plaintiffs' counsel for that (those) action(s).

(b) Participants and beneficiaries in the ERISA Plans should not include any information regarding their Lucent stock acquired through the Plans in any claim form they may submit in this Action. Claims in this Action relating to the ERISA Plans' acquisition of Lucent common stock may be made by the Plans' trustees. If you are a participant or beneficiary in the ERISA Plans but purchased Lucent common stock during the Class Period OTHER THAN through the ERISA Plans, you may submit a claim in this Action as to those shares, i.e., non-ERISA Plan shares.

Other Actions:

16. The Global Settlement will also resolve a Derivative Action, an action brought in the name of Lucent against certain officers and directors of Lucent, which is being settled for $14 million in cash. As part of that settlement, Lucent will also implement certain changes to its corporate governance policies. Plaintiffs' counsel in the Derivative Action will be applying for an award of attorneys' fees and expenses in an amount not to exceed $3.5 million of the settlement amount in that action. Any portion of the $14 million allocated to the Derivative Action that is not awarded to plaintiffs' counsel in that action for fees and expenses will be added to the Gross Settlement Amount in the Lucent Common Stock Class Action. Settlement of the Derivative Action will impact Lucent's ability to pursue claims against its officers and directors and others. If you are a current stockholder of Lucent and wish additional information about this action, please write to: Richard D. Greenfield, Esq., Greenfield & Goodman, LLC, 24570 Deep Neck Road, Royal Oak, Maryland 21662, or contact him by email at *whitehatrdg@earthlink.net*. In addition, the notice describing the Derivative Action and the terms of its settlement, as well as other documents relating to that action are available on Lucent's website at *www.Lucent.com*.

17. Finally, a private action brought against Lucent on behalf of institutional investors who acquired Winstar common stock is being settled for $10 million in cash.

V. TERMS OF THE PROPOSED SETTLEMENT OF THE LUCENT COMMON STOCK CLASS ACTION

18. As more fully described in the Stipulation, in full and complete settlement of the Action, Defendants shall pay, or cause to be paid, $113,400,000 in cash; $246,750,000 worth of Lucent common stock or cash, at Lucent's option; $24,000,000 worth of Avaya common stock; Warrants, which shall be exercisable for a period of three years, to purchase 200 million shares of Lucent common stock at $2.75 per share; and up to $5 million to cover the costs of Notice and administration of the Settlement.

19. The consideration to Defendants for the payment of the Gross Settlement Fund is: (a) the entry by the Court of an Order and Final Judgment which will (i) dismiss the Action against Defendants with prejudice, (ii) bar and permanently enjoin Plaintiffs and each Class Member from prosecuting the Settled Claims, as defined below, and (iii) provide that any Class Member by operation of that order shall have fully, finally and forever released, relinquished and discharged any and all such Settled Claims; and (b) the entry of orders of final dismissal in each of the other actions being settled pursuant to the Global Settlement.

20. As used herein, "Settled Claims" means any and all claims, rights or causes of action or liabilities whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation (whether foreign or domestic), including both known claims and unknown claims, accrued claims and not accrued claims, foreseen claims and unforeseen claims, matured claims and not matured claims, that have been or could have been asserted from the beginning of time to the end of time in any forum by the Class Members or any of them against any of the Released Parties (i.e., any and all of the Defendants, Avaya Inc., Agere Inc., or any of their current or former respective agents, servants, attorneys, auditors, investment

advisors, underwriters, officers, directors and employees, partners, subsidiaries, affiliates, insurers, stockholders, heirs, executors, representatives, successors and assigns) which arise out of or relate in any way to the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, referred to in this Action or that could have been asserted relating to the purchase, transfer, or acquisition of shares of the common stock of Lucent during the Class Period, except claims relating to the enforcement of the settlement of the Action. With respect to above, it is the intention of plaintiffs to expressly waive and relinquish, 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.

21. If the Settlement is approved by the Court, all Settled Claims will be dismissed on the merits and with prejudice as to all Class Members and all Class Members shall be forever barred from prosecuting any action raising any Settled Claims against any Released Party.

22. The Gross Settlement Fund shall be reduced by such attorneys' fees and expenses as may be awarded by the Court, taxes and tax-related expenses, and administration fees and expenses (to the extent, if any, that such fees and expenses exceed the $5 million Lucent has agreed to pay). The balance after such deductions (the "Net Settlement Fund"), shall be distributed to Class Members who submit valid, timely Proofs of Claim ("Authorized Claimants") in accordance with the proposed Plan of Allocation set forth below, or such other Plan of Allocation as may be approved by the Court.

23. Distribution of the Net Settlement Fund cannot occur unless and until all the conditions to the Settlement are met, including obtaining approval of this Settlement by the Court, and approval by the relevant Courts and entry of orders of dismissal of each of the other actions being settled under the Global Settlement.

24. Approval of the Settlement is independent from approval of the proposed Plan of Allocation. Any determination with respect to the proposed Plan of Allocation will not affect the Settlement with the Defendants, if approved.

VI. PLAN OF ALLOCATION OF NET SETTLEMENT FUND

25. To receive any distribution from the cash, stock and Warrants in the Net Settlement Fund, all persons or entities must complete a Proof of Claim form and mail it and all required documentation to the Claims Administrator on or before March 31, 2004.

26. **Calculation of Recognized Claims:** The Claims Administrator shall determine each Authorized Claimant's pro rata share of the cash, stock and Warrants in Net Settlement Fund based upon each Authorized Claimant's "Recognized Claim." The Recognized Claim formula is not intended to be an estimate of the amount that a Class Member might have been able to recover after a trial; nor is it an estimate of the amount that will be paid to Authorized Claimants pursuant to the Settlement. The Recognized Claim formula is the basis upon which the Net Settlement Fund will be proportionately allocated to Authorized Claimants. Plaintiffs' damages expert analyzed the market price reaction to the disclosures made by Lucent during and at the end of the Class Period. Recognized Claims are based on the price declines associated with the corrective disclosures of previously allegedly misrepresented information set forth in the Complaint. For certain periods, the Recognized Claim is $0. No claim amount is recognized when both the purchase and sale occur without intervening public disclosure of adverse information.

27. **Recognized Claim Per Lucent Share Purchased During The Class Period:**

(a) For shares of Lucent common stock that were purchased from October 26, 1999 through and including January 6, 2000, and:

(i) sold on or before January 6, 2000, the Recognized Claim is $0;

(ii) sold during the period January 7, 2000 through and including July 19, 2000, the Recognized Claim is the lesser of: a) the purchase price per share minus the sales price per share, or b) $19.88 per share;

(iii) sold during the period July 20, 2000 through and including October 10, 2000, the Recognized Claim is the lesser of: a) the purchase price per share minus the sales price per share, or b) $29.72 per share;

(iv) sold during the period October 11, 2000 through and including November 20, 2000, the Recognized Claim is the lesser of: a) the purchase price per share minus the sales price per share, or b) $37.25 per share;

(v) sold during the period November 21, 2000 through and including December 20, 2000, the Recognized Claim is the lesser of: a) the purchase price per share minus the sales price per share, or b) $39.64 per share;

(vi) retained at the close of trading on December 20, 2000, the Recognized Claim is the lesser of: a) the purchase price per share minus $13.625 per share, or b) $42.51 per share.

(b) For shares of Lucent common stock that were purchased from January 7, 2000 through and including July 19, 2000, and:

(i) sold on or before July 19, 2000, the Recognized Claim is $0;

(ii) sold during the period July 20, 2000 through and including October 10, 2000, the Recognized Claim is the lesser of: a) the purchase price per share minus the sales price per share, or b) $9.84 per share;

(iii) sold during the period October 11, 2000 through and including November 20, 2000, the Recognized Claim is the lesser of: a) the purchase price per share minus the sales price per share, or b) $17.37 per share;

(iv) sold during the period November 21, 2000 through and including December 20, 2000, the Recognized Claim is the lesser of: a) the purchase price per share minus the sales price per share, or b) $19.76 per share;

(v) retained at the close of trading on December 20, 2000, the Recognized Claim is the lesser of: a) the purchase price per share minus $13.625 per share, or b) $22.63 per share.

(c) For shares of Lucent common stock that were purchased from July 20, 2000 through and including October 10, 2000, and:

(i) sold on or before October 10, 2000, the Recognized Claim is $0;

(ii) sold during the period October 11, 2000 through and including November 20, 2000, the Recognized Claim is the lesser of: a) the purchase price per share minus the sales price per share, or b) $7.53 per share;

(iii) sold during the period November 21, 2000 through and including December 20, 2000, the Recognized Claim is the lesser of: a) the purchase price per share minus the sales price per share, or b) $9.92 per share;

(iv) retained at the close of trading on December 20, 2000, the Recognized Claim is the lesser of: a) the purchase price per share minus $13.625 per share, or b) $12.79 per share.

(d) For shares of Lucent common stock that were purchased from October 11, 2000 through and including November 20, 2000, and:

(i) sold on or before November 20, 2000, the Recognized Claim is $0;

(ii) sold during the period November 21, 2000 through and including December 20, 2000, the Recognized Claim is the lesser of: a) the purchase price per share minus the sales price per share, or b) $2.39 per share;

(iii) retained at the close of trading on December 20, 2000, the Recognized Claim is the lesser of: a) the purchase price per share minus $13.625 per share, or b) $5.26 per share.

(e) For shares of Lucent common stock that were purchased from November 21, 2000 through and including December 20, 2000, and:

(i) sold on or before December 20, 2000, the Recognized Claim is $0;

(ii) retained at the close of trading on December 20, 2000, the Recognized Claim is the lesser of: a) the purchase price per share minus $13.625 per share, or b) $2.87 per share.

General Provisions:

28. Each Authorized Claimant shall be allocated a pro rata share of the cash, common stock and Warrants in the Net Settlement Fund based on his, her or its Recognized Claim as compared to the total Recognized Claims of all Authorized Claimants ("Distribution Amount"). However, Plaintiffs' Co-Lead Counsel shall have the discretion to make adjustments to the composition of a distribution, as set forth below. **PLEASE NOTE: IN ORDER TO RECEIVE ANY OF THE WARRANTS ALLOCATED AS PART OF THE DISTRIBUTION AMOUNT, AUTHORIZED CLAIMANTS MUST PROVIDE A BROKERAGE ACCOUNT NUMBER INTO WHICH THE WARRANTS CAN BE ELECTRONICALLY TRANSFERRED.** If an Authorized Claimant does not have an account and requires assistance in opening one, the Claims Administrator will be able to provide assistance in locating a broker where an account can be opened and maintained free of charge.

29. The minimum Distribution Amount shall be $5.00. To the extent an Authorized Claimant's calculated Distribution Amount is less than $5.00, that claimant will receive a distribution of $5.00 in cash. No fractional shares or fractional Warrants shall be issued. If a Distribution Amount includes a de minimus number of shares or Warrants, Plaintiff's Co-Lead Counsel shall have the discretion to direct that, instead of issuing those shares or Warrants as part of the Distribution Amount, the entire Distribution Amount shall be paid in cash.

30. If a claim is submitted by the trustee of an ERISA Plan on behalf of the Plan, the Distribution Amount on that claim will be reduced dollar for dollar by the amount credited to the Plan with respect to shares purchased during the period beginning on December 31, 1999 up through and including December 20, 2000 pursuant to the settlement in the ERISA Class Actions.

31. Class Members who do not submit acceptable Proofs of Claim will not share in the settlement proceeds. Class Members who do not either submit a request for exclusion or submit an acceptable Proof of Claim will nevertheless be bound by the Settlement and the Order and Final Judgment of the Court dismissing this Action.

32. **PLEASE NOTE**: To the extent a Claimant had a gain from his, her or its overall transactions in Lucent common stock during the Class Period, the value of the Recognized Claim will be zero. To the extent that a Claimant suffered an overall loss on his, her or its overall transactions in Lucent common stock during the Class Period, but that loss was less than the Recognized Claim calculated pursuant to the provisions of paragraph 27 above, then the Recognized Claim shall be limited to the amount of the actual loss.

33. For purposes of determining whether a Claimant had a gain from his, her or its overall transactions in Lucent common stock during the Class Period or suffered a loss, the Claims Administrator shall: (i) total the amount paid for all Lucent common stock purchased during the Class Period by the claimant (the "Total Purchase Amount"); (ii) match any sales of Lucent common stock during the Class Period first against the Claimant's opening position in the stock (the proceeds of those sales will not be considered for purposes of calculating gains or losses); (iii) total the amount received for sales of the remaining shares of Lucent common stock sold during the Class Period (the "Sales Proceeds"); (iv) ascribe a holding value equal to the closing price of Lucent common stock on the day following the last day of the Class Period (i.e., $13.625) times the number of shares of Lucent common stock purchased during the Class Period and still held at the end of the Class Period ("Holding Value"). The difference between (i) the Total Purchase Amount and (ii) the sum of the Sales Proceeds and Holding Value, will be deemed a Claimant's gain or loss on his, her or its overall transactions in Lucent common stock during the Class Period.

34. Shares of Lucent common stock acquired during the Class Period by means of a gift, inheritance or operation of law, do not qualify as purchases on the dates of such acquisitions. If, however, such stock was purchased during the Class Period by the donor, decedent or transferor, then, unless the donor, estate or transferor submits a Proof of Claim with respect to the shares, the recipient's Proof of Claim will be computed by using the price of such stock on the original date of purchase and not the date of transfer.

35. Distribution to Authorized Claimants from the Net Settlement Fund will be made after all claims have been processed and after the Settlement has become Effective. If any funds remain in the Net Settlement Fund by reason of un-cashed checks or otherwise, then, after the Claims Administrator has made reasonable and diligent efforts to have Class Members who are entitled to participate in the distribution of the Net Settlement Fund cash their distribution checks, any cash balance remaining in the Net Settlement Fund one (1) year after the initial distribution of such funds shall be re-distributed after payment from this balance of any unpaid costs or fees incurred in administering the Net Settlement Fund for such re-distribution to Class Members who have cashed their checks and who would receive at least $10.00 from such re-distribution. If after six months after such re-distribution any funds shall remain in the Net Settlement Fund, then such balance shall be contributed to non-sectarian, not-for-profit, 501(c)(3) organization(s) designated by Plaintiffs' Co-Lead Counsel.

VII. THE RIGHTS OF CLASS MEMBERS

36. The Court has certified this Action to proceed as a class action. If you purchased Lucent common stock during the Class Period, i.e., the period beginning on October 26, 1999 through and including December 20, 2000 and were damaged thereby and you are not excluded by the definition of the Class and do not elect to exclude yourself, then you are a Class Member and you will be bound by the proposed Settlement provided for in the Stipulation, in the event it is approved by the Court, and by any judgment or determination of the Court affecting the Class.

37. If you wish to remain a member of the Class, you may be eligible to share in the proceeds of the Settlement, provided that you submit an acceptable Proof of Claim. As a Class Member you will be represented by Lead Plaintiffs and their counsel, unless you enter an appearance through counsel of your own choice at your own expense. You are not required to retain your own counsel, but if you choose to do so, such counsel must file an appearance on your behalf and must serve copies of such appearance on the attorneys listed in paragraph 46 below.

38. If you do not wish to remain a member of the Class, you may exclude yourself from the Class by following the instructions in paragraph 44 below. Persons who exclude themselves from the Class will **NOT** be eligible to receive any share of the Settlement proceeds and will not be bound by the Settlement.

39. If you object to the Settlement or any of its terms, the proposed Plan of Allocation, or to plaintiffs' counsel's application for fees and expenses, and if you do not exclude yourself from the Class, you may present your objections by following the instructions in paragraph 46 below.

VIII. SUBMISSION AND PROCESSING OF PROOFS OF CLAIM

40. Only those Class Members who purchased Lucent common stock during the Class Period will be eligible to share in the distribution of the Net Settlement Fund. As a condition to recovering any payment, each Class Member shall be required to submit a Proof of Claim no later than March 31, 2004 to the address set forth in the attached Proof of Claim form. Unless otherwise ordered by the Court, any Class Member who fails to submit a Proof of Claim by March 31, 2004 shall be forever barred from receiving any payments pursuant to the Settlement, but will in all other respects be subject to the provisions of the Stipulation, including the terms of any judgment entered and the releases given.

41. The Proof of Claim must be supported by such documents as specified in the Proof of Claim. The Proof of Claim is enclosed herewith. Extra copies can be obtained from the Claims Administrator at the address shown in paragraph 53 below.

42. The Court has reserved jurisdiction to allow, disallow or adjust the Claim of any Class Member on equitable grounds. The Court also reserves the right to modify the Plan of Allocation without further notice to the Class. Payment pursuant to the Plan of Allocation finally approved by the Court shall be conclusive against all Authorized Claimants. No person shall have any claim against Plaintiffs' Co-Lead Counsel or the Claims Administrator or any agent designated by Plaintiffs' Co-Lead Counsel based on the distributions made substantially in accordance with the Stipulation and the Settlement contained therein, the Plan of Allocation as finally approved by the Court, or further orders of the Court.

43. Each Claimant shall be deemed to have submitted to the jurisdiction of the United States District Court for the District of New Jersey with respect to his, her or its Proof of Claim.

IX. REQUESTS FOR EXCLUSION FROM THE CLASS

44. Each Member of the Class shall be bound by all determinations and judgments in this Action concerning the Settlement, whether favorable or unfavorable, unless such person shall mail, by first class mail, a written request for exclusion from the Class, postmarked no later than November 25, 2003, addressed to:

In re Lucent Technologies, Inc. Securities Litigation EXCLUSIONS
c/o The Garden City Group, Inc.
Claims Administrator
P.O. Box 9000 #6142
Merrick, NY 11566-9000

No person may exclude himself from the Class after that date. In order to be valid, each such request for exclusion must set forth the name and address of the person or entity requesting exclusion, must state that such person or entity "requests exclusion from the Class in the In re Lucent Technologies, Inc. Securities Litigation, Case No. 00-CV-621 (JAP)" and must be signed by such person or entity, and should also provide the following information: their telephone number, the date(s), price(s), and number(s) of shares of all purchases and sales of Lucent common stock during the Class Period. Requests for exclusion shall not be effective unless the request includes the required information and is made within the time stated above, or the exclusion is otherwise accepted by the Court.

45. If a member of the Class requests to be excluded, that Class Member will not receive any benefit provided for in the Stipulation.

X. SETTLEMENT FAIRNESS HEARING

46. As set forth in paragraph 6 above, the Court will hold a Settlement Fairness Hearing on December 12, 2003 at 9:30 a.m., to consider the proposed Settlement, the proposed Plan of Allocation and the application for an award of attorneys' fees and reimbursement of expenses. Any Class Member who does not request exclusion by November 25, 2003, may appear at the Settlement Fairness Hearing and be heard on any of the matters to be considered at the hearing; provided, however, that no such person shall be heard,

unless his, her or its objection or opposition is made in writing and is filed, together with copies of all other papers and briefs to be submitted to the Court at the Settlement Fairness Hearing, by him, her or it (including proof of all purchases of Lucent common stock during the Class Period) with the Court in the Clerk's Office at the address set forth in paragraph 52 below no later than November 25, 2003, and is served by hand or by overnight delivery upon the following:

Plaintiffs' Co-Lead Counsel:

David J. Bershad, Esq.
MILBERG WEISS BERSHAD
HYNES & LERACH LLP
One Pennsylvania Plaza
New York, New York 10119-0165
(212) 594-5300

Daniel L. Berger, Esq.
BERNSTEIN LITOWITZ BERGER &
GROSSMANN LLP
1285 Avenue of the Americas
New York, New York 10019
(212) 554-1400

and upon Defendants' Counsel:

Paul C. Saunders, Esq.
CRAVATH, SWAINE & MOORE
Worldwide Plaza
825 Eighth Avenue
New York, New York 10019
(212) 474-1000

John H. Schmidt, Jr., Esq.
LINDABURY, McCORMICK
& ESTABROOK, P.A.
53 Cardinal Drive
P.O. Box 2369
Westfield, New Jersey 07091
(908) 233-6800

47. Attendance at the hearing is not necessary; however, persons wishing to be heard orally in opposition to the approval of the Settlement, the proposed Plan of Allocation, and/or the request for attorneys' fees are required to indicate in their written objections their intention to appear at the hearing. Persons who intend to object to the Settlement, the proposed Plan of Allocation, and/or counsel's application for an award of attorneys' fees and expenses and desire to present evidence at the Settlement Fairness Hearing must include in their written objections the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the Settlement Fairness Hearing. Unless otherwise ordered by the Court, any Class Member who does not make his, her or its objection or opposition in the manner provided shall be deemed to have waived all objections to the foregoing matters. Class Members do not need to appear at the hearing or take any other action to indicate their approval.

48. The Settlement Fairness Hearing may be adjourned from time to time by the Court without further written notice to the Class. If you intend to attend the Settlement Fairness Hearing, you should confirm the date and time with Plaintiffs' Co-Lead Counsel.

XI. ATTORNEYS' FEES, COSTS AND EXPENSES OF PLAINTIFFS' ATTORNEYS

49. At the Settlement Fairness Hearing, or at such other time as the Court may direct, Plaintiffs' Co-Lead Counsel intend to apply to the Court for a collective award of attorneys' fees of up to 19% of the Gross Settlement Fund and for reimbursement of their expenses in an amount not to exceed $3,500,000, which were incurred in connection with the litigation. Plaintiffs' counsel will receive any fees awarded in cash, stock and Warrants in the same proportion as they comprise the Gross Settlement Fund; however, they will ask that reimbursement of expenses advanced be entirely in cash. Plaintiffs' counsel, without further notice to the Class, may subsequently apply to the Court for fees and expenses incurred in connection with administering and distributing the Settlement proceeds to members of the Class and any proceedings subsequent to the Settlement Fairness Hearing.

50. To date, plaintiffs' counsel have not received any payment for their services in conducting this Action on behalf of plaintiffs and the Class, nor have they been reimbursed for their out-of-pocket expenses. The fee requested by Plaintiffs' Co-Lead Counsel would compensate plaintiffs' counsel for their efforts in

achieving the Gross Settlement Fund for the benefit of the Class, and for their risk in undertaking this representation on a contingency basis.

XII. SPECIAL NOTICE TO BROKERS AND OTHER NOMINEES

51. If you purchased Lucent common stock during the period beginning on October 26, 1999 through and including December 20, 2000 for the beneficial interest of a person or organization other than yourself, the Court has directed that, WITHIN SEVEN (7) DAYS OF YOUR RECEIPT OF THIS NOTICE, you either (a) provide to the Claims Administrator the name and last known address of each person or organization for whom or which you purchased such stock during such time period or (b) request additional copies of this Notice and the Proof of Claim form, which will be provided to you free of charge, and within seven (7) days of receipt mail the Notice and Proof of Claim form directly to the beneficial owners of the securities referred to herein. If you choose to follow alternative procedure (b), the Court has directed that, upon such mailing, you send a statement to the Claims Administrator confirming that the mailing was made as directed. You are entitled to reimbursement from the Gross Settlement Fund of your reasonable expenses actually incurred in connection with the foregoing, including reimbursement of postage expense and the cost of ascertaining the names and addresses of beneficial owners. Those expenses will be paid upon request and submission of appropriate supporting documentation. All communications concerning the foregoing should be addressed to the Claims Administrator at the address shown in paragraph 53 below.

XIII. EXAMINATION OF PAPERS AND INQUIRIES

52. This Notice contains only a summary of the terms of the proposed Settlement. For a more detailed statement of the matters involved in this Action, reference is made to the: pleadings; Stipulation; the Cover Agreement; Orders entered by the Court, and to the other papers filed in the Action, which may be inspected at the Office of the Clerk of the United States District Court for the District of New Jersey, United States Courthouse, Martin Luther King, Jr. Federal Building & Courthouse, 50 Walnut Street, Newark, New Jersey 07101, during regular business hours. Copies of the Stipulation and the Cover Agreement may also be viewed at *www.lucentsecuritieslitigation.com*.

53. All inquiries concerning this notice or the proof of claim form by Class Members should be addressed as follows:

In re Lucent Technologies, Inc. Securities Litigation
c/o The Garden City Group, Inc.
Claims Administrator
P.O. Box 9000 #6142
Merrick, NY 11566-9000
1 (866) 345-0365
www.lucentsecuritieslitigation.com

PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.

Dated: Newark, New Jersey
September 23, 2003

By Order of the Court
CLERK OF THE COURT

EXHIBIT H

From: Andrew J. Entwistle
To: Jim Barz
Cc: Marc Seltzer; Robert N. Cappucci; Brendan Brodeur; Sean Riegert; Frank Richter; Robert Robbins; Kathleen Douglas; Ted Pintar; Darren Robbins; Vincent R. Cappucci; Joshua Porter
Subject: Re: In re Valeant Pharmaceuticals International, Inc., Securities Litigation, Master File No. 15-7658 MAS-LHG
Date: Friday, January 10, 2020 3:05:43 PM

Jim,

Your email is not at all in the spirit of Darren and Vincent's call yesterday. It is also not at all in the spirit of my email and prior correspondence on these issues, all of which has been oriented toward being productive and protecting the best interests of the derivatives investors. We disagree with the characterizations of both our work and Timber Hill's claims and advocacy.

At the moment Marc and I are focused on an appropriate allocation to the derivatives class. The only complaint raising claims on behalf of derivatives holders is the Timber Hill complaint and Timber Hill has been a staunch and persistent advocate for the rights of those investors from inception. I won't recite the history here except to note that any benefit to the derivatives investors flows directly from Timber Hill's advocacy.

The fact you have stonewalled our repeated requests for information on the class motion and our more recent requests for information on the settlement stipulation and any proposed plan of allocation by making irrelevant or unproductive requests for unrelated information in no way justifies your ongoing refusal to provide that information.

Yesterday, for the first time, Vincent Cappucci of our firm and and Darren Robbins from your shop had a fairly detailed discussion about our expert's analysis and our desired allocation for the derivatives investors. That discussion included the fact our expert analysis showed an appropriate allocation in the 5.35% range and that we were targeting an allocation of $60-70m for the derivatives investors. Only after that detailed discussion do you now, and for the first time, suggest that a 5% allocation was lead counsel's intention all along.

Your proposal reflects substantial progress here. Nevertheless, it does not obviate our need for the Settlement Agreement, any draft plan of allocation, and the pending class motion papers at the earliest possible time so we can assess the scope of the releases, class and derivatives related definitions, any proposed allocation to derivatives investors, and advise on an appropriate plan for allocation within the derivatives class. As reflected in our prior letter, the case law is clear in the need for vigorous, independent and separate representation of the derivatives investors in respect of the settlement and allocation and Timber Hill is the only entity in a position to undertake this role.

Marc and I are pleased to sit with you and to provide our expert's calculations, to review the proposed plan of allocation, to provide a plan for the derivatives holders and to take all steps necessary to protect the derivatives investors and to support an overall plan of allocation that appropriately protects the rights of derivatives holders.

Please advise your agreement to this process absent which we will regrettably have no choice but to take our concerns to the Court.

Best,

Andrew Entwistle
Marc Seltzer

On Jan 10, 2020, at 11:26 AM, Jim Barz <JBarz@rgrdlaw.com> wrote:

Andrew and Marc,

I am writing to respond to Vince's recent discussions and emails to Darren.

1) Your emails have made conclusory and vague references to your "valuation and calculation" of the "recoverable losses" for options traders but you had resisted our requests for details or any supporting analysis. Yesterday, Vince informed Darren that your analysis determined that options traders are entitled to 5% of the recovery "or maybe less." Darren confirmed to Vince that under our previously determined plan of allocation the options traders will be entitled to up to 5% of the settlement. Vince's email today said your analysis supported that allocation of "between 60-70 mil" for options which was slightly different than his initial statements, but still at the 5% range. In any event, it is clear that our previously drafted plan of allocation satisfies any concerns you have for the one client you represent.

2) With regard to the subsequent request to negotiate a fee for your work, we are unaware of any work that was done for the benefit of the Class. No work product has ever been provided to us and it is unclear to us how simply calling us after the settlement was publicly announced to confirm your agreement with the allocation we determined provided any benefit to the Class. The only filings by your firms were a complaint and a motion for relief from consolidation. As to the motion, as we pointed out in briefing, it was effectively just an untimely motion to be appointed co-lead plaintiff that came two years too late. Notably, even the firms that timely sought a leadership role have not sought fees. As for the complaint you filed, as Judge Shipp ruled in denying your motion: : "Indeed, as Lead Plaintiff points out, many sections of Timber Hill's complaint appear to be taken nearly verbatim from the Consolidated Complaint." ECF No. 392 at 10. You have never explained how copying our complaint after it had survived a motion to dismiss provided a benefit to the Class.

Jim

From: Andrew J. Entwistle <aentwistle@Entwistle-Law.com>
Sent: Tuesday, December 24, 2019 12:58 PM
To: Jim Barz <JBarz@rgrdlaw.com>
Cc: Faith E. Fleming <FFleming@entwistle-law.com>; Marc Seltzer <MSeltzer@susmangodfrey.com>; Robert N. Cappucci <rcappucci@Entwistle-

Law.com>; Brendan Brodeur <BBrodeur@Entwistle-Law.com>; Sean Riegert <sriegert@entwistle-law.com>; Frank Richter <FRichter@rgrdlaw.com>; Robert Robbins <rrobbins@rgrdlaw.com>; Kathleen Douglas <KDouglas@rgrdlaw.com>; Ted Pintar <TedP@rgrdlaw.com>; Darren Robbins <DarrenR@rgrdlaw.com>
Subject: Re: In re Valeant Pharmaceuticals International, Inc., Securities Litigation, Master File No. 15-7658 MAS-LHG

Jim,

We wrote in an effort to be productive and to solicit information necessary for us to address the rights of derivatives holders. Instead of providing the requested and clearly necessary information, you ask us a series of questions some of which we have already answered with citation to relevant authority , some of which cannot be answered with out the requested materials, and some of which—for example the request for class period trading information—you all ready have from the Timber Hill certification and/ or from prior submissions and exchanges.

You also mischaracterize our prior request for the class certification materials as abandoned. We have repeatedly made the request without a productive response from you. While you may have not liked our responses, we nevertheless made our position clear that we were entitled to the unredacted class certification materials on behalf of Timber Hill and other derivatives investors.

Timber Hill filed the only derivatives case and it is uniquely situated to protect the right of derivatives investors. The fact that the Court consolidated the action and left the question of conflicts to class certification doesn't change that fact.

We cited the applicable conflict related authority in our letter to you. There are obvious conflicts between derivatives holders and common stock holders competing for a limited fund where each has, among other things, a different approach to damages.

We are committed to protecting the rights of the derivatives holders and assuring they get a pro rata share of the settlement. We believe this is best done by working with you in advance to assure an appropriate plan of allocation.

On behalf of Marc and myself I suggest we set up a time to meet and confer after the holidays so we can address these matters in person rather than by email.

Have a blessed and joy filled holiday.

Best,

Andrew Entwistle

On Dec 25, 2019, at 3:35 AM, Jim Barz <JBarz@rgrdlaw.com> wrote:

Andrew and Marc,

I am writing in response to your December 20, 2019 letter and email below. You have set forth some vague, conclusory concerns, but we cannot respond to your letter because it is devoid of any specifics. Thus, if you have actual concerns, please identify them and provide the supporting basis. More specifically, please provide the following information:

1) You claim to have concerns because there are "unique factual" issues relating to the "valuation and calculation" of the "recoverable losses" for derivatives investors. Please provide:

(a) Timber Hill's class period trading data and your estimate of their "recoverable losses."

(b) The specific allocation you believe derivative investors are entitled to in this case.

(c) The support for your proposed allocation including your estimated "recoverable losses" for the class as well as the derivative investors.

(d) The basis for your claim that you are writing on behalf of Timber Hill and "other" derivatives investors, since the Court rejected your attempt to be appointed lead counsel for a class of derivatives investors, and it is unclear to us who else you are claiming to represent.

2) With regard to your request for the MOU and all settlement related documents, please explain your legal basis for believing you have rights beyond any court approved notice as required by Fed. R. Civ. P. 23.

3) With regard to your request that we provide unredacted copies of the class certification documents, you previously threatened to file a motion with the Special Master if we did not comply with this request by October 1, 2019. We did not comply by that deadline. Instead we said the request made no sense and we asked several questions regarding the basis for your request. You abandoned the request rather than answer those questions and no motion was ever filed. Please respond to those questions and explain why you are renewing this request almost three months after abandoning it.

Please provide the information requested herein by January 6, 2019 so that we can understand exactly what concerns you are raising and promptly consider them.

From: Faith E. Fleming <FFleming@entwistle-law.com>
Sent: Friday, December 20, 2019 4:25 PM
To: Darren Robbins <DarrenR@rgrdlaw.com>; Jim Barz <JBarz@rgrdlaw.com>
Cc: Andrew J. Entwistle <aentwistle@Entwistle-Law.com>; 'Marc Seltzer' <MSeltzer@SusmanGodfrey.com>; Robert N. Cappucci <rcappucci@Entwistle-Law.com>; Brendan Brodeur <BBrodeur@Entwistle-Law.com>; Sean Riegert <sriegert@entwistle-law.com>
Subject: In re Valeant Pharmaceuticals International, Inc., Securities Litigation, Master File No. 15-7658 MAS-LHG

Good Evening,

Please see the attached correspondence on behalf of Andrew Entwistle and Marc Seltzer.

Thank you,

Faith E. Fleming
Entwistle & Cappucci LLP
299 Park Avenue, 20th Floor
New York, New York 10171
Telephone: (212) 894-7200
Facsimile: (212) 894-7272
Email: FFleming@entwistle-law.com

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EXHIBIT I

9-19

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF TENNESSEE

NASHVILLE DIVISION

FLORIDA STATE BOARD OF ADMINISTRATION, et al., On Behalf of Themselves and All Others Similarly Situated, Plaintiffs, vs. DELOITTE & TOUCHE, LLP, Defendant.	Civ. Action No. 3:03-0027 Judge Campbell/Magistrate Brown CLASS ACTION JOINT DECLARATION OF VINCENT R. CAPPUCCI, JAY W. EISENHOFER AND DARREN J. ROBBINS IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT AND PLAN OF ALLOCATION OF SETTLEMENT PROCEEDS, FINAL CERTIFICATION OF PLAINTIFF CLASS, AND APPROVAL OF APPLICATION FOR AWARD OF ATTORNEY'S FEES AND REIMBURSEMENT OF EXPENSES

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Vincent R. Cappucci, Jay W. Eisenhofer and Darren J. Robbins, pursuant to 28 U.S.C. §1746, do hereby declare under the penalties of perjury that:

1. We are members of the law firms of Entwistle & Cappucci LLP, Grant & Eisenhofer, P.A. and Milberg Weiss Bershad Hynes & Lerach LLP, respectively, Lead Counsel in the securities class action styled *Florida State Board of Administration, et al. v. Deloitte & Touche, LLP*, Civ. Action No. 3:03-0027 (the "Action"). These firms also served as Lead Counsel in the consolidated securities class action styled *In re Dollar General Corporation Securities Litigation*, Civ. Action No. 3:01-0388 (the "Dollar General Action").[1] We are fully familiar with all matters, pleadings, negotiations, confirmatory discovery and proceedings before the Court respecting the Action and the Settlement defined below. We submit this Joint Declaration in support of Plaintiffs' application for:

(a) final approval of the proposed settlement (the "Settlement") of the Action for: (i) $10,500,000 in cash, plus interest (the "Settlement Fund");

(b) final approval of the plan of allocation ("Plan of Allocation") proposed in connection with the Settlement;

(c) final certification of the Settlement Class, as defined below; and

(d) an award of attorneys' fees, pursuant to Lead Counsel's fee agreement with Lead Plaintiffs, constituting 22.5% of the Settlement Fund, plus reimbursement of expenses in the sum of $80,540.74 (the "Fee and Expense Application").

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[1] *In re Dollar General Corporation Securities Litigation* asserted claims under §§10(b) and 20(a) of the Securities Exchange Act of 1934 and a claim of negligent misrepresentation under Tennessee common law on behalf of all persons or entities who purchased, exchanged, otherwise acquired, or made an investment decision involving Dollar General Corporation's ("Dollar General" or the "Company") securities from May 12, 1998 through September 21, 2001 (the "Amended Class Period") against the following defendants: the Company; Cal Turner, Jr., the Company's Chief Executive Officer and Chairman of the Board of Directors; Brian M. Burr, the Company's Chief Financial Officer from March 1999 through February 2001; Randy Sanderson, the Company's Vice President and Controller during the Amended Class Period; Bob Carpenter, who had served as the Company's Executive Vice President and Chief Administrative Officer and as the Company's President and Chief Operating Officer after February 2001; Phil Richards, who served as the Company's Vice President and Chief Financial Officer until March 1999; and James L. Clayton, John B. Holland, Barbara M. Knuckles, Reginald D. Dickson, David Wilds, William S., Wire II, Dennis C. Bottorff, Dr. E. Gordon Gee, and Barbara L. Bowles, all of whom were directors of the Company during the Amended Class Period.

2. The proposed Settlement is an excellent recovery for the Class. The $10,500,000 Settlement Fund will be paid by Deloitte & Touche, LLP ("D&T"). The proposed Settlement also follows settlement of the underlying action, *In re Dollar General Corporation Securities Litigation*, Civil Action No. 3:01:038, which was the largest class settlement of a securities class action litigation in this Circuit, and one of the largest settlements in the country. Based upon the Plan of Allocation, Settlement Class Members will receive an average distribution of approximately $0.04 per Dollar General Security solely for their claims against D&T. This recovery follows the average distribution of approximately $1.07 per Dollar General security received by class members in the Dollar General Action. As set forth more fully in the accompanying Memorandum in Support of Final Approval of Class Action Settlement and Plan of Allocation, when the Settlement is evaluated in light of this Circuit's criteria for approval of class action settlements, it more than satisfies the applicable legal standard and should be approved by the Court as fair, reasonable and adequate.

3. The deadline established by the Court for filing objections to the proposed Settlement expired on August 22, 2003. More than 321,000 Notices of Pendency and Settlement of Class Action (the "Notice") have been mailed to known and potential Class members, as defined below, or their nominees. *See* paragraph 7 to the Affidavit of Brian C. Burke ("Burke Aff."), submitted herewith. Further, the Summary Notice of Pendency of Class Action, Proposed Settlement and Settlement Hearing (the "Summary Notice") was published in *The Wall Street Journal* on July 25, 2003. *See* Burke Aff., ¶6. Significantly, only two objections to the proposed Settlement or the Fee and Expense Application were filed, one of these objections has been withdrawn. We respectfully submit that the infinitesimal number of objections is a strong validation of the excellence of the Settlement and the Plan of Allocation and of the reasonableness of the Fee and Expense Application.

4. Prior to reaching the Settlement of the Action, Plaintiffs' Lead Counsel engaged in intensive investigations, expert consultations and complex arm's-length negotiations with experienced counsel representing D&T. The foregoing efforts culminated

in the execution of a conditional settlement agreement (the "Stipulation of Settlement"). The Stipulation of Settlement followed plaintiffs' efforts in the Dollar General Action, during which Plaintiffs' Lead Counsel engaged in extensive confirmatory discovery. That confirmatory discovery included reviewing hundreds of thousands of pages of documents, the interview of current and former Company employees, engaging accounting and damages experts and deposing 11 key officers, directors and employees of Dollar General regarding the events and transactions alleged in that first action.

5. In light of the foregoing, as detailed below, we respectfully submit that the Settlement achieved is an outstanding result worthy of final approval and that the Fee and Expense Application is fair and reasonable in view of the result obtained and should, therefore, also be approved.

6. Legal support for approval of the Settlement and the Fee and Expense Application, in light of the factors addressed herein, is set forth in the accompanying Memorandum in Support of Final Approval of Class Action Settlement and Plan of Allocation and the Memorandum In Support of Plaintiffs' Application for an Award of Attorneys' Fees and Reimbursement of Expenses.

I. BACKGROUND OF THE PROCEEDINGS AND HISTORY OF THE LITIGATION

A. The Litigation

7. On January 9, 2003, this Action naming D&T as a defendant was filed in the United States District Court for the Middle District of Tennessee, Nashville Division, as a class action on behalf of persons who purchased Dollar General Securities during the period February 24, 1998 through January 14, 2002, inclusive (the "Settlement Class Period").

8. Earlier, in April and May 2001, more than 20 class actions were filed for purchasers of the same Dollar General Securities against Dollar General and certain of its officers and directors for violations of the Securities Exchange Act of 1934 (the "Exchange Act"). D&T was not a defendant in those actions. Pursuant to the terms of a First Amended Stipulation of Settlement, dated April 1, 2002, all claims against Dollar General and the

defendant officers and directors (the "Settled Defendants") have been settled on behalf of the class in that case against those defendants. That settlement specifically excluded any claims against D&T, which served as Dollar General's outside auditor in connection with the Company's fiscal 1997, 1998 and 1999 financial statements.

9. The complaint in this case against D&T (the "Complaint") asserts claims on behalf of the Class for violations of §§10(b) and 18 of the Exchange Act, as well as Rule 10b-5 promulgated thereunder. Plaintiffs alleged that D&T, Dollar General's auditor, knew that Dollar General's financial results for fiscal 1997, 1998 and 1999 were materially false and misleading and not in accordance with Generally Accepted Accounting Principles ("GAAP"), but nevertheless certified those financials in order to retain what it considered to be a valuable client. Testimony provided by Dollar General's current and former officers and directors confirms D&T's active and knowing participation in this alleged fraud.

10. As Dollar General's outside auditor, D&T actively participated in the preparation and issuance of the Company's annual and quarterly financial statements to the investing public as well as participating in the drafting of the Company's 1997, 1998 and 1999 Forms 10-K filed with the Securities and Exchange Commission ("SEC"). In particular, D&T's Nashville office was engaged to examine and report on Dollar General's financial statements for fiscal 1997 through 2000, to perform review services on Dollar General's interim fiscal 1998, 1999 and 2000 results, as well as to provide significant consulting, tax and due diligence services throughout 1998, 1999 and 2000. As a result of the far-reaching scope of services provided by D&T, it was intimately familiar with Dollar General's business, including its leases, internal controls, reserves, liabilities and assets, including cash and inventories.

11. As Dollar General's outside auditors, D&T owed its ultimate allegiance to Dollar General's stockholders and the investing public. This "public watchdog" function demanded that D&T maintain total independence from Dollar General and required complete fidelity to the public trust. However, plaintiffs allege that D&T betrayed the public trust by issuing unqualified opinions despite its actual knowledge that Dollar General's

financial statements (for fiscal years 1997 through 1999) were not prepared in accordance with GAAP. These unqualified opinions facilitated the alleged fraud perpetrated by the Settled Defendants. In addition, D&T, jointly with the Settled Defendants, arranged for and facilitated the accounting practices utilized by Dollar General during the Settlement Class Period.

12. As described more fully below, D&T falsely represented that Dollar General's financial statements for fiscal 1997, 1998 and 1999 were presented in accordance with GAAP and that D&T's audit of Dollar General's financial statements had been performed in accordance with Generally Accepted Auditing Standards ("GAAS"). D&T also consented to the use of its false reports on Dollar General's fiscal 1997 through 1999 financial statements in Dollar General's Forms 10-K for those years filed with the SEC and in: (i) Dollar General's Form S-3 filed with the SEC on June 15, 1999, pursuant to the registration of 3.75 million shares for the Dollar General Direct Stock Purchase Plan; (ii) Dollar General's Form S-4 for the Company's $200 million Exchangeable Notes filed with the SEC in August 2000; and (iii) Dollar General's Form S-3 filed on March 9, 2001, pursuant to the registration of shares to be sold by the Turner Children Trust. D&T's issuance of and multiple consents to reissue materially false reports on Dollar General's fiscal 1997, 1998 and 1999 financial statements were themselves violations of GAAS. Dollar General's financial statements, which D&T knew were materially false and misleading, were included in each of the aforementioned filings with the SEC with D&T's knowledge and approval.

13. As alleged in plaintiffs' Second Amended Complaint for Violation of the Federal Securities Laws ("Second Amended Complaint"),[2] Dollar General was ultimately forced to admit the materiality of the falsity of its previously reported financial results, restating those financial results which D&T had previously audited and approved. Specifically, on April 30, 2001, the Company issued a press release entitled, "Dollar General

---

[2] Filed with the Court on April 1, 2002 in the Dollar General Action.

Expects to Restate Earnings; Maintains Current Year Guidance." The press release stated in part:

> Dollar General Corporation announced today that it expects to delay the filing of its annual report on Form 10-K for the fiscal year 2000 in anticipation of restating its audited financial statements for fiscal years 1998 and 1999 as well as restating the unaudited financial information for the fiscal year 2000 as previously released. The Company has become aware of certain accounting irregularities, and the audit committee of the Company's board of directors is conducting an investigation of these irregularities. The audit committee has engaged the law firm of Dechert Price & Rhoads to assist with its investigation, and Dechert Price & Rhoads, on behalf of the audit committee, has retained the independent accounting firm Arthur Andersen, LLP. In the investigative process, the Company and the audit committee are reviewing allegations of fraudulent behavior in connection with certain of the accounting irregularities and are reviewing the Company's internal accounting controls and financial reporting processes.
>
> Based on management's preliminary investigation, management currently estimates a reduction in aggregate earnings of approximately $0.07 per share over the three-year period from the previously reported total earnings of $1.81 per share over the same three-year period. Specifically, management's preliminary investigation reflects the possibility of a material adverse effect on the previously announced earnings for fiscal 1998 and 1999 and a minor positive effect on the previously reported results for fiscal 2000. Management further cautions that the final restatements as audited could result in an increase or decrease in the aggregate earnings effect and a further shifting of results among the specified years within the three-year period.
>
> In making the announcement, Dollar General Chairman and CEO Cal Turner, Jr., said, "This action is unprecedented in the history of our Company and is certainly regrettable. I am confident that our investigation of these matters will result in a thorough review of our previously released financial statements for each period and will also establish the leadership and processes that will prevent these accounting irregularities from recurring."

14. On this news, Dollar General's stock price plunged 31%, to $16.50 per share. On September 14, 2001, Dollar General dismissed D&T as its auditor. On September 21, 2001, Dollar General filed with the SEC a Form 8-K in which it was represented that information had come to D&T's attention that "if further investigated" could materially impact the reliability of its previously issued audit reports. Dollar General also announced that investors should continue to ignore any prior guidance for future earnings.

15. On January 14, 2002, Dollar General issued its Form 10-K for 2000 which included Dollar General's restated results for 1998, 1999 and 2000 and showed the extent of its accounting manipulations. The Form 10-K also indicated that Dollar General's

financial statements for fiscal 1996 and 1997 should not be relied upon, and in fact, included pre-tax adjustments of $37 million resulting from improper accounting for periods prior to 1998.

B. Pre-Trial Proceedings and Discovery in the Litigation

16. Counsel for the Lead Plaintiffs conducted extensive investigation during the development of their claims against D&T, as well as during settlement negotiations and confirmatory discovery in connection with the Dollar General Action. Plaintiffs' counsels' investigation included more than one hundred telephonic and face-to-face interviews of former Dollar General employees and management personnel who worked in numerous departments within the Company. Two separate teams of private investigators, as well as experts in the retail industry, assisted Lead Counsel in preparing and conducting these interviews. Plaintiffs' Lead Counsel also retained forensic accounting and tax experts to assist in the investigation and to further review the Company's SEC filings, press releases, analyst reports pertaining to the Company, and other documents. To further facilitate Plaintiffs' investigation, Lead Counsel established a web-site designed to gather additional factual information and to identify prospective witnesses.

17. In connection with settlement discussions and confirmatory discovery in the Dollar General Action, plaintiffs conducted an extensive investigation, including a review of the Company's unaudited restated financial statements for the Company's fiscal years 1998, 1999 and 2000. Dollar General provided thousands of pages of internal Company documents relating to the events and transactions that gave rise to the restated financials. Lead Counsel also conducted interviews and depositions of former Dollar General employees and management personnel with key roles in or with extensive knowledge of the decisions and transactions giving rise to that litigation. Through this investigation, it became clear that D&T had knowledge of Dollar General's improper accounting, reserve manipulation, inventory obsolescence markdowns, cash reconciliation discrepancies, ineffective internal audit department, inventory control problems and improper treatment of leases, and was motivated to conceal such problems. D&T was responsible for auditing,

reviewing and certifying financial reporting and communications with the market. D&T documented its actual knowledge of Dollar General's materially misstated financial statements, but nevertheless failed to insist on corrections, or to modify its audit reports.

18. In addition to this intensive factual investigation, Plaintiffs' counsels' efforts included exhaustive research of the applicable law with respect to the claims asserted against D&T in the Complaint, and the potential defenses thereto.

II. THE PARTIES AGREE TO A STIPULATION OF SETTLEMENT

19. On March 31, 2003, the parties executed a Memorandum of Understanding, which set forth the basic terms of the settlement and mandated the execution of the Stipulation of Settlement which sets forth the terms of the Settlement.

20. As a result of their settlement negotiations, the parties entered into a Stipulation of Settlement (the "Stipulation") on May 30, 2003. The Stipulation provides that the Action will be settled for a cash settlement payment of $10,500,000.

III. TERMS OF THE STIPULATION OF SETTLEMENT

21. Lead Counsel believe that the Settlement described herein, and set forth in full in the Stipulation, confers very substantial benefits upon the Class. Based upon their thorough review of the facts and the law in connection with their detailed investigation of the Action's allegations, Lead Plaintiffs and their counsel have concluded that it is in the best interests of the Lead Plaintiffs and the Class to settle the Action according to the terms of the Stipulation.

22. The Settlement creates a $10,500,000 cash fund for the benefit of Class members. Class members who submit valid and timely Proof of Claim forms demonstrating that they suffered a net loss on their transactions in Dollar General Securities during the Settlement Class Period will receive distribution from the Settlement Fund, plus any interest that may accrue thereon, pursuant to the Plan of Allocation, which is described both below and which was provided to the Class in the Notice. This distribution is in addition to the significant recovery received by class members in the Dollar General Action.

23. Lead Counsel and counsel for D&T negotiated the foregoing provisions during a series of lengthy and contentious settlement discussions. The Settlement of the Action was a difficult and complex task, and is the product of intense negotiations. Lead Counsel believe that the Settlement Fund, in combination with the recovery already received in the Dollar General Action, constitutes an excellent result for the Class.

IV. PLAN OF ALLOCATION OF SETTLEMENT PROCEEDS

24. The Plan of Allocation ("Plan of Allocation") has been disseminated to class members in the Notice of Class Certification and Settlement of Class Action, dated April 3, 2002. The Stanford Consulting Group, Inc., recognized experts regarding market efficiency, materiality, causation and damages in connection with securities class actions, participated in structuring the Plan of Allocation. Not a single Class member has objected to the Plan of Allocation.

25. Pursuant to the Plan of Allocation, the Net Settlement Fund will be distributed to Settlement Class Members who submit valid, timely Proof of Claim forms ("Authorized Claimants"). It was not necessary for Settlement Class Members to file Proof of Claim forms if they had previously done so in connection with the settlement reached in the Dollar General Action. The Plan of Allocation provides that a Settlement Class Member will be eligible to participate in the distribution of the Net Settlement Fund only if he, she or it suffered a net loss on all transactions in Dollar General common stock, call and put options, 8-5/8% Notes, and/or STRYPES (collectively the "Dollar General Securities") during the Settlement Class Period.

26. If there are sufficient funds in the Net Settlement Fund, each Authorized Claimant will receive an amount equal to the Authorized Claimant's claim, as defined below. If, however, the amount in the Net Settlement Fund is not sufficient to permit payment of the total claim of each Authorized Claimant, then each Authorized Claimant shall be paid the percentage of the Net Settlement Fund that each Authorized Claimant's claim bears to the total of the claims of all Authorized Claimants. Payment in this manner shall be deemed conclusive against all Authorized Claimants.

27. A claim will be calculated as follows:

Common Stock

1. For shares of Dollar General common stock that were purchased on February 24, 1998 through and including February 22, 1999, and
   (a) sold prior to September 24, 2001, the claim per share is $0;
   (b) sold from September 24, 2001 through January 14, 2002, the claim per share is the lesser of: (i) the purchase price less the sales price and cumulative dividend payments, or (ii) $0.96 (the difference in the price inflation during the purchase period and during the sales period); or
   (c) retained at the end of January 14, 2002, the claim per share is $1.05.
2. For shares of Dollar General common stock that were purchased on February 23, 1999 through and including February 21, 2000, and
   (a) sold prior to February 22, 2000, the claim per share is $0;
   (b) sold from February 22, 2000 through February 26, 2001, the claim per share is the lesser of: (i) the purchase price less the sales price and cumulative dividend payments, or (ii) $0.30 (the difference in the price inflation during the purchase period and during the sales period);
   (c) sold from February 27, 2001 through April 29, 2001, the claim per share is $0;
   (d) sold from April 30, 2001 through September 23, 2001, the claim per share is the lesser of: (i) the purchase price less the sales price and cumulative dividend payments, or (ii) $1.34 (the difference in the price inflation during the purchase period and during the sales period);
   (e) sold from September 24, 2001 through January 14, 2002, the claim per share is the lesser of: (i) the purchase price less the sales price and cumulative dividend payments, or (ii) $3.10 (the difference in the price inflation during the purchase period and during the sales period); or
   (f) retained at the end of January 14, 2002, the claim per share is $3.19.
3. For shares of Dollar General common stock that were purchased on February 22, 2000 through and including February 26, 2001, and
   (a) sold prior to April 30, 2001, the claim per share is $0;
   (b) sold from April 30, 2001 through September 23, 2001, the claim per share is the lesser of: (i) the purchase price less the sales price and cumulative dividend payments, or (ii) $1.04 (the difference in the price inflation during the purchase period and during the sales period);
   (c) sold from September 24, 2001 through January 14, 2002, the claim per share is the lesser of: (i) the purchase price less the sales price and cumulative dividend payments, or (ii) $2.81 (the difference in the price inflation during the purchase period and during the sales period); or
   (d) retained at the end of January 14, 2002, the claim per share is $2.89.
4. For shares of Dollar General common stock that were purchased on February 27, 2001 through and including April 29, 2001, and
   (a) sold prior to April 30, 2001, the claim per share is $0;
   (b) sold from April 30, 2001 through September 23, 2001, the claim per share is the lesser of: (i) the purchase price less the sales price and cumulative dividend payments, or (ii) $2.83 (the difference in the price inflation during the purchase period and during the sales period);
   (c) sold from September 24, 2001 through January 14, 2002, the claim per share is the lesser of: (i) the purchase price less the sales price and cumulative dividend payments, or (ii) $4.59 (the difference in the price inflation during the purchase period and during the sales period); or

(d) retained at the end of January 14, 2002, the claim per share is $4.68.

5. For shares of Dollar General common stock that were purchased on April 30, 2001 through and including September 23, 2001, and

(a) sold prior to September 24, 2001, the claim per share is $0;

(b) sold from September 24, 2001 through January 14, 2002, the claim per share is the lesser of: (i) the purchase price less the sales price and cumulative dividend payments, or (ii) $1.76 (the difference in the price inflation during the purchase period and during the sales period); or

(c) retained at the end of January 14, 2002, the claim per share is $1.85.

6. For shares of Dollar General common stock that were purchased on September 24, 2001 through and including January 14, 2002, and

(a) sold prior to January 15, 2002, the claim per share is $0; or

(b) retained at the end of January 14, 2002, the claim per share is $0.09.

Call Options

7. For Call Options on Dollar General common stock that were purchased on February 24, 1998 through and including February 22, 1999, and

(a) sold or expired prior to September 24, 2001, the claim per option is $0;

(b) sold or expired from September 24, 2001 through January 14, 2002, the claim per option is the lesser of: (i) the difference between the price paid and the proceeds received, or (ii) $0.96; or

(c) open and retained after January 14, 2002, the claim per option is $1.05.

8. For Call Options on Dollar General common stock that were purchased on February 23, 1999 through and including February 21, 2000, and

(a) sold or expired prior to February 22, 2000, the claim per option is $0;

(b) sold or expired from February 22, 2000 through February 26, 2001, the claim per option is the lesser of: (i) the difference between the price paid and the proceeds received, or (ii) $0.30;

(c) sold or expired from February 27, 2001 through April 29, 2001, the claim per option is $0;

(d) sold or expired from April 30, 2001 through September 23, 2001, the claim per option is the lesser of: (i) the difference between the price paid and the proceeds received, or (ii) $1.34;

(e) sold or expired from September 23, 2001, through January 14, 2002, the claim per option is the lesser of: (i) the difference between the price paid and the proceeds received, or (ii) $3.10; or

(f) open and retained after January 14, 2002, the claim per option is $3.19.

9. For Call Options on Dollar General common stock that were purchased on February 22, 2000 through and including February 26, 2001, and

(a) sold or expired prior to April 30, 2001, the claim per option is $0;

(b) sold or expired from April 30, 2001 through September 23, 2001, the claim per option is the lesser of: (i) the difference between the price paid and the proceeds received, or (ii) $1.04;

(c) sold or expired from September 24, 2001 through January 14, 2002, the claim per option is the lesser of: (i) the difference between the price paid and the proceeds received, or (ii) $2.81; or

(d) open and retained after January 14, 2002, the claim per option is $2.89.

10. For Call Options on Dollar General common stock that were purchased on February 27, 2001 through and including April 29, 2001, and

(a) sold or expired prior to April 30, 2001, the claim per option is $0;

(b) sold or expired from April 30, 2001 through September 23, 2001, the claim per option is the lesser of: (i) the difference between the price paid and the proceeds received, or (ii) $2.83;

(c) sold or expired from September 24, 2001 through January 14, 2002, the claim per option is the lesser of: (i) the difference between the price paid and the proceeds received, or (ii) $4.59; or

(d) open and retained after January 14, 2002, the claim per option is $4.68.

11. For Call Options on Dollar General common stock that were purchased on April 30, 2001 through and including September 23, 2001, and

(a) sold or expired prior to September 24, 2001, the claim per option is $0;

(b) sold or expired from September 24, 2001, through January 14, 2002, the claim per option is the lesser of: (i) the difference between the price paid and the proceeds received, or (ii) $1.76; or

(c) open and retained after January 14, 2002, the claim per option is $1.85.

12. For Call Options on Dollar General common stock that were purchased on September 24, 2001 through and including January 14, 2002, and

(a) sold or expired prior to January 15, 2002, the claim per option is $0; or

(b) open and retained after January 14, 2002, the claim per option is $0.09.

Put Options

13. For Put Options on Dollar General common stock that were sold on February 24, 1998 through and including February 22, 1999, and

(a) closed out or expired prior to September 24, 2001, the claim per option is $0;

(b) closed out or expired from September 24, 2001 through January 14, 2002, the claim per option is the lesser of: (i) the difference between the proceeds paid and the price received, or (ii) $0.96; or

(c) open after January 14, 2002, the claim per option is $1.05.

14. For Put Options on Dollar General common stock that were sold on February 23, 1999 through and including February 21, 2000, and

(a) closed out or expired prior to February 22, 2000, the claim per option is $0;

(b) closed out or expired from February 22, 2000 through February 26, 2001, the claim per option is the lesser of: (i) the difference between the proceeds paid and the price received, or (ii) $0.30;

(c) closed out or expired from February 27, 2001 through April 29, 2001, the claim per option is $0;

(d) closed out or expired from April 30, 2001 through September 23, 2001, the claim per option is the lesser of (i) the difference between the proceeds paid and the price received, or (ii) $1.34;

(e) closed out or expired from September 24, 2001, through January 14, 2002, the claim per option is the lesser of: (i) the difference between the proceeds paid and the price received, or (ii) $3.10; or

(f) open after January 14, 2002, the claim per option is $3.19.

15. For Put Options on Dollar General common stock that were sold on February 22, 2000 through and including February 26, 2001, and

(a) closed out or expired prior to April 30, 2001, the claim per option is $0;

(b) closed out or expired from April 30, 2001 through September 23, 2001, the claim per option is the lesser of: (i) the difference between the proceeds paid and the price received, or (ii) $1.04;

(c) closed out or expired from September 24, 2001, through January 14, 2002, the claim per option is the lesser of: (i) the difference between the proceeds paid and the price received, or (ii) $2.81; or

(d) open after January 14, 2002, the claim per option is $2.89.

16. For Put Options on Dollar General common stock that were sold on February 27, 2001 through and including April 29, 2001, and

(a) closed out or expired prior to April 30, 2001, the claim per option is $0;

(b) closed out or expired from April 30, 2001 through September 23, 2001, the claim per option is the lesser of: (i) the difference between the proceeds paid and the price received, or (ii) $2.83;

(c) closed out or expired from September 24, 2001, through January 14, 2002, the claim per option is the lesser of: (i) the difference between the proceeds paid and the price received, or (ii) $4.59; or

(d) open after January 14, 2002, the claim per option is $4.68.

17. For Put Options on Dollar General common stock that were sold on April 30, 2001 through and including September 23, 2001, and

(a) closed out or expired prior to September 24, 2001, the claim per option is $0;

(b) closed out or expired from September 24, 2001, through January 14, 2002, the claim per option is the lesser of: (i) the difference between the proceeds paid and the price received, or (ii) $1.76; or

(c) open after January 14, 2002, the claim per option is $1.85.

18. For Put Options on Dollar General common stock that were sold on September 24, 2001 through and including January 14, 2002, and

(a) closed out or expired prior to January 15, 2002, the claim per option is $0; or

(b) open after January 14, 2002, the claim per option is $0.09.

19. For Dollar General 8-5/8% Notes that were purchased on June 16, 2000 through and including April 29, 2001, and

(a) sold prior to April 30, 2001, the claim per note is $0;

(b) sold from April 30, 2001 through January 14, 2002, the claim per note is the purchase price less the sales price and cumulative interest payments; or

(c) retained at the end of January 14, 2002, the claim per note is the purchase price less the January 15, 2002 price and cumulative interest payments.

20. For Dollar General 8-5/8% Notes that were purchased on April 30, 2001 through and including September 23, 2001, and

(a) sold prior to September 24, 2001, the claim per note is $0;

(b) sold from September 24, 2001 through January 14, 2002, the claim per note is the purchase price less the sales price and cumulative interest payments; or

(c) retained at the end of January 14, 2002, the claim per note is the purchase price less the January 15, 2002 price and cumulative interest payments.

21. For Dollar General 8-5/8% Notes that were purchased on September 24, 2001 through and including January 14, 2002, and

(a) sold prior to January 14, 2002, the claim per note is $0; or

(b) retained at the end of January 14, 2002, the claim per note is the purchase price less the January 15, 2002 price and cumulative interest payments.

STRYPES

22. For Dollar General STRYPES that were purchased on May 21, 1998 through and including February 22, 1999, the claim per STRYPES is $0.

23. For Dollar General STRYPES that were purchased on February 23, 1999 through and including February 21, 2000, and

(a) sold prior to February 22, 2000, the claim per STRYPES is $0;

(b) sold from February 22, 2000 through February 26, 2001, the claim per STRYPES is the lesser of: (i) the purchase price less the sales price and cumulative dividend payments; or (ii) $0.58 (the difference in the price inflation during the purchase period and during the sales period);

(c) sold from February 27, 2001 through April 29, 2001, the claim per STRYPES is $0;

(d) sold from April 30, 2001 through May 15, 2001, the claim per STRYPES is the lesser of: (i) the purchase price less the sales price and cumulative dividend payments, or (ii) $2.62 (the difference in the price inflation during the purchase period and during the sales period).

24. For Dollar General STRYPES that were purchased on February 22, 2000 through and including February 26, 2001, and

(a) sold prior to April 30, 2001, the claim per STRYPES is $0;

(b) sold from April 30, 2001 through May 15, 2001, the claim per STRYPES is the lesser of: (i) the purchase price less the sales price and cumulative dividend payments; or (ii) $2.04 (the difference in the price inflation during the purchase period and during the sales period).

25. For Dollar General STRYPES that were purchased on February 27, 2001 through and including April 29, 2001, and

(a) sold prior to April 30, 2001, the claim per STRYPES is $0;

(b) sold from April 30, 2001 through May 15, 2001, the claim per STRYPES is the lesser of: (i) the purchase price less the sales price and cumulative dividend payments; or (ii) $5.52 (the difference in the price inflation during the purchase period and during the sales period).

26. For Dollar General STRYPES that were purchased on April 30, 2001 through and including May 15, 2001, the claim per STRYPES is $0.

28. The Plan of Allocation provides: (i) in no event shall the total recovery of purchasers of Call Options on Dollar General common stock exceed 1-1/2% of the Net Settlement Fund; (ii) in no event shall the total recovery of purchasers of Put Options on Dollar General common stock exceed 1/2% of the Net Settlement Fund; (iii) in no event shall the total recovery of purchasers of Dollar General 8-5/8% Notes exceed 2% of the Net Settlement Fund; and (iv) in no event shall the total recovery of purchasers of Dollar General STRYPES exceed 3% of the Net Settlement Fund.

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

30. For Class members who held Dollar General Securities at the beginning of the Settlement Class Period or made multiple purchases or sales during the Settlement Class Period, the first-in, first-out ("FIFO") method will be applied to such holdings, purchases and sales for purposes of calculating a claim. Under the FIFO method, Dollar General Securities sold during the Settlement Class Period will be matched, in chronological order, first against Dollar General Securities held at the beginning of the Settlement Class Period. The remaining sales of Dollar General Securities during the Settlement Class Period will then be matched, in chronological order, against such Dollar General Securities purchased during the Settlement Class Period.

31. A Class member will be eligible to receive a distribution from the Net Settlement Fund only if a Class member suffered a net loss, after all profits from transactions in Dollar General Securities are subtracted from all losses. However, the proceeds from sales of Dollar General Securities which have been matched against Dollar General Securities held at the beginning of the Settlement Class Period will not be used in the calculation of such net loss.

32. The Plan of Allocation provides that each Person claiming to be an Authorized Claimant must submit a separate Proof of Claim and Release if they had not already done so, signed under penalty of perjury, and supported by broker confirmation slips, monthly brokerage statements or other proof confirming the putative Authorized Claimant's purchases, sales, closing balance as of January 14, 2002 of Dollar General common stock and/or call options and/or put options and/or STRYPES and/or debentures. Under the Plan of Allocation, Persons claiming to be Authorized Claimants must submit a duly executed Proof of Claim and Release, postmarked no later than October 20, 2003 to the Claims Administrator, The Garden City Group, Inc.

V. PRELIMINARY APPROVAL OF THE SETTLEMENT

33. On July 7, 2003, this Court entered its Order Preliminarily Approving Settlement and Providing for Notice (the "Preliminary Approval Order"), granting preliminary approval to the Settlement as set forth in the Stipulation and providing, among

other things, procedures for notifying Class members of the proposed Settlement as well as their rights in connection with the Settlement, and scheduling the hearing to consider final approval of the Settlement for September 29, 2003. As set forth in the accompanying Burke Affidavit, more than 321,000 Notices have been mailed to known and potential Class members or their nominees.

34. Further, the Summary Notice was published in *The Wall Street Journal* on July 25, 2003. *See* Burke Aff., ¶6. Significantly, only two objections to any terms of the proposed Settlement or the Fee and Expense Application have been filed, and one of those objections has been withdrawn.

VI. FINAL CERTIFICATION OF THE CLASS

35. As referenced above, the Court's Preliminary Approval Order preliminarily certified the following Class for settlement purposes under Federal Rule of Civil Procedure 23(b)(3): "[A]ll Persons (except Deloitte & Touche LLP ("D&T"), its partners and employees, the Dollar General Defendants, and Dollar General's officers, directors and employees) who purchased the securities of Dollar General during the period from February 24, 1998 through January 14, 2002, inclusive."

36. As set forth in detail in the accompanying Memorandum in Support of Final Approval of Class Action Settlement and Plan of Allocation, the Class amply satisfies the requirements of Federal Rule of Civil Procedure 23(a) and 23(b)(3), warranting final certification by the Court.

A. The Requirements of Rule 23(a) Are Met Here

37. Under Federal Rule of Civil Procedure 23(a), class certification is appropriate where:

(a) the class is so numerous that joinder of all members is impracticable;

(b) there are questions of law or fact common to the class;

(c) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and

(d) the representative parties will fairly and adequately protect the interests of the class.

38. As set forth below, the Class in this Action easily satisfies each of the foregoing requirements.

1. Numerosity

39. The numerosity requirement is liberally applied in securities fraud cases and is generally satisfied where the class is so large, and class members are so geographically dispersed, that joinder of absent class members is impracticable. Plaintiffs need not show that joinder is impossible; impracticability of joinder will suffice. Here, the Claims Administrator, The Garden City Group, Inc., has disseminated 321,000 Notices to potential Class members. As discussed in the accompanying Memorandum in Support of Final Approval of Class Action Settlement and Plan of Allocation, the number of Class members in this Action well exceeds class sizes that routinely satisfy Rule 23(a)'s numerosity requirement. Thus, the Class manifestly satisfies the requirements of Rule 23(a)(l).

2. Commonality

40. As with the numerosity requirement, this factor is also liberally applied in securities fraud actions. Rule 23(a)(2) requires that there be common questions of law or fact, not that every question be identical or common. This criterion is satisfied where there is even a single issue common to all members of the class and therefore is easily met in this case.

41. Here, there are numerous common questions of both fact and law, including:

(a) whether D&T violated the Exchange Act;

(b) whether D&T omitted and/or misrepresented material facts;

(c) whether D&T's statements omitted material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading;

(d) whether D&T knew or recklessly disregarded that its statements were false and misleading;

(e) whether the prices of Dollar General Securities were artificially inflated; and

(f) the extent of damages sustained by Class members and the appropriate measure of damages.

3. Typicality

42. The typicality requirement set forth in Rule 23(a)(3) requires an inquiry into whether the legal theory upon which the plaintiffs' claims are based differs from that upon which the claims of other class members are based. "Typical" does not mean identical. Instead, the questions of law and fact merely need to arise out of the same legal or remedial theory.

43. In this Action, the named plaintiffs' and the other Class members' claims arise from purchasing Dollar General Securities during the Settlement Class Period at prices that were allegedly artificially inflated by D&T's misleading statements and omissions. The Lead Plaintiffs' claims arise from the same course of conduct and are predicated on the same legal theories as the claims of other Class members, thus satisfying Rule 23(a)(3).

4. Adequacy of Representation

44. The adequacy requirement under Rule 23(a)(4) is designed to ensure that the absent class members' interests are fully pursued. The adequacy requirement of Rule 23(a)(4) serves to uncover conflicts of interest between the lead plaintiffs and the class. Demonstrating that the named plaintiffs are adequate representatives of the class requires a showing that: (i) the interests of the named plaintiffs are sufficiently aligned with those of the absent class members; and (ii) class counsel are qualified to serve the interests of the entire class.

45. Here, there are no conflicts between the named plaintiffs and the other Class members. The Lead Plaintiffs' and other Class members' rights to relief depend upon demonstrating that D&T violated the federal securities laws by making misleading statements and omissions of material facts that artificially inflated the Settlement Class

Period prices of Dollar General Securities. Thus, all Class members' interests are well-aligned.

46. As set forth in further detail in the accompanying Memorandum In Support of Plaintiffs' Application for an Award of Attorneys' Fees and Reimbursement of Expenses, Lead Counsel, Entwistle & Cappucci LLP, Grant & Eisenhofer, P.A. and Milberg Weiss Bershad Hynes & Lerach LLP are among the leading securities class action law firms in the country. The Settlement is the product of hard fought negotiations with eminently qualified defense counsel. The excellence of the Settlement validates that Lead Counsel served the interests of the entire Class.

B. Predominance of Common Questions and Superiority of the Class Action to Other Methods of Adjudication

47. Rule 23(b)(3) authorizes class certification where: (i) common questions of law and fact predominate over any individual questions; and (ii) a class action is superior to other available means of adjudication. Each of these circumstances is present in this Action.

1. Common Legal and Factual Questions

48. Predominance is a test readily met in certain cases alleging consumer or securities fraud. Here, named plaintiffs alleged that D&T disseminated false and misleading statements and failed to disclose material facts regarding Dollar General's business, future prospects, and financial results. The same alleged misrepresentations and the nature of the restatement would be crucial to all Class members' claims. Moreover, the evidence needed to prove the claims of all Class members would be substantially the same. Central issues therefore predominate over any individual issues that theoretically might exist in the Action.

2. Superiority of the Class Action to Other Methods of Adjudicating Plaintiffs' Claims

49. When confronted with a request for settlement-only class certification, it is largely unnecessary for a district court to inquire whether the case, if tried, would present intractable management problems. Nevertheless, the expense of individual litigation of the claims presented in this Action would, absent class action treatment, likely prevent Class members from obtaining any recovery of their losses in Dollar General Securities. Where,

as here, each class member allegedly suffered harm, but the possibility and amount of individual recovery may not be enough to make individual litigation worthwhile, a class action is the superior method for addressing these claims.

VII. EVALUATION OF THE PROPOSED SETTLEMENT

50. The pertinent criteria for evaluating the fairness of a proposed class action settlement in this Circuit include the following factors: (a) the plaintiffs' likelihood of ultimate success on the merits balanced against the amount and form of relief offered in the settlement; (b) the complexity, expense and likely duration of the litigation; (c) the stage of the proceedings and the amount of discovery completed; (d) the judgment of experienced trial counsel; (e) the nature of the negotiations; (f) any objections of class members; and (g) the public interest. Based upon an analysis of these factors, it is clear that the Settlement before the Court is fair, reasonable and adequate and should be approved pursuant to Rule 23 of the Federal Rules of Civil Procedure.

A. The Plaintiffs' Likelihood of Ultimate Success on the Merits Balanced Against the Amount and Form of Relief Offered in Settlement

51. Plaintiffs believe that the ultimate body of evidence discovered in this Action would consist of documents and testimony, which, when pieced together, would indicate a course of conduct supportive of Plaintiffs' claims. D&T, however, would present a completely different picture of the events surrounding the facts and circumstances relevant to this case. As described more fully below, the outcome of this litigation was extremely uncertain. The risks of establishing liability and damages militate in favor of the Settlement.

1. The Risks of Establishing Liability

52. In establishing liability for federal securities fraud, the plaintiffs must not only show that the defendants' public statements misrepresented or omitted "material" information, but, that their material misstatements or omissions were made with scienter (*i.e.*, actual knowledge of falsity or reckless disregard for the truth). Since the enactment of the Private Securities Litigation Reform Act of 1995 ("PSLRA"), actions such as this have become extremely risky and difficult. Indeed, the essential effect of the PSLRA is to make

it more difficult for investors to bring and successfully resolve securities class actions. One of the PSLRA's most significant requirements is that plaintiffs must plead with particularity facts giving rise to a strong inference of scienter in establishing their §10(b) claim. *See* 15 U.S.C. §78u-4(b)(2).

53. Here, D&T has challenged the alleged materiality of certain misrepresentations and omissions. Moreover, both the deposition testimony in the Dollar General Action and the reports on Form 10-K demonstrate that a large portion of Dollar General's restatement derived from the Company's accounting for synthetic leases. The deposition testimony and Lead Counsel's consultations with their accounting experts revealed that proper synthetic lease accounting is a matter replete with differences of opinion. In combination, these factors demonstrated that the named plaintiffs would have faced several hurdles in proving that D&T acted with scienter. D&T was prepared to assert strong defenses consistent with this evidence in opposing plaintiffs' claims. Accordingly, the difficulty in proving scienter, at the motion to dismiss stage, on a summary judgment motion, or at trial, would have been a considerable challenge for the named plaintiffs.

54. Lead Counsel recognized that the Action presented numerous substantive difficulties, that D&T would mount a strong defense to the claims asserted and that there were substantial risks in proving the claims asserted. These risks as to proving liability strongly militated in favor of the Settlement.

2. The Risks of Establishing Damages

55. In addition to defenses on liability, D&T would surely have raised substantial defenses regarding damages in the context of summary judgment proceedings and/or at trial. Lead Counsel and D&T's counsel had extensive discussions concerning damages during the course of settlement negotiations that confirmed the parties' disparate views on this issue.

56. Under §10(b) of the Exchange Act, damages recoverable to plaintiffs would be measured by the amount of stock price inflation caused by defendant's misleading statements and omissions. In this Action, the amount of inflation damages that plaintiffs could prove was a matter of serious dispute. Moreover, the parties differed greatly

concerning whether, and to what extent, the decline in the market price of Dollar General Securities was related to D&T's allegedly misleading statements or omissions, or simply resulted from general economic factors, or more likely, the fraudulent conduct of Dollar General and its officers and directors. Thus, D&T intended to argue aggressively that Plaintiffs had failed to establish loss causation.

57. Moreover, the PSLRA poses additional hurdles to any substantial recovery against D&T. The PSLRA provides for proportionate liability (unless a jury specifically determines that D&T knowingly or intentionally committed a violation of the securities laws, which was not likely. If a jury found that D&T was reckless or did not intentionally commit a violation of the securities laws, then D&T would only be liable for its proportionate liability. *See* 15 U.S.C. §78u-4(f)(2)(B)(i). Therefore, absent a jury finding that D&T intentionally violated the securities laws, D&T would only have been liable for its "percentage of responsibility ... measured as a percentage of the total fault of all persons who caused or contributed to the loss incurred by the plaintiff[s]." *See* 15 U.S.C. §78u-4(f)(3)(A)(ii).

58. The determination of damages, like the determination of liability, is a complicated and uncertain process, typically involving conflicting expert opinions. The reaction of a jury to such complex expert testimony is highly unpredictable. Expert testimony on damages could rest on many subjective assumptions, any one of which could be rejected by a jury as speculative or unreliable. Conceivably, a jury could substantially disagree with any damage presentation proffered by Plaintiffs. Accordingly, proving damages involves a substantial amount of risk.

3. The Amount and Form of Relief Offered In the Settlement Compared with the Risks of Continued Litigation

59. As fully demonstrated above, the Settlement constitutes an excellent result by any measure. Not only does the Settlement include a cash payment of $10,500,000 from D&T, but it follows a recovery of $162,000,000 from the Dollar General Action which also provided for the adoption of beneficial corporate governance procedures by Dollar General.

60. Given the significant risks with respect to liability and damages, which would likely impact the outcome of the litigation, the Settlement becomes even more attractive. The Settlement eliminates this issue and the overall uncertainty of a favorable litigation outcome for the Class. Accordingly, the amount and form of relief offered in the Settlement prevails over the risks involved with continued prosecution.

B. The Complexity, Expense and Likely Duration of the Litigation

61. Securities class actions are inherently complex and this Action is no exception. As described above, the Action is replete with complexity in both establishing liability and in proving damages. Were it not for the Settlement, the litigation would have required an extensive amount of time to prosecute, with the continued risk of ultimately losing on a motion to dismiss, on summary judgment or at trial. Despite the extensive amount of discovery taken thus far, substantial additional document discovery would need to be conducted, additional depositions would have to be taken, experts would have to be designated and discovery of experts conducted. In addition, a motion for summary judgment would have to be briefed and argued, a pretrial order would have to be prepared, and proposed jury instructions would have to be submitted. Finally, motions *in limine* would have to be filed and argued and a trial would ultimately proceed.

62. Moreover, whatever the outcome of trial, an appeal could be taken to the Sixth Circuit and perhaps even to the United States Supreme Court. All of the foregoing would have extended the case and delayed the ability of the Class to recover for years and would be extremely expensive for the parties. Settlement at this juncture results in a substantial and tangible present recovery, without the attendant risk and delay of trial and the associated expense.

C. The Stage of the Proceedings and the Amount of Discovery Completed

63. As set forth herein, prior to filing this Action, Plaintiffs' counsel engaged in a comprehensive investigation of the claims which included, among other things, a coordinated effort by counsel from all three Lead Counsel firms, two separate teams of

private investigators and extensive consultation with numerous forensic accounting and tax experts, as well as experts in the retail industry. A web site was created by which relevant information and the identities of potential witnesses were sought. Over one hundred telephonic and face-to-face interviews of former Dollar General employees and management personnel were conducted by counsel and the investigators. Counsel and their experts also undertook a review and analysis of Dollar General public filings, press releases, relevant analyst reports and other documents.

64. As described above, Plaintiffs' counsel also conducted a substantial amount of formal discovery, including the review and analysis by a team of over 15 attorneys from all 3 Lead Counsel firms of over 400,000 pages of Company documents. Issue binders were created for purposes of witness interviews, depositions and for working with experts. Lead Counsel and their experts were also given access to and analyzed the Company's unaudited restated financial statements for the Company's fiscal years 1998, 1999 and 2000. Lead Counsel also conducted extensive interviews and depositions of 11 key witnesses, including senior executives of the Company with extensive knowledge of the decisions and transactions giving rise to this litigation. As part of the settlement agreement in the Dollar General Action, Dollar General agreed to cooperate with Plaintiffs in their investigation of the instant case against D&T. Plaintiffs' counsel critically analyzed the foregoing investigation and discovery during the development of their claims against D&T. Plaintiffs' counsel evaluated the facts concerning D&T's role in the alleged fraud in the context of the applicable law. This evaluation yielded the claims asserted in the Complaint filed in this litigation.

D. The Judgment of Experienced Counsel

65. The Settlement is the result of arm's-length negotiations between experienced counsel who have concluded that the Settlement is fair, reasonable and adequate. Settlement at this time avoids long and costly additional litigation. It is the informed opinion of Plaintiffs' counsel that the significant risks involved in taking this case to trial amply justify this Settlement.

E. The Nature of the Negotiations

66. This Settlement was reached only after intense, hard fought and arm's-length negotiations. Based on a well-informed understanding of the salient facts and a thorough analysis of the law and merits of the case by Lead Counsel and their experts on the one hand, and D&T's desire to promptly resolve this litigation and move forward on the other, the parties agreed to settle the litigation for $10,500,000.

67. In light of the discovery taken and the inherent risks of the litigation, Lead Counsel made a fully informed determination that the Settlement, including the $10,500,000 Settlement Fund, is a fair and reasonable settlement.

F. The Reaction of the Class to the Settlement

68. Notice of the proposed Settlement and the Fee and Expense Application was provided to the Class, in the form approved by the Court in its July 7, 2003 Order. Moreover, a Summary Notice of the Settlement was published in *The Wall Street Journal*, *See* Burke Aff., ¶6. The full Notice, which advised Class Members of the specifics of the Settlement, Plan of Allocation and the Fee and Expense Application, as well as Class members' right to object thereto, has been mailed to more than 321,000 Class members. *See* Burke Aff., ¶7. Class members had until August 22, 2003 to object and/or request exclusion from the Settlement. There have been only two objections to the Settlement or Fee and Expense Application, one of which has been withdrawn, and fewer than 60 potential Class members have requested exclusion from the Class. This fact is significant inasmuch as we know that, in addition to the Lead Plaintiffs, the Class contains many other institutional or individual investors with substantial stakes in the Settlement Fund who have the economic motivation to object if they thought the Settlement, Plan of Allocation, or Fee and Expense Application were unfair in any way. This reaction of the ultimate beneficiaries of the Settlement Fund is entitled to substantial weight. Indeed, it is an overwhelming endorsement of this Settlement and the Fee and Expense Application that only two objections were received. The small number of objections to the Settlement and to the application for attorneys' fees and expenses amply supports final approval by this Court.

G. The Public Interest Is Served by the Settlement

69. The Settlement clearly serves the public interest, as it provides a guaranteed financial recovery for the members of the Class.

70. The Plan of Allocation allows the Court, through the Claims Administrator, to allocate fairly the Settlement proceeds to all members of the Class. Absent a settlement, Class members, even if successful at trial, may have received nothing. Moreover, the Settlement frees the valuable judicial resources of the Court and all appellate courts which would have visited the issues in this case. Accordingly, the public has an interest in seeing the Class members recover for their compensable losses, rather than protracting the litigation.

VIII. THE FEE PETITION

71. Plaintiffs' counsel jointly request a fee of 22.5% of the Settlement Fund, plus $80,540.74 in expenses (plus interest on the award at the same rate and for the same period as that earned on the Settlement Fund). The percentage requested is the effective rate that results under the fee structure negotiated at the outset of the case with and agreed to by the named plaintiffs, including the Florida State Board of Administration, Louisiana Teachers' Retirement System and Pirelli Armstrong Tire Corporation Retiree Medical Benefits Trust. This arm's-length negotiated fee is consistent with one of Congress's primary objectives in enacting the PSLRA, which was to encourage institutional investors to take an active role in securities class actions. Accordingly, the negotiations and fee structure should be given due deference.

72. The fee structure should also be given deference because it was designed to motivate counsel to achieve the maximum result possible for the Class and, in retrospect, it is clear that it accomplished that goal. The negotiated fee structure provides that counsel will receive an increasing percentage of the common fund if certain layers of recovery are obtained. Accordingly, Lead Counsel were given an appropriate incentive to prosecute claims on behalf of the Class. That incentive worked with outstanding results here, further justifying the requested fee.

73. The percentage sought is significantly below comparable awards in this District, the Sixth Circuit and throughout the Country. As set forth in the accompanying Memorandum In Support of Plaintiffs' Application for an Award of Attorneys' Fees and Reimbursement of Expenses, this simple and direct method of computing fees is practical, is supported by public policy, has been recognized as appropriate by the United States Supreme Court for cases of this nature and represents the current trend in most Circuits and in the majority of courts in this District. The percentage method is also supported by the PSLRA.[3]

74. The reaction of the Class to the requested Fee and Expense Application should also be considered. The Notice mailed to Class members sets forth that Plaintiffs' counsel will collectively seek an award of attorneys' fees from the Settlement Fund in an amount not greater than 22.5% of the Settlement Fund, plus reimbursement of expenses in an amount not to exceed $125,000. Pursuant to this Court's Preliminary Approval Order, all objections had to be served and filed no later than August 22, 2003. Only two objections were filed, and one of those has been withdrawn. This factor is highly relevant to a determination of the reasonableness of the Fee and Expense Application.

A. Relevant Factors Justifying an Award of the Percentage Requested

75. Consideration of the factors enumerated by the Sixth Circuit in determining the fairness of an attorney fee request confirm that a much larger percentage fee award would be appropriate here. Those factors include: (a) the value of the benefit rendered to shareholders; (b) society's stake in rewarding attorneys who produce such benefits in order to maintain an incentive to others; (c) the contingent nature of the case and the financial burden carried by the plaintiffs; (d) the value of the services rendered; (e) the complexity of the action's factual and legal questions; and (f) the quality of representation. An analysis of

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[3] The PSLRA, 15 U.S.C. §78u-4(a)(6), provides: "Total attorneys' fees and expenses awarded by the court to counsel for the plaintiff class shall not exceed a reasonable percentage of the amount of any damages and prejudgment interest actually paid to the class."

these factors demonstrates that the requested fee of 22.5% of the Settlement Fund, which is based upon the agreement that Lead Plaintiffs and Lead Counsel negotiated, is proper here.

1. The Value of the Benefit Rendered to Shareholders

76. The Settlement terms have already been described in detail herein. As set forth above, the Settlement is an outstanding result for the Class. The Settlement was obtained solely through the efforts of Lead Counsel without the assistance of any regulatory agency or the necessity of a lengthy trial and post-trial appeals. This favorable Settlement was achieved as a result of extensive investigative efforts and settlement negotiations, as detailed above. As a result of this Settlement, Class members will receive compensation for their losses in Dollar General Securities and will avoid the substantial risk of no recovery in the absence of a settlement.

2. Society's Stake In Rewarding Attorneys Who Produce Such Benefits In Order to Maintain an Incentive to Others

77. By virtue of the Settlement, the goals of the federal securities and corporate governance laws have clearly been achieved. A multi-million dollar recovery has been obtained for Class members who were harmed by the alleged wrongdoing of D&T. A significant service has been provided to these investors, a demonstration that the protection provided by the federal securities and corporate governance laws is real and can provide benefits through the representative litigation device.

78. The requested fee, constituting 22.5% of the Settlement Fund, is the product of negotiations with lead counsel prior to the July 17, 2001 hearing in connection with Magistrate Judge Brown's appointment of lead plaintiffs and lead counsel in the Dollar General Action. The fee percentage was negotiated to assure that lead counsel were properly motivated to pursue the class's claims vigorously, while also providing that lead counsel would not receive a windfall for their efforts. As fee agreements negotiated between lead plaintiffs and their counsel are accorded deference under the PSLRA, the requested fee percentage is consistent with Congress's intent to protect investors' interests.

3. The Contingent Nature of the Case and the Financial Burden Carried by the Plaintiffs

79. In pursuing the Class's claims, Lead Counsel have advanced over $80,540.74. Lead Counsel have litigated the Class's claims purely on a contingent basis, and have received no compensation during the course of this litigation. Any fee award or expense reimbursement to Plaintiffs' counsel has always been at risk and completely contingent on the result achieved and on this Court's exercise of its discretion in making any award.

4. The Value of the Services Rendered

80. A considerable effort on the part of Plaintiffs' counsel was required to produce this Settlement. Plaintiffs' counsel spent countless hours mastering the relevant facts and dynamics in order to make effective arguments on the merits and conduct meaningful settlement discussions.

5. The Complexity of the Action's Factual and Legal Questions

81. There is no question that had this Settlement not been reached, the factual and legal questions at issue would continue to be the subject of complex analysis. Numerous issues would be involved in proving liability and damages, including D&T's scienter and loss causation.

82. With respect to scienter, a substantial portion of the restatement related to Dollar General's accounting for "synthetic leases." Aside from the fact that the subject is both dry and arcane, D&T could (and did) argue that proper accounting treatment for "synthetic leases" was subject to dispute among accounting experts. Loss causation and damages were also issues that presented potential difficulties in securing an excellent recovery for the Class. D&T argued that Dollar General's securities prices traditionally fluctuated for a host of reasons having nothing to do with Plaintiffs' allegations of wrongdoing, such as general stock market or economic conditions, retail trends and the like. If this view prevailed, the Class might be able to demonstrate losses, but would fail to prove that D&T's conduct caused Plaintiffs' damages. Moreover, D&T argued that Class members who purchased in the latter part of the Settlement Class Period – post April 2001 – were on

notice that Dollar General was going to restate its financial statements, since the Company first announced its intention to do so on April 30, 2001. This left D&T with a palpable argument that anyone who purchased after that date should not be allowed to recover damages.

6. The Quality of Representation

83. The quality of representation by Lead Counsel is best demonstrated by the excellent recovery obtained for the Class. The lawyers on both sides of this litigation are from firms with well-deserved reputations for the vigorous and effectual prosecution and defense of these types of cases. Plaintiffs' Lead Counsel are actively engaged in complex federal civil litigation, particularly the litigation of securities class actions, and have achieved significant acclaim for their work. Lead Counsels' experience in the field allowed them to identify the complex issues involved in this case and to formulate strategies to effectively prosecute the Action. The resumes of each of these firms have been submitted to the Court together with each respective firm's supporting declaration. Lead Counsels' reputations as attorneys who are prepared to carry a meritorious case through the trial and appellate levels gave them strong leverage in negotiating the Settlement with the defendants.

B. Plaintiffs' Counsel Should Be Reimbursed for the Expenses They Have Incurred

84. The reimbursement of expenses incurred by counsel in connection with the prosecution of actions where a common fund is created has been found uniformly appropriate. Plaintiffs' counsel herein have incurred unreimbursed expenses in the amount of $80,540.74 for which they seek reimbursement. A breakdown of the aggregate expenses incurred is included in the accompanying Appendix of Lead and Local Counsel's Declarations in Support of Award of Attorneys' Fees And Expenses.

85. The Notice mailed to Class members stated that Plaintiffs' counsel intended to apply for reimbursement of their litigation expenses up to a maximum amount of $125,000. Plaintiffs' counsel's total expense amount for which they now seek reimbursement is well below the maximum level of expenses identified in the Notice.

86. In view of the complex nature of the Action, the expenses incurred by Plaintiffs' counsel were reasonable and necessary and were directly related to the pursuit of the Class members' claims. Accordingly, Lead Counsel should be reimbursed for their expenses incurred in connection with this Action.

IX. CONCLUSION

It is respectfully requested that the Settlement of this litigation, pursuant to the terms enumerated in this Joint Declaration, and more fully provided for in the Stipulation, should be approved as fair, reasonable and adequate and the Class should be finally certified for purposes of this Settlement. In addition, it is respectfully requested that the Court approve the Plan of Allocation and the Fee and Expense Application.

We declare under penalty of perjury that the foregoing is true and correct.

Executed this ___ day of September, 2003.

VINCENT R. CAPPUCCI

Executed this ___ day of September, 2003.

JAY W. EISENHOFER

Executed this 18 day of September, 2003.

DARREN J. ROBBINS

We declare under penalty of perjury that the foregoing is true and correct.

Executed this ___ day of September, 2003.

VINCENT R. CAPPUCCI

Executed this 19 day of September, 2003.

Jay W. Eisenhofer

JAY W. EISENHOFER

Executed this ___ day of September, 2003.

DARREN J. ROBBINS

We declare under penalty of perjury that the foregoing is true and correct.

Executed this ___ day of September, 2003.

VINCENT R. CAPPUCCI

Executed this ___ day of September, 2003.

JAY W. EISENHOFER

Executed this 18 day of September, 2003.

DARREN J. ROBBINS

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Lead Counsel for Lead Plaintiff and the Putative Class

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE LUMINENT MORTGAGE CAPITAL, INC. SECURITIES LITIGATION

This Document Relates To:

ALL ACTIONS

C 07-04073 PJH

CLASS ACTION

DECLARATION OF MICHAEL A. MAREK IN SUPPORT OF PRELIMINARY APPROVAL OF SETTLEMENT AND PLAN OF ALLOCATION

Date: January 14, 2009
Time: 9:00 a.m.
Place: Courtroom 3, 17th Floor
Judge: Hon. Patricia J. Hamilton

I. Background and Qualifications

1. I was retained in this matter by Lead Counsel in this matter to estimate potential damages suffered by Lead Plaintiff and the members of the Class based on the allegations as set forth in the Consolidated Class Action Complaint (the "Complaint"), based upon a class period of June 25, 2007 through August 6, 2007, as well as for a longer proposed Settlement Class Period from February 9, 2007 through August 6, 2007. I have been advised by Lead Counsel that the parties have settled this matter and that the settlement proceeds of $8 million will be distributed to the members of the Class.

2. I have assisted in formulating a Plan of Allocation ("POA"), which was based largely on my calculation of damages, and then further adjusted to reflect the strengths and weaknesses of Class members' claims. I have also calculated the estimated average distribution per share if all Class members file claims. I submit this Declaration in Support of the Settlement and the proposed POA, a copy of which is attached as Exhibit A.

3. I am a founding member of Financial Markets Analysis, LLC ("FMA"). FMA is a securities analysis firm with offices in Princeton, New Jersey and San Diego, California. FMA provides financial analysis and related consulting to its clients. FMA personnel have frequently been called upon to prepare reports and to testify as securities valuation experts in class actions under Federal and State securities laws. Such testimony has included testifying to matters including: (1) market efficiency; (2) the materiality of information; (3) loss and damage causation; (4) the valuation of publicly traded securities based upon the hypothetical absence of alleged misstatements and the disclosure of alleged omissions and misrepresentations; and (5) damages calculations. I have attached my curriculum vitae as Exhibit B.

II. Analysis of Potential Damages Sustained by Members of the Settlement Class – Common Stock

4. In order to make a reliable estimate of the potential damages to Class members, as alleged in the Complaint, I reviewed information including the following:

a. Defendants' Notice of Motion and Motion to Dismiss the Consolidated Complaint;

b. Lead Plaintiff's Memorandum of Points and Authorities In Opposition to Motion to Dismiss the Consolidated Complaint;

c. Filings made by Luminent and other companies with the Securities and Exchange Commission ("SEC") before, during and after the Class Period, including Forms 10-K, Forms 10-Q, Forms 8-K, Proxy Statements and Registration Statements;

d. Press releases issued before, during and after the Class Period by Luminent and other companies;

e. News articles and data published in the general and financial press before, during and after the Class Period about Luminent and other companies;

f. Reports published by securities analysts about Luminent and other companies; and

g. Daily reported price, volume and quote data for the common stock of Luminent, other companies and stock price indices before, during and after the Class Period.

5. In summary, based upon the assumptions and methodologies described below, I reached the following conclusions:

a. The information which Plaintiffs allege was misstated and/or omitted by Defendants between June 25, 2007 and August 6, 2007 (the "Class Period"), namely: (a) that Luminent's common stock dividend for the second quarter of 2007 was "secure" and "easily sustainable" in the future; (b) that Luminent had "ample liquidity"; (c) that Luminent had received margin calls and began selling its MBS portfolio in July of 2007 to satisfy their margin calls; and (d) that the Company had experienced a dramatic reduction in its capital position and was forced to write down the value of its MBS portfolio; was material to investors.

b. Revelation to the market of the true facts concerning the information described above caused statistically significant declines in the price of Luminent common stock and, conversely, statistically significant rises in the prices of Luminent common stock put options.

c. As a result of those respective price changes, Class Members who purchased Luminent common stock and Luminent common stock call options and/or sold Luminent common stock put options suffered recoverable damages.

6. I measured the impact of new material information, including disclosures associated with allegations in this matter, on the market price of Luminent common stock during the Class Period. To arrive at a reliable measure of artificial price inflation in a security, it is generally necessary to generate empirical, statistical evidence of the materiality of the statements

and disclosures which relate to Plaintiffs' allegations. To estimate the financial effects of these statements and disclosures, damage experts often employ a generally accepted methodology commonly referred to as an "event study" (or "market model"). This is a standard research method that provides a statistical measure of whether a particular "event" or disclosure caused a significant change in the total mix of information which determines the price of a security. This empirical technique is supported by published literature, employs procedures based on objective standards, and has a known rate of error.

III. Determination of Artificial Inflation per Share

7. In my opinion, the unquestionably material stock price declines associated with the corrective events and disclosures on August 6 and 7, 2007 regarding Luminent's deteriorating liquidity and the suspension of its dividend constitute an empirical and reasonable starting point for estimation of the level of artificial inflation in the price of Luminent common stock which existed during the Class Period. The following table summaries those declines:

Date	Closing Price	Actual $ Change	Residual $ Change	Figure Used as Inflation Estimate	Cumulative Artificial Inflation Estimate
8/3/2007	$ 6.33				
8/6/2007[1]	$ 4.38	$ (1.950)	$ (2.024)	$ 1.950	$ 5.210
8/7/2007	$ 1.08	$ (3.300)	$ (3.260)	$ 3.260	$ 3.260

IV. Reasonableness of the Settlement and Plan of Allocation

8. Lead Counsel has asked me to provide a formula which will reasonably ensure that members of the Settlement Class will be compensated in a manner commensurate with the actual amount of damages they sustained, based on the timing of their purchases and sales of Luminent stock and/or options. The damage analysis that I performed, as described herein, is the basis for the POA set forth in the Notice of Settlement. In my opinion this formula will allow for an

[1] My inflation estimate was limited to the actual price decline in Luminent common stock. Luminent's residual common stock price change was larger that its actual price change because both the general market and industry-related common stocks rose on those dates.

equitable distribution of the settlement funds according to the relative amounts of losses caused by Defendants' alleged misrepresentations and omissions and the actual amount of losses sustained by the various members of the Settlement Class.

9. The POA applies the same calculation for determining the investment losses of all Settlement Class members. For example, "Recognized Losses" are calculated using a constant inflation amount of $5.21 per share for all stock purchases prior to August 6, 2007. These figures are derived from FMA's damages analysis.

10. The POA also limits the amount of losses depending on the dates of sales. Notably, any Class member who sold prior to August 6, 2007 will not have any Recognized Loss because his or her losses did not result from the corrective disclosures about Luminent made on August 6 and 7, 2007. The POA also takes into account sales during the 90-day period following the August 6, 2007 disclosures. Under the PSLRA, damages will be reduced for Class members who sold during this period to the extent that the average stock price between August 7 and the date of sale was higher than the market price on August 6, 2007. *See* POA, note 2.

11. Based upon Lead Counsel's assessment of the strengths and weaknesses of the claims, common stock purchasers from February 9, 2007 through June 24, 2007 will receive 20% of their Recognized Losses, while later common stock purchasers (from June 25, 2007 through August 6, 2007) will receive 100% of their Recognized Losses.

12. Finally, Class members who (i) held an open long position in Luminent common stock call options or held an open short position in Luminent put options as of the close of trading on August 2, 2007, and/or; (ii) purchased Luminent common stock call options to open a long position between August 3, 2007 and August 6, 2007 and/or sold Luminent common stock put options to open a short position between August 3, 2007 and August 6, 2007 will receive 50% of their recognized losses because: (i) option prices include a time premium that diminishes over time independent of the underlying common stock price, and (ii) the expected additional volatility of derivative securities such as common stock options makes it more difficult to prove that all losses sustained on the purchase or sale on such securities are causally related to the alleged wrongdoing, as opposed to non-actionable causes.

V. Damages

13. I have also been asked by Plaintiffs' Counsel to estimate aggregate Class member damages based on the assumptions that Plaintiffs would have been able to prove that 50% of the artificial price inflation derived above was caused by Defendants' alleged misconduct and was therefore recoverable as damages. Based on that assumption, I have estimated that Class member common stock damages are approximately $40.58 million,[2] and option damages are approximately $5.57 million, for a total of $46.15 million.[3] The $8.0 million Settlement thus compensates members of the Settlement Class for approximately 17.3% of estimated aggregate recoverable damages.

[2] In arriving at a common stock aggregate damage estimate of $40.58 million based on the assumption that 50% of my artificial stock price inflation estimate represented recoverable damages, I used a "two-trader" model, with 80%-20% ownership-trading parameters (relative propensity to trade = 16). An unpublished paper written by a firm which predominantly offers expert testimony on behalf of defendants in securities class action litigations, National Economic Research Associates, entitled "Best-Fit Estimation of Damaged Volume in Shareholder Class Actions: The Multi-Sector, Multi-Trader Model of Investor Behavior, October 2000," sets forth parameters (high activity traders are assumed to own 37.1% and account for 83.4% of trading while low activity traders are assumed to own 62.9% and account for 16.6% of trading) which result in a relative propensity to trade of 8.5. Use of these parameters would result in an increase in my estimation of damages. Use of parameters estimated by William M. Bassin in his published paper, "A Two Trader Population Share Retention Model for Estimating Damages in Shareholder Class Action Litigations", Stanford Journal of Law, Business and Finance, Vol. 6., No. 1, Autumn 2000 (high activity traders are assumed to own 30.51% and account for 89.94%, including intra-day trading, of trading while low activity traders are assumed to own 69.49% and account for 10.06% of trading) result in a relative propensity to trade of 20.4. I reduced Luminent's reported trading volume, the "trading" parameter input to the model by 20% to account for specialist trading and potential intra-day trading.

[3] For purposes of estimating the aggregate damages suffered by Luminent common stock call option purchasers (approximately $420 thousand) and put option sellers (approximately $5.15 million, I used the common stock artificial inflation estimates described above in conjunction with the Black-Scholes option pricing model to determine the "true value" of relevant options. I estimated damages for options: (1) with open interest (open rights to buy, in the case of call options, and option commitments to sell, in the case of put options, Luminent common stock at various price levels) as of the close of trading on August 2, 2007; and (2) options which were traded between August 3, 2007 and August 6, 2007.

For August 2, 2007 open interest, I calculated damages as open interest x (option value based on common stock artificial inflation - actual option price @ 08/02/2007). For options which traded between August 3, 2007 and August 6, 2007, I calculated damages as reported volume x (option value based on common stock artificial inflation - actual option price).

VI. Average Distribution Per Share

14. I have also calculated the average distribution per share of common stock to be $0.245 before attorneys' fees and $0.181 after deduction of the requested fees. My calculations were as follows:

		Calculation
Common stock shares purchased and damaged:[4]	29,366,473	(1)
Total settlement distribution before fees:	$8,000,000	(2)
Common stock settlement distribution before fees:[5]	$7,200,000	(3) = (2) x 90%
Common stock Average distribution per share:	$0.245	(4) = (3) / (1)
Total settlement distribution after fees:	$5,894,000	(5) = (2) x 75% - $106,000
Common stock settlement distribution before fees: [6]	$5,304,600	(6) = (5) x 90%
Common stock Average distribution per share:	$0.181	(7) = (6) / (1)

VII. Estimated Fees and Expenses Incurred by FMA

15. FMA was retained in this matter in August 2007, and began working on its analysis of the news, analyst reports, public SEC filings and other information that entered the market and may have affected the prices and values of Luminent and comparative companies' common stocks. I performed numerous statistical analyses to determine the correlations between Luminent's stock price returns and those of the general market as well as other mortgage REITS. I also performed a number of event studies to assess the cause and effect relationship between Luminent's stock price movements and certain material information.

16. At Counsel's request, FMA was asked to and prepared various damage analyses, based on differing assumptions regarding partially curative disclosures and the impact of such disclosures on the stock price. FMA submitted a report to Counsel in conjunction with the Mediation of this matter. FMA was also asked to assist in preparing an equitable POA after the Settlement was achieved. In all, members of my firm expended approximately 98 hours on this

[4] Figure based on trading model parameters described in footnote 2 above.
[5] Based on the assumption that the 10% recovery allocation ceiling placed on options claims is reached.
[6] Based on the assumption that the 10% recovery allocation ceiling placed on options claims is reached.

engagement. FMA has submitted an invoice for this work and out-of-pocket expenses, which mainly include the retrieval of information including security prices, trading volume and ownership data, as well as news and analyst report archives, in the amount of $38,257.02. This invoice is attached hereto as Exhibit C.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Michael A. Marek

December 9, 2008

Exhibit A

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Lead Counsel for Lead Plaintiff and the Putative Class

UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA

IN RE LUMINENT MORTGAGE CAPITAL, INC. SECURITIES LITIGATION This Document Relates To: ALL ACTIONS	C 07-04073 PJH Date: Not set Time: Not set Place: Courtroom 3, 17th Floor

[PROPOSED] PLAN OF ALLOCATION

Pursuant to ¶¶ 23 and 33 of the Stipulation of Settlement dated September 10, 2008, Lead Plaintiff submits this Plan of Allocation, which describes the manner in which the Net Class Settlement Fund will be distributed among Authorized Claimants.[1]

[1] Class Members who do not file acceptable Proofs of Claim will not share in the Net

The Plan of Allocation was created based on consultation with Financial Markets Analysis, LLC ("FMA"), Lead Plaintiff's damages expert in this action. FMA specializes in computing damages under the Securities Exchange Act of 1934.

The Net Class Settlement Fund will be allocated among Authorized Claimants, based on such Authorized Claimant's proportional Recognized Loss as compared to the total Recognized Losses of all Authorized Claimants (with prospective payments of less than $10.00 eliminated from the computation). The term Recognized Loss is a term used solely for the purposes of the allocation of the Net Class Settlement Fund and Settlement of this Litigation.

An Authorized Claimant's total "Recognized Claim" shall constitute the sum of such claimant's "Recognized Losses" for each of the classes of Luminent stock and options set forth below.

COMPUTATION OF RECOGNIZED LOSSES

I. Luminent Common Stock Purchases

A. Common stock purchased between February 9, 2007 and June 24, 2007: 20% of the Recognized Loss based on the formulae set forth below.

1. For shares retained at the end of trading on November 2, 2007, the Recognized Loss shall be the lesser of:

   a. $5.21 per share; or

   b. the difference between the purchase price per share and $1.67 for each share.[2]

Class Settlement Fund, but will nevertheless be bound by Settlement and Final Judgment of the court dismissing this Action.

[2] Pursuant to Sections 21(D)(e)(1) and 21(D)(e)(2) of the Private Securities Litigation Reform Act of 1995, the award of damages to the plaintiff shall not exceed the difference between the purchase price paid by the plaintiff for the subject security and: (1) for plaintiffs who still held shares at the end of the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated, the mean trading price of that security during the 90 day period; or (2) for plaintiffs who sold shares during the 90-day period, the mean trading price of the security during the period beginning immediately after dissemination of information correcting the misstatement or omission and ending on the date on which the plaintiff sold the security. $1.67 was the mean (average) daily closing trading price of Luminent common stock during the 88 day period beginning on

2. For shares sold between February 9, 2007 and August 3, 2007, the Recognized Loss shall be zero.

3. For shares sold on August 6, 2007, the Recognized Loss shall be the lesser of:

a. $1.95 per share; or

b. the difference between the purchase price per share and the sales price per share for each share sold.

4. For shares sold between August 7, 2007 and November 2, 2007, the Recognized Loss shall be the lesser of:

a. $5.21 per share; or

b. the difference between the purchase price per share and the sales price per share for each share sold; or

c. the difference between the purchase price per share and the mean closing price between August 7, 2007 and the date of sale for each share sold.

B. Common stock purchased between June 25, 2007 and August 3, 2007: 100% of the Recognized Loss described in Section I(A) above.[3]

C. Common stock purchased on August 6, 2007: 100% of the Recognized Loss described below.

1. For shares retained at the end of trading on November 2, 2007, the Recognized Loss shall be the lesser of:

a. $3.26 per share; or

August 7, 2007 and ending on November 2, 2007.

[3] Losses for Luminent shares purchased (and options transactions) during this period are discounted based upon the relative strength and weaknesses of these claims as compared to the claims of investors during the latter six weeks of the Settlement Class Period. Among other obstacles, these investors would have to overcome defendants' contention that claimants' statements made earlier in the Settlement Class Period were merely predictions that failed to come true. As such, investors would be charged with proving actual knowledge under the PSLRA. The fact that the Individual Defendants purchased a significant amount of Luminent stock during this period weighs heavily against a finding that they deliberately inflated Luminent's stock price during a period when they were investing their own money.

b. the difference between the purchase price per share and $1.67 for each share.

2. For shares sold on August 6, 2007, the Recognized Loss shall be the lesser of:

a. $3.26 per share; or

b. the difference between the purchase price per share and the sales price per share for each share sold.

3. For shares sold between August 7, 2007 and November 2, 2007, the Recognized Loss shall be the lesser of:

a. $3.26 per share; or

b. the difference between the purchase price per share and the sales price per share for each share sold; or

c. the difference between the purchase price per share and the mean closing price between August 7, 2007 and the date of sale for each share sold.

II. Luminent Call Option Purchases

A. Call option contracts purchased or otherwise acquired from February 9, 2007 through June 24, 2007: 20% of the Recognized Loss set forth below.

1. The Recognized Loss during the Class Period shall be fifty percent (50%)[4] of the lesser of (x) the Estimated Inflation per share[5] for all shares covered by the call option contract on the date the call option was purchased, less, if

[4] Losses from transactions in call options are discounted (i) because the purchase of a call option includes a time premium which is a wasting asset that the purchaser pays that will evaporate even if the stock price remains the same, and (ii) because the expected additional volatility of such derivative securities makes it more difficult to prove that losses on such securities are causally related to the alleged wrongdoing, as opposed to non-actionable causes.

[5] Estimated Inflation per share is shown in the following table:

Date Range	Estimated Inflation per Share
February 9, 2007 - August 3, 2007	$5.21
August 6, 2007	$3.26

sold, the Estimated Inflation per share for all shares covered by the call option contract on the date the call option was sold, or (y) the difference between: (a) the amount paid per call option contract and: (b) the sale price received per option contract received when said call options were subsequently sold (if the option expired worthless while still owned by the Authorized Claimant, the sales price shall be deemed to be Zero ($0.00));[6]

B. **Call option contracts purchased from June 25, 2007 through August 6, 2007:** 100% of the Recognized Loss described in Section II(A) above.

C. Shares of Luminent common stock acquired during the Settlement Class Period through the exercise of a call option shall be treated as a purchase on the date of exercise for the exercise price plus the cost of the call option, and any Recognized Claim arising from such transaction shall be computed as provided for other purchases of Luminent common stock as set forth herein;

D. No Recognized Loss shall be calculated based upon the purchase of any call option that was the repurchase, or closing out, of a short position previously established in that call option.

III. Luminent Put Option Sales

A. **Put option contracts sold or written from February 9, 2007 through June 24, 2007:** 20% of the Recognized Loss set forth below:

1. Fifty percent (50%)[7] of the lesser of (x) the Estimated Inflation per share for all shares covered by the put option contract on the date the claimant sold or wrote the put contract, or (y) difference between: (a) the amount

[6] The price per share or per option contract, paid or received, should exclude all commissions, taxes and fees.

[7] Losses from transactions in put options are discounted (i) because the sale of a put option includes a time premium which is a wasting asset that the purchaser pays that will evaporate even if the stock price remains the same, and (ii) because the expected additional volatility of such derivative securities, makes it more difficult to prove that losses on such securities are causally related to the alleged wrongdoing, as opposed to non-actionable causes.

received per put option contract and (b) the purchase price paid per put option contract when said put options were subsequently repurchased at any time (including after the Class Period).[8] For put options sold or written during the Class Period that expired worthless and unexercised, the Authorized Claimant's Recognized Loss shall be Zero ($0.00);

B. **Put options sold between June 25, 2007 through August 6, 2007:** 100% of the Recognized Loss described in Section III(A) above.

C. For Luminent put options that were sold or written during the Class Period, that were "put" to the Authorized Claimant (*i.e.*, exercised) at any time, the Authorized Claimant's recognized Claim shall be calculated as a purchase of Luminent common stock as shown herein, and as if the sale of the put option were instead a purchase of Luminent common stock on the date of the sale or writing of the put option, and the "purchase price paid" shall be the strike price of the put option less the proceeds received from the sale of the put option;

D. No Recognized Loss shall be calculated based upon the sale of any put option that was the sale, or closing out, of a long position previously established in that call option.

ADDITIONAL GUIDELINES FOR RECOGNIZED CLAIMS

A. For Class Members who held publicly traded Luminent securities before the Class Period or made multiple purchases or sales during the Class Period, the first-in, first-out ("FIFO") method will be applied to such holdings, purchases and sales for purposes of calculating a Recognized Claim. Under the FIFO method, for each Luminent security, each sale of that Luminent security during the Class Period will be matched, in chronological order, first against that Luminent Security held at the beginning of the Class Period. Such holdings and sales will be included in the

[8] The price per share or per option contract, paid or received, should exclude all commissions, taxes and fees.

calculation of Recognized Claim as described above. For each security, the remaining sales of such security during the Class Period will then be matched, in chronological order, against purchases of such Luminent securities during the Class Period.

B. A purchase or sale of Luminent securities shall be deemed to have occurred on the "contract" or "trade" date as opposed to the "settlement" or "payment" date.

C. The following restrictions on computing Recognized Losses apply to all claims:

- "Short sales" will not be recognized for any amount of loss on the cover or purchase transaction, and no Recognized Loss will be computed for any such covering purchase transaction.
- No Recognized Loss will be computed for any transactions in Luminent common stock or options engaged in by market makers.
- In computing the Recognized Loss on any Luminent shares, no Recognized Loss will be computed for any option premium paid, or received where the shares of Luminent were purchased or sold by reason of having exercised or been assigned an option.

D. The receipt or grant by gift, devise or operation of law of Luminent securities during the Class Period shall not be deemed a purchase, acquisition, disposition or sale of Luminent securities for the calculation of an Authorized Claimant's Recognized Claim, nor shall it be deemed an assignment of any claim relating to the purchase of such securities unless specifically provided in the instrument of gift or assignment.

E. The total recovery payable to Authorized Claimants from transactions in call or put options shall not exceed ten percent (10%) of the Distribution Amount.

F. To the extent that any monies remain in the Cash Settlement Accounts after the Administrator has caused distributions to be made to all Authorized Claimants, whether by reason of un-cashed distributions or otherwise, then, after the Administrator has made reasonable and diligent efforts to have Authorized

Claimants cash their distributions, any balance remaining in the Cash Settlement Accounts one (1) year after the initial distribution of such funds shall be re-distributed to Authorized Claimants who have cashed their initial distributions and who would receive at least $10.00 from such re-distribution, after payment of any unpaid costs or fees incurred in administering the Cash Settlement Accounts for such re-distribution. If six months after such redistribution, funds remain in the Cash Settlement Accounts, such balance shall be contributed to non-sectarian, not-for-profit 501(c)(3) organization(s) to be designated by Co-Lead Counsel with the consent of the Court.

G. No Authorized Claimant will have any claim against Lead Plaintiff, Plaintiff's Lead Counsel or the Claims Administrator, or any other agent designated by Plaintiff's Lead Counsel based on the distributions made substantially in accordance with the Stipulation, the Plan of Allocation or further orders of the Court.

H. No distributions or redistributions shall be made to any Authorized Claimant who would receive $10.00 or less based on the initial allocation of the Distribution Amount.

I. The Court has reserved jurisdiction to allow, disallow, or adjust the claim of any Class Member on equitable grounds.

Date: _____

THE HONORABLE PHYLLIS J. HAMILTON
Judge, United States District Court for
the Northern District of California

Exhibit B

MICHAEL A. MAREK, CFA
600 Alexander Road, Suite 2-B
Princeton, NJ 08540
Phone: (609) 452-9500 Fax: (609) 452-9881
e-mail: mmarek@fmaonline.biz

Professional Experience

05/01 - Present	**Financial Markets Analysis, LLC**	Princeton, NJ
12/97 - 04/01	**Triumph Partners, LLC**	Princeton, NJ

Founding Member
Provide financial analysis, valuation services and expert litigation support and testimony. Areas of concentration include valuation of securities and businesses, securities law and economic issues. Testimonial experience in securities class action litigation. Clients include corporations, government agencies (SEC), lawfirms, institutional and individual investors.

10/86 - 12/97	**Princeton Venture Research, Inc.**	Princeton, NJ

Vice President
Performed securities valuation and financial analysis in connection with investment banking, venture capital and securities law expert consulting operations. Prepared company and industry research reports, valuations and fairness opinions. Responsible for project management and supervision of financial analysts and research personnel.

05/85 - 06/86	**Sage Data, Inc.**	Princeton, NJ

Research Analyst
Developed and maintained econometric models and business forecasting systems for Fortune 500 clients. Created, produced and instructed customized PC hardware and software application seminars.

Education

1984 **Wharton School of Finance, University of Pennsylvania**

B.S. Economics
Double Major: Finance / Decision Sciences

Professional Designations and Affiliations

Chartered Financial Analyst (CFA)
Member, New York Society of Security Analysts (NYSSA)
Member, CFA Institute
Member, American Economic Association (AEA)

Exhibit C

Financial Markets Analysis, LLC

Invoice

600 Alexander Road
Suite 2-B
Princeton, NJ 08540
EIN: 22-3740985

Phone # 609-452-9500 Fax # 609-452-9881

Date	Invoice #
10/22/2008	08103

Bill To:
Lowey, Dannenberg, Cohen & Hart, PC White Plains Plaza One North Broadway White Plains, NY 10601-2310

Project:
Luminent Mortgage Capital, Inc. Sec. Lit.

Date	Description	Hours	Rate	Amount
9/26/2007	Lead Plaintiff Calculations	1.5	350.00	525.00
9/27/2007	Lead Plaintiff Calculations	5	350.00	1,750.00
10/5/2007	LP Calculations	1	350.00	350.00
11/6/2007	LP Calculations	2	350.00	700.00
1/22/2008	Preliminary Damage Analyses	3.5	350.00	1,225.00
1/23/2008	Preliminary Damage Analyses	6	350.00	2,100.00
1/24/2008	Preliminary Damage Analyses	6	350.00	2,100.00
1/25/2008	Preliminary Damage Analyses	3	350.00	1,050.00
1/28/2008	Event analyses	3.5	350.00	1,225.00
1/29/2008	Event analyses	3	350.00	1,050.00
2/1/2008	Options damages estimation	3.5	350.00	1,225.00
2/4/2008	Preliminary Damage Analyses	2.5	350.00	875.00
2/5/2008	Preliminary Damage Analyses	3	350.00	1,050.00
2/13/2008	Preliminary Damage Analyses	2.5	350.00	875.00
2/14/2008	Preliminary Damage Analyses	3	350.00	1,050.00
4/18/2008	Research large S&P declines	2	350.00	700.00
4/22/2008	Investigation of ABX index and availability	1.5	350.00	525.00
4/23/2008	Investigation of ABX index and availability	2	350.00	700.00
5/29/2008	Graphics for motion	1.5	350.00	525.00
6/17/2008	Review of Motion to Dismiss	2	400.00	800.00
6/18/2008	Event Study/ Statistical Report	3.5	400.00	1,400.00
6/19/2008	Event Study/ Statistical Report	3	400.00	1,200.00
6/20/2008	Event Study/ Statistical Report	3	400.00	1,200.00

Total

Financial Markets Analysis, LLC

Invoice

600 Alexander Road
Suite 2-B
Princeton, NJ 08540
EIN: 22-3740985

Phone # 609-452-9500 Fax # 609-452-9881

Date	Invoice #
10/22/2008	08103

Bill To:
Lowey, Dannenberg, Cohen & Hart, PC White Plains Plaza One North Broadway White Plains, NY 10601-2310

Project:
Luminent Mortgage Capital, Inc. Sec. Lit.

Date	Description	Hours	Rate	Amount
6/23/2008	Material preparation for Mediation Report	3	400.00	1,200.00
6/24/2008	Material preparation for Mediation Report	4	400.00	1,600.00
6/26/2008	Mediation Report	2.5	400.00	1,000.00
6/27/2008	Mediation Report	3	400.00	1,200.00
7/1/2008	Mediation Report	6	400.00	2,400.00
7/2/2008	Mediation Report	5	400.00	2,000.00
7/3/2008	Mediation Report	1	400.00	400.00
7/7/2008	Review of Defs Mediation Statement	1	400.00	400.00
7/8/2008	Review of Defs Mediation Statement	0.5	400.00	200.00
7/10/2008	Reclassifications of options damages	1	400.00	400.00
8/1/2008	Draft Plan of Allocation	2.5	400.00	1,000.00
8/4/2008	Plan of Allocation	1	400.00	400.00
6/11/2008	Invoice # 5600097200; Account # 00240415		629.95	629.95
6/11/2008	Invoice # 1453971; T1 Banking BTQ Web Solution		459.88	459.88
6/11/2008	Invoice # 1175161; Thomson One Analytics		660.19	660.19
6/11/2008	Acct: 00 00 9FIN0067; Inv: 10500333		107.00	107.00
	Total Reimbursable Expenses			1,857.02

Total	$38,257.02

EXHIBIT K

LERACH COUGHLIN STOIA GELLER
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- and -
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Lead Counsel for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

In re VERITAS SOFTWARE CORPORATION SECURITIES LITIGATION This Document Relates To: ALL ACTIONS.	Master File No. C-03-0283-MMC CLASS ACTION DECLARATION OF BJORN I. STEINHOLT, CFA, IN SUPPORT OF THE PLAN OF ALLOCATION DATE: N/A TIME: N/A COURTROOM: The Honorable Maxine M. Chesney

I, BJORN I. STEINHOLT, hereby declare and state as follows:

Introduction and Qualifications

1. I am a Principal at Financial Markets Analysis, LLC ("FMA"), an economic consulting and valuation firm based in San Diego, California and Princeton, New Jersey. FMA provides financial analyses and related economic consulting services to various clients and has frequently been asked to prepare reports and expert testimony regarding the various economic issues that typically arise in securities class actions, including the issues relating to equitably allocating settlement proceeds following the resolution of such cases. I submit this declaration in support of the proposed plan of allocating the settlement proceeds in this matter.

2. I received a Master of International Business degree from the University of San Diego and a Bachelor of Science, Computer Science degree from California State University, Long Beach. Furthermore, I have earned the professional designation Chartered Financial Analyst awarded by the Association for Investment Management and Research. A summary of my background and qualifications is attached as Exhibit A to this declaration.

Overview of Assignment – Overall Damages and Plan of Allocation

3. I was asked by plaintiffs' counsel to calculate the damages suffered by investors who acquired Veritas Software Corporation ("Veritas" or the "Company") securities from January 3, 2001 through January 16, 2003 (the "Class Period"). The securities analyzed include: a) Veritas common stock, b) Veritas 5.25% Convertible Subordinated Notes due 2004 ("5.25% Notes"), c) Veritas 1.856% Convertible Subordinated Notes due 2006 ("1.856% Notes"), and d) Options on Veritas common stock. For the reasons set out below, I calculated these damages based on the price decline in the respective securities that occurred on November 15, 2002.

4. For the common stock analysis, I used the November 15 market adjusted price decline of $1.32 per share, and a two trader model replicating the trading in Veritas common stock. The trading model was then tested against the available institutional ownership data to ensure a reasonable level of reliability. Finally, aggregate damages were calculated by applying the market adjusted price decline of $1.32 per share on November 15, 2002, limited by the statutorily required 90-day bounce back rule, to the replicated trading pattern of Veritas common stock, resulting in total

damages for the common stock of $151 million. Specifically, the two trader model assumed that 30% of the public float made up 90% of the reported volume after adjusting for intra-day trading assumed to make up 75% of the reported volume.

5. For the Notes analysis, I had no available trading volume to determine how many of the Notes actually were purchased during the Class Period. As a result, I assumed that all of the Notes were damaged, arriving at maximum damages of $17 million for the 1.856% Notes and $9 million for the 5.25% Notes. It should be understood, however, that the damages for the Notes are substantially less than the maximum damages calculated. I did not perform a damage analysis for the options because of the difficulties involved and described in further detail below. In any event, total damages for all three securities were $177 million, which in turn means that the $35 million settlement proceeds in this case is roughly 20 percent of my preliminary damage estimate.[1]

6. Additionally, I was asked by plaintiffs' counsel to design an equitable plan to allocate the settlement proceeds in this matter (the "Plan of Allocation") among Class members. Because the amount to be distributed is far less than the full value of the Class claims, the plan of allocation must take into account the fact that claimants will not likely recover their full damages. Moreover, as I understand it, the case settled before the plaintiffs were able to take any discovery. Thus, the plan of allocation was designed without the benefit of information, such as the Company's communications with market participants during the Class Period that would have been available had the case progressed further.

7. My opinions regarding the Plan of Allocation are based on my professional experience, as well as a review of a substantial amount of information, including: a) the Second Amended Class Action Complaint, signed June 30, 2004; b) the Company filings with the Securities

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[1] I noted that John C. Hammerslough calculated damages for the common stock of $324.9 million. There are two main differences between his analysis and mine. First, he does not limit damages for the so-called 90-day bounce-back rule, while I incorporated this limitation into my damage analysis because it is a statutory limitation on damages that is also accounted for in the Plan of Allocation. Had I ignored the 90-day bounce-back rule, my damage estimate would also be more than $300 million. Second, he calculates damages for the in-out shares, i.e., shares that receive the lesser of market losses or 10 cents per the Plan of Allocation, of $16 million. I did not calculate damages for this group.

and Exchange Commission ("SEC"); c) contemporaneous analyst and media reports; and d) price and volume data for Veritas' securities and market indices, as well as institutional trading data. Based on my review of the available information, as well as my understanding of plaintiffs' theory of the alleged fraud, I developed the Plan of Allocation discussed in greater detail below. In my opinion, for the reasons discussed in greater detail below, the proposed Plan of Allocation provides a fair and equitable way to allocate the settlement proceeds in this case among the various Class members.

Plan of Allocation

8. Veritas is a supplier of storage software products and services, including storage management, data protection software and clustering, replication and storage area networking software. Leading up to the Class Period, the Company had beaten analysts' consensus revenue and earnings forecasts for 17 straight quarters. Plaintiffs allege that Veritas engaged in earnings management, and, starting with the fourth quarter of 2000, was only able to meet analysts' forecasts by entering into a fraudulent transaction with America Online, Inc. ("AOL"). According to the Complaint, the AOL transaction, together with various other false and misleading statements throughout the Class Period, inflated the Company's stock price by concealing Veritas' true business condition and future prospect.

9. During the Class Period, Veritas' stock price declined from a closing price high of $105 per share on January 23, 2001 to a closing price of $17.47 per share following the end of the Class Period on January 17, 2003, a price decline of more than $87.50 per share or 83 percent. Some portion of this substantial price decline most likely reflects damages caused by the alleged fraud. However, without the factual record that is generally developed through discovery prior to trial it is very difficult to specifically quantify such damages in this case. On the other hand, the causal link between the November 15, 2002 price decline and the revelations about the AOL transaction in Veritas' third quarter 2002 Form 10-Q can easily be established. The Form 10-Q stated:

> AOL/Time Warner
>
> In response to subpoenas issued by the Securities and Exchange Commission in the investigation entitled In the Matter of AOL/Time Warner, we are furnishing information to the SEC, including information relating to transactions we entered

> into with AOL in September of 2000. We are cooperating with the SEC's investigation.
>
> The transactions involved a $50 million software license and services sale to AOL and a $20 million advertising services purchase from AOL. We recognized $37 million of revenue in the fourth quarter of 2000 and have been recognizing the remaining $13 million as revenue over the three-year support period. The $20 million of advertising expense was recorded over the five quarters during which AOL provided advertising services to us, beginning in the fourth quarter of 2000 and ending in the fourth quarter of 2001. We are currently reviewing our accounting treatment for these transactions, focusing on the $20 million of advertising services expense and $20 million of the revenue.

10. Following the issuance of the above Form 10-Q, Veritas' stock price declined from a closing price of $18.25 per share on November 14, 2002 to a closing price of $16.75 per share on November 15, 2002 on volume of 25 million shares or 1.9 times the average daily volume. This disclosure resulted in a statistically significant price decline (at the 90 percent level) and, even absent discovery, could be said to be directly associated with the specific Company disclosure of its improper accounting for the AOL transaction.

11. Based on my event analysis, I calculated that the market adjusted price decline on November 15, 2002 was $1.32 per share. In my opinion, given the posture of this case, plaintiffs' ability to prove that the November 2002 price decline was attributable to fraud, is strong. Consequently, for shares of Veritas common stock purchased from January 3, 2001 through November 14, 2002, and retained at the end of November 14, 2002, the claim per share is the lesser of: a) $1.32 per share (the market adjusted price decline on November 15, 2002), or b) the purchase price less $16.75 per share (the November 15, 2002 closing price).[2]

12. I also examined the price declines prior to and after November 15, 2002. Again, absent discovery or further factual development, there did not readily appear to be a direct link between any such daily price declines and revelations specifically about the AOL transaction. That said, statements made by defendants revealed Veritas' true business condition and future prospect during various other times during the Class Period – which was the essence of plaintiffs' claims –

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[2] The claims were capped to the difference between the purchase price less the closing price following the disclosure to account for the limitation resulting from the statutory 90-day bounce back rule.

likely removed some portion of the fraud inflation. Thus, while a detailed damage analysis could be developed, it would require significantly more information than is available solely from the public record without the benefit of discovery. Consequently, recognizing that these shareholders would have substantially weaker claims than those with losses tied to the November 15, 2002 price decline, I limited these claims to, at most, 10 cents per share. This amounts to 7.5 percent of the $1.32 per share the allocation provides Class members who owned their shares at the time of the November 15, 2002 decline. As a result, for shares purchased and sold prior to November 15, 2002, the claim per share is the lesser of: a) the purchase price less the sales price, or b) 10 cents per share. For shares purchased from November 15, 2002 through January 16, 2003, and sold prior to January 17, 2003, the claim is also the lesser of: a) the purchase price less the sales price, or b) 10 cents per share. Finally, for shares purchased from November 15, 2002 through January 16, 2003, and retained at the end of January 16, 2003, the claim is the lesser of: a) the purchase price less $17.47 (the January 17, 2003 closing price), or b) 10 cents per share.

13. The 5.25% Notes and 1.856% Notes are treated similar to the Veritas common stock. As a result, for 5.25% Notes purchased from January 3, 2001 through November 14, 2002, and retained at the end of November 14, 2002, the claim per $1,000 par value 5.25% Note is the lesser of: a) the purchase price less $1,795 (the November 15, 2002 closing price), or b) $138.14 (the November 15, 2002 price decline). Similarly, for 1.856% Notes purchased from January 3, 2001 through November 14, 2002, and retained at the end of November 14, 2002, the claim per $1,000 par value 1.856% Note is the lesser of: a) the purchase price less $880 (the November 15, 2002 closing price), or b) $36.87 (the November 15, 2002 price decline). For Notes purchased and sold prior to November 15, 2002, or purchased following November 14, 2002, the claim is equal to the losses limited by roughly 7.5 percent of the November 15, 2002 price decline, same as for the Veritas common stock.

14. Options, however, involve far more variables than stocks or bonds, making it very difficult to translate the common stock allocation into a similar allocation for the option purchasers. As noted in one of the recent texts addressing the determination of option damages: "Quantifying losses to these options is complex and difficult due to both the necessary discovery of investment

banking trading records to identify the open interest and the sophisticated mathematical techniques required to measure loss."[3] Indeed, another paper acknowledged: "As of yet, there is little guidance on how to handle options in securities fraud suits. As shown below, the calculation of damages is not as straight forward as one might think. This is true for both legal and economic reasons."[4]

15. Options are significantly different than common stock. A stock option is essentially a contract that allows the purchaser to either buy or sell an underlying common stock at a fixed price (the strike price) during a finite time period (usually a few months). Unlike common stock, a call option (option to purchase common stock at a fixed price) has a limited downside. For example, an investor who bought Veritas common stock for $105 per share during the Class Period had a $105 downside as the stock price could have become worthless. Purchasing an option to buy Veritas common stocks at that same time would involve limited downside equal to the price of the option, which would generally be just a small fraction of the cost of the common stock. Because such stock options only have a fraction of the downside that outright ownership of the common stock carries, their economic losses per option generally are substantially less than losses per common stock. Consequently, stock options cannot simply be treated as common stock.

16. Furthermore, during the Class Period there were a myriad of different options with different characteristics such as different strike prices and different expiration dates. Technically, each such option would be impacted differently by the alleged fraud and could arguably require its own allocation. In addition, the relationship between the underlying security and the option is complex, in part because the option generally only has a short life before it expires. For example, the value of a call option may decrease even if the price of the underlying security increases. Finally, given the lack of observable pricing information (as options often do not trade every day), a complete damage analysis would have to employ a valuation model, for example a Black-Scholes

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[3] Usher, "Securities Act Violations: Derivatives in Securities Class Actions: Chapter 18," *Litigation Services Handbook: The Role of the Financial Expert*, Third Edition (2001).

[4] Tabak, Starykh and Shotland, "A proposed Methodology to Measure Damages for Option Traders Alleging Securities Fraud," Litigation Economic Review (2002).

model. This would require the claims administrator to conduct at least one valuation for each claim, a daunting, time-consuming and expensive task.

17. Based on my more than 15 years experience dealing with the complex issues relating to options in securities class actions, I determined the best and most reasonable way of allocating settlement proceeds to the option holders in this case was based on the market losses for options owned at the end of November 14, 2002, i.e., those that experienced the impact of the November 15, 2002 revelation. Using market losses is overly generous to the option holders because they are getting 100 percent of their losses. Common stock and Note purchasers are limited to the respective November 15 price declines. For example, a common shareholder who purchased shares at $105 per share and still owned these shares at the end of November 14, 2002, would have a claim of $1.32 per share, or only 1.5 percent of the market losses. The option holder would be able to make a claim for 100% of her loss. In my view, it is unfair to the other security holders to allocate 100% of options losses primarily because it would be too complex, time consuming and expensive to compute them using a Black-Scholes model. Accordingly, to adjust for this inequity, the total recovery for the option holders was limited to 2 percent of the total settlement proceeds.[5]

18. No claim was awarded to option holders whose options exercised/expired prior to, or purchased and exercised/expired after, November 15, 2002. First, to provide these options a claim equal to roughly 7.5 percent of the price decline of the options on November 15, 2002 would be virtually impossible. For one thing, many of the options did not even exist at that time. For another, the options are all different requiring sophisticated individual analyses for each option. Further, even if such a theoretical exercise was undertaken, it would in all cases result in a claim of substantially less than 10 cents per options as options are significantly different than common stock, as discussed above. In my opinion, the potential recoveries, if any, for such claims would not justify the extra cost and effort.

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[5] The 2 percent is roughly the same as the ratio of the total option volume used in the Hammerslough report divided by the total common stock volume (excluding the Notes). In my opinion, this is, if anything, very generous to the option holders.

19. Based on the above, I developed the Plan of Allocation, attached as Exhibit B.

Hammerslough Report

20. I have reviewed the report by John C. Hammerslough in this matter. Not surprisingly, Mr. Hammerslough does not address any of the complexities relating to allocating settlement proceeds to option holders, either generally or specifically. It is telling that Mr. Hammerslough provides a damage estimate for the common stock, but not for the options – the primary purpose of his report.

21. Mr. Hammerslough was asked to "make an estimate as to the number of options that might be eligible to claim and the amount of their claims assuming that the recognized loss was compatible with the recognized loss of shareholders." Not surprisingly, he fails do so. First, he fails to specify what the recognized loss would have to be for the option holders in order to "be compatible" with that given to the shareholders. The closest he gets is to suggest that a $1 price increase in the underlying common stock would on average result in a 50 cent increase in the call option. But even that was done without any consideration of how far the option is in or out of the money, or the length of time remaining until expiration, two of the many factors that would dramatically alter whether there was any impact from the fraud. Second, he does not even attempt to determine when the options were purchased or exercised/expired, or whether they were outstanding on November 15, 2002. This would be necessary in order to calculate the option damages. Third, he does not address any of the complex issues associated with option damages discussed above. Fourth, Mr. Hammerslough's only conclusion seems to be that after eliminating 92.5 percent of the volume for the common stock, and 70 percent of the volume for the options, the option volume is no longer about 2 percent of the total volume, rather, it is roughly 9.3 percent. Mr. Hammerslough provides no support for his ad-hoc volume reductions, and why volume he attributes to "noise" should not be eligible to file a claim. In any event, Mr. Hammerslough fails to provide any economic analysis that would assist in any way with the allocation of the settlement proceeds in this case. Consequently, the report by Mr. Hammerslough does not change my opinion that the proposed Plan of Allocation is fair and equitable to the Class member.

Conclusion

22. Based on the above, it is my opinion that the proposed Plan of Allocation provides a fair and equitable way to allocate the settlement proceeds in this case among the various Class members.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. This declaration was executed this 24th day of August, 2005 at San Diego, California.

BJORN I. STEINHOLT, CFA

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DECLARATION OF SERVICE BY FACSIMILE
PURSUANT TO NORTHERN DISTRICT LOCAL RULE 23-2(c)(2)

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and employed in the City and County of San Francisco, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is 100 Pine Street, Suite 2600, San Francisco, California 94111.

2. That on August 26, 2005, declarant served by facsimile the **DECLARATION OF BJORN I. STEINHOLT, CFA, IN SUPPORT OF THE PLAN OF ALLOCATION** to the parties listed on the attached Service List and this document was forwarded to the following designated Internet site at:

http://securities.lerachlaw.com/

3. That there is a regular communication by facsimile between the place of origin and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 26th day of August, 2005, at San Francisco, California.

/s/
CAROLYN BURR

VERITAS SOFTWARE (LEAD)
Service List - 8/25/2005 (03-0029)
Page 1 of 1

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EXHIBIT L

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

GARDEN CITY EMPLOYEES' RETIREMENT SYSTEM, Plaintiff, and CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS PENSION FUND, Individually and on Behalf of All Others Similarly Situated, Lead Plaintiff, vs. PSYCHIATRIC SOLUTIONS, INC., et al., Defendants.	Civil Action No. 3:09-cv-00882-WJH Chief District Judge William J. Haynes, Jr. CLASS ACTION

NOTICE OF SETTLEMENT OF CLASS ACTION, MOTION FOR ATTORNEYS' FEES AND SETTLEMENT FAIRNESS HEARING

TO: ALL PERSONS WHO PURCHASED OR ACQUIRED PSYCHIATRIC SOLUTIONS, INC. ("PSI" OR THE "COMPANY") SECURITIES DURING THE PERIOD FROM FEBRUARY 21, 2008, THROUGH FEBRUARY 25, 2009, INCLUSIVE

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS MAY BE AFFECTED BY PROCEEDINGS IN THIS LITIGATION. PLEASE NOTE THAT IF YOU ARE A CLASS MEMBER, YOU MAY BE ENTITLED TO SHARE IN THE PROCEEDS OF THE SETTLEMENT DESCRIBED IN THIS NOTICE. TO CLAIM YOUR SHARE OF THE SETTLEMENT PROCEEDS, YOU MUST SUBMIT A VALID PROOF OF CLAIM AND RELEASE FORM ("PROOF OF CLAIM") **POSTMARKED OR SUBMITTED ONLINE ON OR BEFORE FEBRUARY 2, 2015**.

This Notice of Settlement, Motion for Attorneys' Fees and Settlement Fairness Hearing ("Notice") has been sent to you pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Middle District of Tennessee, Nashville Division (the "Court"). The purpose of this Notice is to inform you of the proposed settlement of the Litigation (the "Settlement") and of the hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement as well as counsel's application for fees, costs, and expenses. This Notice describes the rights you may have in connection with your participation in the Settlement, what steps you may take in relation to the Settlement and this class action, and, alternatively, what steps you must take if you wish to be excluded from the Settlement and this Litigation.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM	The only way to get a payment. Proof of Claim forms must be postmarked or submitted online on or before February 2, 2015.
EXCLUDE YOURSELF	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against the Defendants or any other Released Persons about the legal claims in this case. Exclusions must be received on or before December 29, 2014. If you submitted a request for exclusion in response to the Notice of Pendency of Class Action you received in April or May 2012, you do not have to exclude yourself again.
OBJECT	Write to the Court about why you do not like the Settlement, the Plan of Allocation, and/or the request for attorneys' fees, costs, and expenses. You will still be a member of the Class. Objections must be received by the Court and counsel on or before December 29, 2014.
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement. Requests to speak must be received by the Court and counsel on or before December 29, 2014.
DO NOTHING	Get no payment. Give up your rights.

SUMMARY OF THIS NOTICE

Statement of Class Recovery

Pursuant to the Settlement described herein, a $65 million Settlement Fund has been established. Lead Plaintiff's damages expert estimates that there were approximately 50.6 million shares of PSI common stock which may have been damaged during the Class Period. Lead Plaintiff's damages expert estimates that the average recovery under the Settlement is roughly $1.28 per damaged share, before deduction of any taxes on the income thereof, notice and administration costs and the attorneys' fee, costs, and expense award as determined by the Court. A Class Member's actual recovery will be a proportion of the Net Settlement Fund determined by that claimant's Recognized Loss as compared to the total Recognized Losses of all Class Members who submit acceptable Proofs of Claim. An individual Class Member may receive more or less than this estimated average amount depending on the number of claims submitted, when during the Class Period a Class Member purchased or acquired PSI securities, the purchase price paid, and whether those shares were held at the end of the Class Period or sold during the Class Period, and, if sold, when they were sold and the amount received. *See* Plan of Allocation as set forth at pages 8-11 below for more information on your Recognized Loss.

Statement of Potential Outcome of Case

The parties disagree on both liability and damages and do not agree on the average amount of damages per PSI securities that would be recoverable if the Class prevailed on each claim alleged. The Defendants deny that they are liable to the Class and deny that the Class has suffered any damages.

Statement of Attorneys' Fees, Costs, and Expenses Sought

Lead Counsel will apply to the Court for an award of attorneys' fees not to exceed twenty-nine percent (29%) of the Settlement Fund, plus costs and expenses not to exceed $3,500,000, plus interest earned on both amounts at the same rate as earned by the Settlement Fund. Since the Litigation's inception, Lead Counsel have expended considerable time and effort in the prosecution of this Litigation on a contingent fee basis and advanced the expenses of the Litigation in the expectation that if they were successful in obtaining a recovery for the Class they would be paid from such recovery. In this type of litigation it is customary for counsel to be awarded a percentage of the common fund recovery as their attorneys' fees. In addition, the Lead Plaintiff may seek payment for its time and expenses incurred in representing the Class. The requested fees, costs, and expenses amount to an average of approximately $0.44 per damaged share. The average cost per damaged share will vary depending on the number of acceptable Proofs of Claim submitted.

Further Information

For further information regarding the Litigation, this Notice or to review the Stipulation of Settlement, please contact the Claims Administrator toll-free at 1-888-283-6726, or www.psychiatricsolutionssecuritiessettlement.com.

You may also contact representatives of counsel for the Class: Rick Nelson, Shareholder Relations, Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, CA 92101, 1-800-449-4900, www.rgrdlaw.com.

Please Do Not Call the Court or Defendants with Questions About the Settlement.

Reasons for the Settlement

The principal reason for the Settlement is the benefit to be provided to the Class now. This benefit must be compared to the risk that no recovery might be achieved after a contested trial and likely appeals, possibly years into the future.

BASIC INFORMATION

1. Why did I get this notice package?

You or someone in your family may have purchased or acquired PSI securities during the time period February 21, 2008, through February 25, 2009, inclusive ("Class Period").

The Court directed that this Notice be sent to Class Members because they have a right to know about the proposed Settlement of this class action lawsuit, and about all of their options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement and after objections and appeals, if any, are resolved, the Claims Administrator appointed by the Court will make the payments provided for in the Settlement.

This Notice explains the class action lawsuit, the Settlement, Class Members' legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the Litigation is the United States District Court for the Middle District of Tennessee, Nashville Division, and the case is known as *Garden City Employees' Retirement System v. Psychiatric Solutions, Inc., et al.*, Civil Action No. 3:09-cv-00882-WJH. The case has been assigned to the Honorable William J. Haynes, Jr. The pension fund representing the Class is the "Lead Plaintiff," and the company and individuals it sued and who have now settled are called the Defendants.

2. What is this lawsuit about?

This is a federal securities class action brought on behalf of all Persons who purchased or otherwise acquired the securities of PSI during the "Class Period." Lead Plaintiff alleges that Defendants violated §§10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act") by engaging in a fraudulent course of conduct that misled investors about PSI's growth and operations of its facilities; made false and misleading statements about the quality of its facilities, the treatment of its patients and the impact of regulatory violations; and materially understated loss reserves for malpractice claims brought against the Company. Lead Plaintiff alleged that this course of conduct and these materially false and misleading statements caused PSI securities to trade at artificially inflated prices. Defendants deny that they violated the securities laws.

The initial complaint in the Litigation was filed in the Court on September 21, 2009. The operative complaint in the Litigation is the Consolidated Complaint for Violation of the Federal Securities Laws, filed on June 15, 2010 (the "Complaint").

On July 15, 2010, Defendants moved to dismiss the Complaint. Lead Plaintiff filed an opposition to Defendants' motion to dismiss on August 19, 2010, and Defendants filed their reply brief on September 24, 2010. By Order dated March 31, 2011, the Court denied Defendants' motion to dismiss the Complaint. Defendants filed a motion to reconsider that ruling (or, in the alternative, the certification to the Sixth Circuit Court of Appeals, pursuant to §1292(b)), which motion was opposed by Lead Plaintiff. The Court denied the motion on August 15, 2011, and set deadlines for fact and expert discovery, as well as other pre-trial events.

Lead Plaintiff filed its motion for class certification on September 15, 2011. Defendants took discovery from the proposed Class Representative, and filed their opposition to the motion for class certification on October 31, 2011. Lead Plaintiff filed its reply to the motion for class certification on November 16, 2011, and on March 29, 2012, the Court issued an order granting class certification and appointing Lead Plaintiff as Class Representative and its choice of counsel as Lead Counsel. On April 12, 2012, Defendants petitioned the Sixth Circuit Court of Appeals seeking leave to appeal the Court's class certification order. Lead Plaintiff filed its opposition to Defendants' petition on April 26, 2012, and on May 25, 2012, the Sixth Circuit denied Defendants' petition and upheld the class certification order. Notice of the pendency of this Litigation was provided to Class Members in April and May 2012.

The parties conducted extensive fact discovery from August 2011 through April 2014. On April 18, 2014, Defendants filed their motion for summary judgment, and Lead Plaintiff filed its opposition to the motion on May 16, 2014. Defendants filed their reply brief on May 30, 2014. The motion was pending at the time this Settlement was reached. Concurrently, the parties exchanged expert reports and responses from January to June 2014. Expert discovery was completed at the end of June 2014. Briefing on motions to exclude expert testimony was completed by July 2014. These motions were also pending at the time of this Settlement. Trial in the Litigation was scheduled to begin on September 16, 2014.

The parties attended formal mediation sessions before the Hon. Layn R. Phillips (Ret.) in February 2012 and February 2013, but were unable to resolve the Litigation during those sessions, and the parties proceeded towards trial. With the assistance of Judge Phillips, the parties continued their negotiations, and on the morning of September 5, 2014, Judge Phillips presented the parties with a Mediator's Proposal, which was ultimately accepted by both parties. Following additional negotiations, the parties reached an agreement to resolve the Litigation on the specific terms set forth in the Stipulation of Settlement, and summarized herein.

Defendants deny each and all of the claims and contentions of wrongdoing alleged by Lead Plaintiff in the Litigation. Defendants contend that they did not make any materially false or misleading statements, they disclosed all material information required to be disclosed by the federal securities laws and any alleged misstatements or omissions were not made with the requisite intent or knowledge of wrongdoing. Defendants also contend that any losses suffered by members of the Class were not caused by any false or misleading statements by Defendants and/or were caused by intervening events.

3. Why is this a class action?

In a class action, one or more people called the plaintiff sues on behalf of people who have similar claims. All of the people with similar claims are referred to as a class or class members. One court resolves the issues for all class members, except for those who exclude themselves from the class.

4. Why is there a settlement?

The Court has not decided in favor of the Defendants or of the Class. Instead, both sides agreed to the Settlement to avoid the distraction, costs and risks of further litigation, including trial, and Lead Plaintiff agreed to the Settlement in order to ensure that Class Members will receive compensation. Lead Plaintiff and Lead Counsel believe the Settlement is in the best interest of all Class Members in light of the real possibility that continued litigation could result in no recovery at all.

WHO IS IN THE SETTLEMENT

To see if you will get money from this Settlement, you first have to decide if you are a Class Member.

5. How do I know if I am part of the Settlement?

The Court directed that everyone who fits this description is a Class Member: ***all Persons who purchased or otherwise acquired PSI securities between February 21, 2008 and February 25, 2009, inclusive***, except those Persons and entities that are excluded, as described below.

6. Are there exceptions to being included?

Excluded from the Class are (i) PSI, its parents, subsidiaries and any other entity owned or controlled by PSI; (ii) Joey A. Jacobs, Jack E. Polson, and Brent Turner; (iii) all other executive officers and directors of PSI or any of its parents, subsidiaries or other entities owned or controlled by PSI; (iv) all immediate family members of the foregoing, including grandparents, parents, spouses, siblings, children, grandchildren and step-relations of similar degree; and (v) all predecessors and successors-in-interest or assigns of any of the foregoing. Also excluded from the Class are those Persons who timely and validly excluded themselves therefrom by submitting a request for exclusion pursuant to the Notice of Pendency of Class Action sent to potential Class Members in April and May 2012, and those Persons who timely and validly exclude themselves in accordance with the requirements set forth in Question 13 below.

If one of your mutual funds own PSI securities, that alone does not make you a Class Member. You are a Class Member only if you directly purchased or acquired PSI securities during the Class Period. Contact your broker to see if you have purchased or acquired PSI securities.

If you sold PSI securities during the Class Period, that alone does not make you a Class Member. You are a Class Member only if you ***purchased or acquired*** PSI securities, as defined above.

7. What if I am still not sure if I am included?

If you are still not sure whether you are included, you can ask for free help. You can contact the Claims Administrator toll-free at 1-888-283-6726, or you can fill out and return the Proof of Claim form enclosed with this Notice package, to see if you qualify.

THE SETTLEMENT BENEFITS – WHAT YOU GET

8. What does the Settlement provide?

In exchange for the Settlement and the release of the Released Claims (defined below) as well as dismissal of the Litigation, Defendants have agreed that a payment of $65 million will be made by Defendants (or on their behalf) to be divided, after taxes, fees, and expenses, among all Class Members who send in a valid Proof of Claim form.

9. How much will my payment be?

Your share of the fund will depend on several things, including, how many Class Members submit timely and valid Proof of Claim forms, the total Recognized Losses represented by the valid Proof of Claim forms that Class Members send in, the number and type of shares of PSI securities you purchased or acquired, how much you paid for the shares, when you purchased or acquired, and if you sold your shares and for how much.

By following the instructions in the Plan of Allocation, you can calculate what is called your Recognized Loss. It is unlikely that you will get a payment for all of your Recognized Loss. After all Class Members have sent in their Proof of Claim forms, the payment you get will be a part of the Net Settlement Fund equal to your Recognized Loss divided by the total of everyone's Recognized Losses. *See* the Plan of Allocation at pages 8-11 hereof for more information on your Recognized Loss.

HOW YOU GET A PAYMENT – SUBMITTING A CLAIM FORM

10. How can I get a payment?

To qualify for a payment, you must submit a Proof of Claim form. A Proof of Claim form is enclosed with this Notice or it may be downloaded at www.psychiatricsolutionssecuritiessettlement.com. Read the instructions carefully, fill out the Proof of Claim form, include all the documents the form asks for, sign it, and mail or submit it online so that it is postmarked or received no later than February 2, 2015. The claim form may be submitted online at www.psychiatricsolutionssecuritiessettlement.com.

11. When would I get my payment?

The Court will hold a Settlement Hearing on January 16, 2015, to decide whether to approve the Settlement. If the Court approves the Settlement after that, there might be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. It also takes time for all the Proofs of Claim to be processed. Please be patient.

12. What am I giving up to get a payment or to stay in the Class?

Unless you exclude yourself, you will remain a Class Member, and that means that, if the Settlement is approved, you will give up all "Released Claims" (as defined below), including "Unknown Claims" (as defined below), against the "Released Persons" (as defined below):

- "Released Claims" means any and all rights, liabilities, suits, debts, obligations, demands, damages, losses, judgments, matters, issues, claims (including Unknown Claims as defined below), and causes of action of every nature and description whatsoever, in law or equity, whether accrued or un-accrued, fixed or contingent, liquidated or unliquidated, known or unknown, contingent or absolute, mature or un-matured, discoverable or undiscoverable, concealed or hidden, suspected or unsuspected, disclosed or undisclosed, whether arising under federal, state, local, statutory, common law, foreign law, or any other law, rule, or regulation, and whether class and/or individual in nature, that Lead Plaintiff or any Class Member asserted, could have asserted, or in the future could or might have asserted in this Litigation or any other action, court, tribunal, proceeding, or forum against any of the Released Persons arising out of, in connection with, or in any way relating to, directly or indirectly, the purchase or acquisition of PSI securities during the Class Period and the allegations, transactions, acts, facts, matters, occurrences, disclosures, statements, representations, omissions, or events that were or could have been alleged or asserted in the Litigation. Released Claims does not include claims to enforce the Settlement.
- "Released Persons" means each and all of the Defendants, and each and all of their Related Parties.
- "Related Parties" means, with respect to each Defendant, present and former parents, subsidiaries, affiliates, predecessors, successors, joint venturers, assigns, officers, directors, employees, partners, controlling shareholders, principals, trustees, attorneys, auditors, accountants, investment bankers, underwriters, consultants, agents, insurers, re-insurers, spouses, estates, related or affiliated entities, any entity in which a Defendant has a controlling interest, any members of any Defendants' immediate family, any trust of which any Defendant is the settlor or which is for the benefit of any Defendant and/or member(s) of his family, and each of the heirs, executors, administrators, predecessors, successors, and assigns of the foregoing.
- "Unknown Claims" means any of the Released Claims which Lead Plaintiff or any Class Member does not know or suspect to exist in such party's favor at the time of the release of the Released Persons, and any of the Settled Defendants' Released Claims that the Released Persons do not know or suspect to exist in his, her or its favor at the time of the release of the Lead Plaintiff, each and all of the Class Members and Plaintiffs' Counsel, which, if known by such party, might have affected such party's settlement with and release of the Released Persons or Lead Plaintiff, each and all of the Class Members and Plaintiffs' Counsel, or might have affected such party's decision not to object to this Settlement. With respect to any and all Released Claims and the Settled Defendants' Released Claims, upon the Effective Date, the Lead Plaintiff and Defendants shall expressly, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Order and Final Judgment shall have, expressly waived to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code §1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of

executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Lead Plaintiff and Defendants shall expressly, and each of the Class Members and Released Persons shall be deemed to have, and by operation of the Order and Final Judgment, shall have expressly waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code §1542. The Lead Plaintiff, Class Members and the Released Persons may hereafter discover facts in addition to or different from those which such party now knows or believes to be true with respect to the subject matter of the Released Claims and the Settled Defendants' Released Claims, but the Lead Plaintiff and Defendants shall expressly, and each Class Member and Released Persons, upon the Effective Date, shall be deemed to have, and by operation of the Order and Final Judgment shall have fully, finally, and forever settled and released any and all Released Claims, or the Settled Defendants' Released Claims, as the case may be, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Lead Plaintiff and Defendants acknowledge, and the Class Members and Released Persons shall be deemed by operation of the Order and Final Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

If you remain a member of the Class, all of the Court's orders will apply to you and legally bind you.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this Settlement, and you want to keep the right to sue the Defendants and the other Released Persons, on your own, about the legal issues in this case, then you must take steps to remove yourself from the Settlement. This is called excluding yourself – or is sometimes referred to as "opting out."

13. How do I get out of the proposed Settlement?

To exclude yourself from the Class, you must send a letter by First-Class Mail stating that you "request exclusion from the Class in the *PSI Securities Litigation*." Your letter must include the date(s), price(s), and number(s) of all purchases, acquisitions and sales of PSI securities during the Class Period. In addition, you must include your name, address, telephone number, and your signature. You must submit your exclusion request so that it is **received no later than December 29, 2014** to:

PSI Securities Litigation
Claims Administrator
c/o Gilardi & Co. LLC
P.O. Box 8040
San Rafael, CA 94912-8040

If you ask to be excluded, you will not get any payment, and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit, and you may be able to sue the Defendants and the other Released Persons in the future.

NOTE: IF YOU EXCLUDED YOURSELF FROM THE CLASS IN RESPONSE TO THE NOTICE OF PENDENCY OF CLASS ACTION YOU RECEIVED IN APRIL OR MAY 2012, YOU DO NOT HAVE TO SUBMIT ANOTHER REQUEST FOR EXCLUSION.

14. If I do not exclude myself, can I sue the Defendants and the other Released Persons for the same thing later?

No. Unless you exclude yourself, you give up any rights to sue the Defendants and the other Released Persons for any and all Released Claims. If you have a pending lawsuit against the Released Persons speak to your lawyer in that case immediately. You must exclude yourself from this Litigation to continue your own lawsuit. Remember, the exclusion deadline is December 29, 2014.

15. If I exclude myself, can I get money from the proposed Settlement?

No. If you exclude yourself, you may not send in a Proof of Claim to ask for any money. But, you may be able to sue or be part of a different lawsuit against the Defendants and the other Released Persons about the claims raised in this Litigation.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in this case?

The Court ordered that the law firm of Robbins Geller Rudman & Dowd LLP represents the Class Members, including you. These lawyers are called Lead Counsel. You will not be charged for these lawyers. They will be paid from the Settlement Fund to the extent the Court approves their application for fees and expenses. If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How will the lawyers be paid?

Lead Counsel will move the Court for an award of attorneys' fees in an amount not greater than twenty-nine percent (29%) of the Settlement Fund and for expenses and costs in an amount not to exceed $3,500,000, which were incurred in connection with the Litigation, plus interest on such fees, costs, and expenses at the same rate earned by the Settlement Fund. In addition, the Lead Plaintiff may seek up to $25,000 for its time and expenses incurred in representing the Class. Such sums as may be approved by the Court will be paid from the Settlement Fund.

The attorneys' fees and expenses requested will be the only payment to Plaintiffs' Counsel for their efforts in achieving this Settlement and for their risk in undertaking this representation on a wholly contingent basis. To date, Lead Counsel have not been paid for their services for conducting this Litigation on behalf of Lead Plaintiff and the Class nor for their substantial litigation expenses. The fee requested will compensate Plaintiffs' Counsel for their work in achieving the Settlement Fund and is within the range of fees awarded to class counsel under similar circumstances in other cases of this type.

OBJECTING TO THE SETTLEMENT

18. How do I tell the Court that I object to the proposed Settlement?

If you are a Class Member, you can object to the proposed Settlement, the proposed Plan of Allocation, and/or Lead Counsel's fee, cost, and expense application. You can write to the Court setting out your objection. The Court will consider your views. To object, you must send a signed letter saying that you object to the proposed Settlement in the *PSI Securities Litigation*. Be sure to include your name, address, telephone number, and your signature, identify the date(s), price(s), and number(s) of shares of PSI securities you purchased, acquired and sold during the Class Period, and state the reasons why you object to the proposed Settlement. Your objection must be filed with the Court and mailed or delivered to each of the following addresses such that it is **received no later than December 29, 2014:**

COURT

Clerk of the Court
United States District Court
Middle District of Tennessee
Nashville Division
Estes Kefauver Federal
Building and United States Courthouse
801 Broadway
Nashville, TN 37203

LEAD COUNSEL

Ellen Gusikoff Stewart
ROBBINS GELLER RUDMAN
& DOWD LLP
655 West Broadway, Suite 1900
San Diego, CA 92101

DEFENDANTS' COUNSEL REPRESENTATIVE

Steven A. Riley
RILEY WARNOCK &
JACOBSON, PLC
1906 West End Avenue
Nashville, TN 37203

19. What is the difference between objecting and excluding myself?

Objecting is simply telling the Court that you do not like something about the proposed Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S SETTLEMENT HEARING

The Court will hold a hearing to decide whether to approve the proposed Settlement. You may attend and you may ask to speak, but you do not have to.

20. When and where will the Court decide whether to approve the proposed Settlement?

The Court will hold a Settlement Hearing at 3:00 p.m., on Friday, January 16, 2015, at the United States District Court for the Middle District of Tennessee, Nashville Division, Estes Kefauver Federal Building and United States Courthouse, 801 Broadway, Nashville, TN 37203. At the hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who

have asked to speak at the hearing. The Court may also decide how much to pay to Lead Counsel. After the Settlement Hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take. You should be aware that the Court may change the date and time of the Settlement Hearing without another notice being sent to Class Members. If you want to attend the hearing, you should check with Lead Counsel beforehand to be sure that the date and/or time has not changed.

21. Do I have to come to the hearing?

No. Lead Counsel will answer questions the Court may have. But, you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary. Class Members do not need to appear at the hearing or take any other action to indicate their approval.

22. May I speak at the hearing?

If you object to the Settlement, you may ask the Court for permission to speak at the Settlement Hearing. To do so, you must include with your objection (*see* Question 18 above) a statement saying that it is your "Notice of Intention to Appear in the *PSI Securities Litigation*." Persons who intend to object to the Settlement, the Plan of Allocation, and/or the application for an award of attorneys' fees, costs, and expenses and desire to present evidence at the Settlement Hearing must include in their written objections the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the Settlement Hearing. You cannot speak at the hearing if you exclude yourself.

IF YOU DO NOTHING

23. What happens if I do nothing at all?

If you do nothing, you will get no money from this Settlement. But, unless you exclude yourself, you will not be able to start a lawsuit or be part of any other lawsuit against the Released Persons about the legal issues in this case, ever again.

GETTING MORE INFORMATION

24. Are there more details about the proposed Settlement?

This Notice summarizes the proposed Settlement. More details are in a Stipulation of Settlement dated October 10, 2014 (the "Settlement Agreement"). You can get a copy of the Settlement Agreement and obtain answers to common questions regarding the proposed Settlement by contacting the Claims Administrator toll-free at 1-888-283-6726. A copy of the Settlement Agreement is also available on the Claims Administrator's website at www.psychiatricsolutionssecuritiessettlement.com.

25. How do I get more information?

For even more detailed information concerning the matters involved in this Litigation, reference is made to the pleadings, to the Settlement Agreement, to the Orders entered by the Court and to the other papers filed in the Litigation, which may be inspected at the Office of the Clerk of the United States District Court for the Middle District of Tennessee, Nashville Division, Estes Kefauver Federal Building and United States Courthouse, 801 Broadway, Nashville, TN 37203, during regular business hours. For a fee, all papers filed in this Litigation are available at www.pacer.gov.

PLAN OF ALLOCATION OF NET SETTLEMENT FUND AMONG CLASS MEMBERS

The Settlement Amount of $65 million and any interest earned thereon shall be the "Settlement Fund." The Settlement Fund, less all taxes, approved costs, fees, and expenses (the "Net Settlement Fund") shall be distributed to Class Members who submit timely and valid Proof of Claim forms to the Claims Administrator ("Authorized Claimants").

The Claims Administrator shall determine each Authorized Claimant's *pro rata* share of the Net Settlement Fund based upon each Authorized Claimant's "Recognized Loss" calculated using the Court-approved Plan of Allocation. The Recognized Loss formula (below) is not intended to estimate the amount a Class Member might have been able to recover after a trial; nor to estimate the amount that will be paid to Authorized Claimants pursuant to the Settlement. The Recognized Loss formula is the basis upon which the Net Settlement Fund will be proportionately allocated to the Authorized Claimants. The Court may approve the Plan of Allocation, or modify it, without additional notice to the Class. Any order modifying the Plan of Allocation will be posted on the settlement website at: www.psychiatricsolutionssecuritiessettlement.com.

The following proposed Plan of Allocation was created with the assistance of a consulting damages expert who analyzed the movement of PSI's securities during the Class Period. It takes into account the portion of the stock drops

attributable to the alleged fraud. Accordingly, a claimant's "Recognized Loss" will be calculated for purposes of the Settlement as follows:

Common Stock

For shares of PSI common stock purchased on or between February 21, 2008 through February 25, 2009, the claim per share shall be as follows (but no less than zero):

1. If sold on or between February 21, 2008 through February 25, 2009, at a percent inflation that was less than at the time of purchase (see Table A), then the claim per share shall be the lesser of:

(a) the purchase price per share times the percent inflation in Table A ***less*** the sales price per share times the percent inflation in Table A; and

(b) the difference between the purchase price per share and the sales price per share.

2. If sold on or between February 26, 2009 through May 26, 2009, at a percent inflation that was less than at the time of purchase (see Table A), then the claim per share shall be the lesser of:

(a) the purchase price per share times the percent inflation in Table A ***less*** the sales price per share times the percent inflation in Table A;

(b) the difference between the purchase price per share and the sales price per share; and

(c) the difference between the purchase price per share and the average closing price per share from February 26, 2009 up to the date of sale, as set forth in Table B below.

3. If retained at the close of trading on May 26, 2009, or sold thereafter, the claim per share shall be the lesser of:

(a) the purchase price per share times the percent inflation in Table A; and

(b) the difference between the purchase price per share and $16.30 per share.

4. If sold at a percent inflation that was equal to or greater than at the time of purchase (see Table A), the claim per share is zero.

TABLE A:

Time Period		Inflation as Percentof Purchase or Sales Price
Begin	End	
2/21/2008	4/30/2008	42.28%
5/1/2008	7/16/2008	46.50%
7/17/2008	7/30/2008	45.33%
7/31/2008	8/11/2008	43.22%
8/12/2008	11/23/2008	41.54%
11/24/2008	2/25/2009	36.04%
2/26/2009	4/5/2009	7.29%
4/6/2009	5/26/2009	0.00%

TABLE B:

Date	Closing Price	Average Closing Price from February 26, 2009 through Sales Date
2/26/2009	$17.50	$17.50
2/27/2009	$16.94	$17.22
3/2/2009	$13.15	$15.86
3/3/2009	$13.85	$15.36
3/4/2009	$14.90	$15.27
3/5/2009	$13.60	$14.99
3/6/2009	$12.86	$14.69
3/9/2009	$12.90	$14.46
3/10/2009	$13.74	$14.38
3/11/2009	$13.84	$14.33
3/12/2009	$14.70	$14.36
3/13/2009	$15.35	$14.44
3/16/2009	$15.26	$14.51
3/17/2009	$15.34	$14.57
3/18/2009	$15.43	$14.62
3/19/2009	$15.30	$14.67
3/20/2009	$14.88	$14.68
3/23/2009	$15.63	$14.73
3/24/2009	$15.83	$14.79
3/25/2009	$15.85	$14.84
3/26/2009	$16.48	$14.92
3/27/2009	$16.17	$14.98
3/30/2009	$15.64	$15.01
3/31/2009	$15.73	$15.04
4/1/2009	$15.31	$15.05
4/2/2009	$16.03	$15.09
4/3/2009	$15.82	$15.11
4/6/2009	$14.60	$15.09
4/7/2009	$13.65	$15.04
4/8/2009	$13.98	$15.01
4/9/2009	$14.69	$15.00
4/13/2009	$14.62	$14.99
4/14/2009	$14.63	$14.98
4/15/2009	$14.43	$14.96
4/16/2009	$14.01	$14.93
4/17/2009	$14.20	$14.91
4/20/2009	$14.01	$14.89
4/21/2009	$14.01	$14.86
4/22/2009	$14.12	$14.85
4/23/2009	$13.49	$14.81
4/24/2009	$13.27	$14.77
4/27/2009	$13.63	$14.75
4/28/2009	$14.35	$14.74
4/29/2009	$18.14	$14.82
4/30/2009	$19.39	$14.92
5/1/2009	$19.28	$15.01
5/4/2009	$19.39	$15.10
5/5/2009	$20.25	$15.21
5/6/2009	$20.48	$15.32
5/7/2009	$19.88	$15.41
5/8/2009	$20.71	$15.51
5/11/2009	$20.99	$15.62
5/12/2009	$20.06	$15.70
5/13/2009	$19.82	$15.78
5/14/2009	$20.39	$15.86
5/15/2009	$20.18	$15.94
5/18/2009	$20.37	$16.02
5/19/2009	$19.80	$16.08
5/20/2009	$20.69	$16.16
5/21/2009	$20.14	$16.23
5/22/2009	$17.99	$16.26
5/26/2009	$18.88	$16.30

Call Options

1. For call options on PSI common stock purchased on or between February 21, 2008 through February 25, 2009, and

(a) held at the end of any of the following dates: April 30, 2008; July 16, 2008; July 30, 2008; August 11, 2008; November 23, 2008; February 25, 2009 or April 5, 2009, the claim per call option is the difference between the price paid for the call option and the proceeds received upon the settlement of the call option contract;

(b) not held at the end of any of the following dates: April 30, 2008; July 16, 2008; July 30, 2008; August 11, 2008; November 23, 2008; February 25, 2009 or April 5, 2009, the claim per call option is $0.

2. For call options on PSI common stock written on or between February 21, 2008 through February 25, 2009, the claim per call option is $0.

Put Options

1. For put options on PSI common stock written on or between February 21, 2008 through February 25, 2009, and

(a) held at the end of any of the following dates: April 30, 2008; July 16, 2008; July 30, 2008; August 11, 2008; November 23, 2008; February 25, 2009 or April 5, 2009, the claim per put option is the difference between the

price paid upon settlement of the put option contract and the initial proceeds received upon the sale of the put option contract;

(b) not held at the end of any of the following dates: April 30, 2008; July 16, 2008; July 30, 2008; August 11, 2008; November 23, 2008; February 25, 2009 or April 5, 2009, the claim per put option is $0.

2. For put options on PSI common stock purchased on or between February 21, 2008 through February 25, 2009, the claim per put option is $0.[1]

In the event a Class Member has more than one purchase, acquisition or sale of PSI securities during the Class Period, all purchases, acquisitions and sales within the Class Period shall be matched on a First-In, First-Out ("FIFO") basis. Class Period sales will be matched first against any holdings at the beginning of the Class Period, and then against purchases or acquisitions in chronological order, beginning with the earliest purchase or acquisition made during the Class Period.

A purchase, acquisition or sale of PSI securities shall be deemed to have occurred on the "contract" or "trade" date as opposed to the "settlement" or "payment" date. All purchase, acquisition and sale prices shall exclude any fees and commissions. The receipt or grant by gift, devise or operation of law of PSI securities during the Class Period shall not be deemed a purchase, acquisition or sale of PSI securities for the calculation of a claimant's Recognized Loss nor shall it be deemed an assignment of any claim relating to the purchase or acquisition of such shares unless specifically provided in the instrument of gift or assignment. The receipt of PSI securities during the Class Period in exchange for securities of any other corporation or entity shall not be deemed a purchase, acquisition or sale of PSI securities.

To the extent a claimant had a gain from his, her, or its overall transactions in PSI securities during the Class Period, the value of the claim will be zero. The date of covering a "short sale" is deemed to be the date of purchase of shares. The date of a "short sale" is deemed to be the date of sale of shares. In accordance with the Plan of Allocation, however, the Recognized Loss on "short sales" is zero. In the event that a claimant has an opening short position in PSI securities, the earliest Class Period purchases shall be matched against such opening short position and not be entitled to a recovery until that short position is fully covered.

Payment according to the Plan of Allocation will be deemed conclusive against all Authorized Claimants. A Recognized Loss will be calculated as defined herein and cannot be less than zero. The Claims Administrator shall allocate to each Authorized Claimant a *pro rata* share of the Net Settlement Fund based on his, her, or its Recognized Loss as compared to the total Recognized Losses of all Authorized Claimants. No distribution shall be made to Authorized Claimants who would otherwise receive a distribution of less than $10.00.

Class Members who do not submit acceptable Proofs of Claim will not share in the Settlement proceeds. The Settlement and the Final Judgment and Order of Dismissal with Prejudice dismissing this Litigation will nevertheless bind Class Members who do not submit a request for exclusion and/or submit an acceptable Proof of Claim.

Please contact the Claims Administrator or Lead Counsel if you disagree with any determinations made by the Claims Administrator regarding your Proof of Claim. If you are unsatisfied with the determinations, you may ask the Court, which retains jurisdiction over all Class Members and the claims administration process, to decide the issue by submitting a written request.

Defendants, their respective counsel, and all other Released Persons will have no responsibility or liability whatsoever for the investment of the Settlement Fund, the distribution of the Net Settlement Fund, the Plan of Allocation or the payment of any claim. Lead Plaintiff and Plaintiffs' Counsel, likewise, will have no liability for their reasonable efforts to execute, administer, and distribute the Settlement.

Distributions will be made to Authorized Claimants after all claims have been processed and after the Court has finally approved the Settlement. If any funds remain in the Net Settlement Fund by reason of un-cashed distribution checks or otherwise, then, after the Claims Administrator has made reasonable and diligent efforts to have Class Members who are entitled to participate in the distribution of the Net Settlement Fund cash their distributions, any balance remaining in the Net Settlement Fund after at least six (6) months after the initial distribution of such funds shall be used: (a) first, to pay any amounts mistakenly omitted from the initial disbursement; (b) second, to pay any additional settlement administration fees, costs, and expenses, including those of Lead Counsel as may be approved by the Court; and (c) finally, to make a second distribution to claimants who cashed their checks from the initial distribution and who would receive at least $10.00, after payment of the estimated costs, expenses, or fees to be incurred in administering the

[1] In the case the option was exercised for PSI common stock, the amount paid, or proceeds received, upon settlement of the option contract equals the intrinsic value of the option using PSI common stock's closing price on the date the option was exercised. The combined recovery for the put/call options shall not exceed 3% of the Net Settlement Fund.

Net Settlement Fund and in making this second distribution, if such second distribution is economically feasible. These redistributions shall be repeated, if economically feasible, until the balance remaining in the Net Settlement Fund is *de minimis* and such remaining balance shall then be distributed to a non-sectarian, not-for-profit organization identified by Lead Counsel.

SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES

If you purchased or acquired PSI securities during the Class Period for the beneficial interest of an individual or organization other than yourself, the Court has directed that, WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS NOTICE, you either (a) provide to the Claims Administrator the name and last known address of each person or organization for whom or which you purchased or acquired such securities during such time period or (b) request additional copies of this Notice and the Proof of Claim form, which will be provided to you free of charge, and within ten (10) days mail the Notice and Proof of Claim form directly to the beneficial owners of the securities referred to herein. If you choose to follow alternative procedure (b), upon such mailing, you must send a statement to the Claims Administrator confirming that the mailing was made as directed and retain the names and addresses for any future mailings to Class Members. You are entitled to reimbursement from the Settlement Fund of your reasonable expenses actually incurred in connection with the foregoing, including reimbursement of postage expense and the cost of ascertaining the names and addresses of beneficial owners. Your reasonable expenses will be paid upon request and submission of appropriate supporting documentation. All communications concerning the foregoing should be addressed to the Claims Administrator:

PSI Securities Litigation
Claims Administrator
c/o Gilardi & Co. LLC
P.O. Box 8040
San Rafael, CA 94912-8040
1-888-283-6726
www.psychiatricsolutionssecuritiessettlement.com

DATED: October 21, 2014

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

EXHIBIT M

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE HOVNANIAN ENTERPRISES, INC. SECURITIES LITIGATION	Civil Action No. 2:08-cv-00999 (SDW) (MCA)

NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION AND SETTLEMENT HEARING THEREON

TO: ALL PERSONS AND ENTITIES WHO PURCHASED OR OTHERWISE ACQUIRED HOVNANIAN ENTERPRISES, INC. ("HOVNANIAN") SECURITIES FROM JUNE 30, 2005 THROUGH DECEMBER 19, 2007, INCLUSIVE; ALL PERSONS WHO PURCHASED OR OTHERWISE ACQUIRED CALL OPTIONS ON HOVNANIAN SECURITIES DURING THE PERIOD FROM JUNE 30, 2005 THROUGH DECEMBER 19, 2007, INCLUSIVE; AND ALL PERSONS WHO SOLD OR OTHERWISE DISPOSED OF PUT OPTIONS ON HOVNANIAN SECURITIES DURING THE PERIOD FROM JUNE 30, 2005 THROUGH DECEMBER 19, 2007, INCLUSIVE.

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS MAY BE AFFECTED BY PROCEEDINGS IN THIS LITIGATION. PLEASE NOTE THAT IF YOU ARE A CLASS MEMBER, YOU MAY BE ENTITLED TO SHARE IN THE PROCEEDS OF THE SETTLEMENT DESCRIBED IN THIS NOTICE. TO CLAIM YOUR SHARE OF THIS FUND, YOU MUST SUBMIT A VALID PROOF OF CLAIM ("PROOF OF CLAIM") POSTMARKED ON OR BEFORE FRIDAY, FEBRUARY 12, 2010.

IF YOU DO NOT WISH TO BE INCLUDED IN THE CLASS AND YOU DO NOT WISH TO PARTICIPATE IN THE PROPOSED SETTLEMENT DESCRIBED IN THIS NOTICE, YOU MAY REQUEST TO BE EXCLUDED. TO DO SO, YOU MUST SUBMIT A WRITTEN REQUEST FOR EXCLUSION THAT MUST BE POSTMARKED ON OR BEFORE TUESDAY, DECEMBER 1, 2009.

This Notice has been sent to you pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the District of New Jersey (the "Court"). The purpose of this Notice is to inform you of the pendency and proposed Settlement of this litigation (the "Litigation") and of the hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement. This Notice is not intended to be, and should not be construed as, an expression of any opinion by the Court with respect to the truth of the allegations in the Litigation or the merits of the claims or defenses asserted. This Notice describes the rights you may have in connection with the Settlement and what steps you may take in relation to the Settlement and the Litigation.

The proposed Settlement creates a fund in the amount of $4,000,000.00 in cash (the "Settlement Fund") and will include interest that accrues on the fund prior to distribution. Your recovery from this fund will depend on a number of variables, including your transactions in Hovnanian securities, call options, and put options during the period June 30, 2005 through December 19, 2007, inclusive, and the timing of your purchases and any sales. Depending on the purchases and sales engaged in by Settlement Class Members who elect to participate in the Settlement and when those transactions occurred, the estimated average distribution per share will be approximately $0.04 before deduction of Court-approved fees and expenses.

Lead Plaintiffs and Defendants do not agree on the average amount of damages per share that would be recoverable if Lead Plaintiffs were to have prevailed on each claim alleged. The issues on which the parties disagree include: (1) the amount by which Hovnanian securities were allegedly artificially inflated (if at all) during the Settlement Class Period; (2) the effect of various market forces influencing the trading price of Hovnanian securities at various times during the Settlement Class Period; (3) the extent to which external factors, such as general market and industry conditions, influenced the trading price of Hovnanian securities at various times during the Settlement Class Period; (4) the extent to which the various matters that Lead Plaintiffs alleged were materially false or misleading influenced (if at all) the trading price of Hovnanian securities at various times during the Settlement Class Period; (5) the extent to which the various allegedly adverse material facts that Lead Plaintiffs alleged were omitted influenced (if at all) the trading price of Hovnanian securities at various times during the Settlement Class Period; (6) whether the statements made or facts allegedly omitted were material, false, misleading or otherwise actionable under the securities laws; and, (7) whether even if liability could be proven, total damages would still be $0, or $0 per damaged share.

Lead Plaintiffs believe that the proposed Settlement is a good recovery and is in the best interests of the Settlement Class. At the time this Settlement was reached, Lead Plaintiffs were preparing to file a Second Amended Complaint and Defendants were prepared to file motions to dismiss in response. Because of risks associated with continuing to litigate and proceeding to trial, there was a danger that the Settlement Class would not have prevailed on any of their claims, in which case the Settlement Class would receive nothing. The amount of damages recoverable by the Settlement Class was and is challenged by Defendants. Recoverable damages in this case are limited to losses caused by conduct actionable under applicable law and, had the Litigation gone to trial, Defendants would have asserted that all or most of the losses of Settlement Class Members were caused by non-actionable market, industry or general economic factors. Defendants would also assert that throughout the Settlement Class Period, the uncertainties and risks associated with the purchase of Hovnanian securities were fully and adequately disclosed.

Lead Counsel has not received any payment for their services in conducting the Litigation on behalf of Lead Plaintiffs and the Settlement Class, nor have they been reimbursed for all of their out-of-pocket expenditures. If the Settlement is approved by the Court, Lead Counsel will apply to the Court for attorneys' fees in an amount up to 30% of the Settlement Fund and reimbursement of out-of-pocket expenses not to exceed $150,000.00 to be paid from the Settlement Fund. If the amount requested is approved by the Court, the average cost per share will be no more than $0.03.

For further information regarding this Settlement you may contact: Marc L. Godino, Glancy Binkow & Goldberg LLP, 1801 Avenue of the Stars, Suite 311, Los Angeles, CA 90067, Telephone: (310) 201-9150.

I. NOTICE OF HEARING ON PROPOSED SETTLEMENT

A settlement hearing will be held on Tuesday, December 15, 2009 at 11:00 a.m., before the Honorable Susan D. Wigenton, United States District Judge, at the United States Courthouse, District of New Jersey, 50 Walnut Street, Newark, New Jersey 07102 (the "Settlement Hearing"). The purpose of the Settlement Hearing will be to determine: (1) whether the Settlement consisting of $4,000,000.00 in cash should be approved as fair, reasonable and adequate to the Settling Parties; (2) whether the proposed plan to distribute the settlement proceeds (the "Plan of Allocation") is fair, reasonable, and adequate; and (3) whether the application by Lead Counsel for an award of attorneys' fees and expenses should be approved. The Court may adjourn or continue the Settlement Hearing without further notice to the Settlement Class.

II. DEFINITIONS USED IN THIS NOTICE

1. "Authorized Claimant" means any member of the Settlement Class who is a Claimant (as defined below) and who files a timely and valid Proof of Claim with required documentation in accordance with the requirements of the Order for Notice and Hearing and this Notice, and whose claim of recovery has been allowed pursuant to the Stipulation of Settlement (the "Stipulation").

2. "Claimant" means any Settlement Class Member (as defined below) who files a Proof of Claim in such manner and within such time as provided in this Notice, or as the Court shall prescribe.

3. "Claims Administrator" means The Garden City Group, Inc. which shall administer the Settlement.

4. "Defendants" means Hovnanian Enterprises, Inc. (referred to herein as "Hovnanian" or the "Company"), Ara Hovnanian, J. Larry Sorsby and Bruce Robb.

5. "Final Judgment" or "Judgment" shall mean the Final Judgment and Dismissal with Prejudice to be entered in the Litigation pursuant to paragraph 5.6 of the Stipulation of Settlement.

6. "Lead Plaintiffs" means Herbert Mankofsky and the Jeffrey S. Buffoni Revocable Trust.

7. "Plaintiffs" means Lead Plaintiffs and the Settlement Class (as defined below).

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

9. "Plaintiffs' Lead Counsel" or "Lead Counsel" means the law firm of Glancy Binkow & Goldberg LLP.

10. "Plan of Allocation" means a plan or formula for allocating the Settlement Fund (as defined below) to Authorized Claimants after payment of expenses of notice and administration of the Settlement, Taxes and Tax Expenses, and such attorneys' fees, costs, expenses and interest as may be awarded by the Court. Any Plan of Allocation is not part of the Stipulation, and Defendants and Defendants' Corresponding Released Parties shall have no responsibility or liability with respect thereto.

11. "Released Plaintiffs' Claims" means any and all claims (including "Unknown Claims" as defined herein), demands, rights, actions or causes of action, liabilities, damages, losses, obligations, judgments, suits, fees, expenses, costs, matters and issues of any kind or nature whatsoever, whether known or unknown, that have been or that could have been alleged in the Litigation or in any court, tribunal, forum or proceeding (including, but not limited to, any claims arising under federal, state or foreign law, common law, statute, rule, or regulation relating to alleged fraud, breach of any duty, negligence, violations of the federal securities laws, or otherwise, and including all claims within the exclusive jurisdiction of the federal courts), whether fixed or absolute or contingent, suspected or unsuspected, disclosed or undisclosed, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or un-matured, whether individual, class, direct, derivative, representative, legal, equitable or any other type or in any other capacity, against Defendants and Defendants' Corresponding Released Parties which Plaintiffs or any member of the Settlement Class ever had, now has, or hereafter can, shall, could, or may have by reason of, arising out of, relating to or in connection with the allegations, conduct, facts, events, transactions, acts, occurrences,

statements, representations, alleged misrepresentations, omissions, or any other matter, thing or cause whatsoever, or any series thereof, embraced, involved, or set forth or otherwise related, directly or indirectly, to the Litigation or the purchase and/or sale of Hovnanian shares and/or options during the Settlement Class Period (as hereinafter defined), including without limitation, any disclosures made or not made related to the foregoing, except claims to enforce the Settlement.

12. "Released Defendants' Claims" means all claims (including "Unknown Claims" as defined below), demands, rights, liabilities or causes of action, in law or in equity, accrued or unaccrued, fixed or contingent, direct, individual or representative, of every nature and description whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, against Plaintiffs and their Corresponding Released Parties, arising out of the instituting, prosecution, settlement or resolution of the Litigation; provided however, that Defendants and Defendants' Corresponding Released Parties shall retain the right to enforce in the Court the terms of the Stipulation belonging to Defendants and their present or past heirs, executors, estates, administrators, predecessors, successors, assigns, parents, subsidiaries, associates, affiliates, employers, employees, agents, consultants, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, investment bankers, underwriters, lenders, and any other representatives of any of these Persons or other entities (including, without limitation, any claims, whether direct, derivative, representative or in any other capacity, arising under federal, state, local, statutory or common law or any other law, rule or regulation, including the law of any jurisdiction outside of the United States).

13. "Released Claims" means all of the Released Plaintiffs' Claims against Defendants and Defendants' Corresponding Released Parties and Released Defendants' Claims against the Plaintiffs and Plaintiffs' Corresponding Released Parties.

14. "Released Parties" means Defendants, Plaintiffs, and each of the Defendants' and Plaintiffs' respective Corresponding Released Parties. "Defendants' Corresponding Released Parties" shall mean Defendants and, whether or not identified in any complaint filed in the Litigation, each and all of Defendants' families, parent entities, associates, affiliates or subsidiaries and each and all of their respective past, present, or future officers, directors, stockholders, employees, attorneys, financial or investment advisors, consultants, accountants, investment bankers, commercial bankers, insurers, co-insurers and reinsurers, engineers, advisors or agents, heirs, executors, trustees, general or limited partners or partnerships, limited liability companies, members, representatives, estates, administrators, and each of their respective predecessors, successors, and assigns or other Persons or other entities in which any Defendant has a controlling interest or which is related to or affiliated with any Defendant, and any other representatives of any of these Persons or other entities, whether or not any such Released Parties were named, served with process or appeared in the Litigation. "Plaintiffs' Corresponding Released Parties" shall mean any and all of Plaintiffs' respective families, parent entities, associates, affiliates or subsidiaries, and each and all of their respective past and present officers, directors, stockholders, agents, representatives, employees, attorneys, financial or investment advisors, advisors, consultants, accountants, investment bankers, commercial bankers, trustees, engineers, agents, insurers, co-insurers and reinsurers, heirs, executors, trustees, general or limited partners or partnerships, limited liability companies, members, estates, administrators, predecessors, successors and assigns, or other Persons or other entities in which any Plaintiff has a controlling interest or which is related to or affiliated with Plaintiffs, and any other representatives of any of these Persons or other entities, whether or not any such Released Parties were named, served with process or appeared in the Litigation.

15. "Settlement Class" means: a) all Persons who purchased or otherwise acquired Hovnanian securities during the period from June 30, 2005 through December 19, 2007, inclusive; b) all Persons who purchased or otherwise acquired call options on Hovnanian securities during the period from June 30, 2005 through December 19, 2007, inclusive; and c) all Persons who sold or otherwise disposed of put options on Hovnanian securities during the period from June 30, 2005 through December 19, 2007, inclusive. Excluded from the Settlement Class are Defendants; the members of Individual Defendants' immediate families; all individuals who are either current officers and/or directors, or who served as officers and/or directors of Hovnanian or its parents or subsidiaries at any time during the Settlement Class Period; any Person, firm, or other entity in which any Defendant has a controlling interest, or any entity which is related to or affiliated with any Defendant; and the legal representatives, agents,

affiliates, heirs, successors and assigns of any such excluded Persons. Also excluded from the Settlement Class are those Persons who timely and validly request exclusion from the Settlement Class pursuant to the Notice.

16. "Settlement Class Member" means a Person who falls within the definition of the Settlement Class as set forth in ¶ 15 hereof.

17. "Settlement Class Period" means the period from June 30, 2005 through December 19, 2007, inclusive.

18. "Settling Parties" means, collectively, the Defendants and Plaintiffs.

19. "Unknown Claims" shall collectively mean all claims, demands, rights, liabilities, and causes of action of every nature and description which any Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Parties which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Parties, or might have affected his, her or its decision not to object to the Settlement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, Lead Plaintiffs shall expressly waive, and each of the Settlement Class Members shall be deemed to have waived, and by operation of the Final Judgment and Order of Dismissal With Prejudice shall have waived, the provisions, rights and benefits of California Civil Code §1542, which provides:

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

Lead Plaintiffs shall expressly waive and each of the Settlement Class Members shall be deemed to have, and by operation of the Final Judgment and Order of Dismissal With Prejudice shall have, expressly waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code §1542. Settlement Class Members may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but Lead Plaintiffs shall expressly fully, finally and forever settle and release, and each Settlement Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment and Order of Dismissal With Prejudice shall have, fully, finally, and forever settled and released, any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiffs acknowledge, and the Settlement Class Members shall be deemed by operation of the Final Judgment and Order of Dismissal With Prejudice to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

III. THE LITIGATION

On and after February 25, 2008, the following action (the "Litigation") was transferred to the United States District Court for the District of New Jersey (the "Court"):

CASE NAME	*CASE NUMBER*
In re Hovnanian Securities Litigation	2:08-cv-00999

By Order dated January 31, 2008, Herbert Mankofsky was appointed to serve as Lead Plaintiff, and Glancy Binkow & Goldberg LLP was appointed as Lead Counsel. On or about March 10, 2008, Lead Plaintiff, individually and on behalf of all other persons and entities similarly situated, filed and served an Amended Class Action Complaint against Defendants. The Amended Class Action Complaint alleged violations of Section 10(b) of the Exchange Act and Rule 10b-5 against Defendants and violation of Section 20(a) of the Exchange Act against Ara Hovnanian, J. Larry Sorsby and Bruce Robb. In July 2008, Defendants filed motions to dismiss the Amended Class Action Complaint. Lead Plaintiff filed oppositions. On March 30, 2009, the parties entered into a stipulation

withdrawing the pending motions, allowing Lead Plaintiff to file a second amended complaint, agreeing to a new motion briefing schedule, and agreeing to enter into settlement negotiations.

IV. LEAD PLAINTIFFS' CLAIMS AND BENEFITS OF SETTLEMENT

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

V. DEFENDANTS' STATEMENT AND DENIALS OF WRONGDOING AND LIABILITY

Defendants have denied and continue to deny each and all of the claims and contentions alleged by Plaintiffs in the Litigation. Defendants have denied and continue to deny that they have committed any wrongdoing, violations of law, or breaches of any duty. Defendants have denied and continue to deny all charges of wrongdoing or liability against them arising out of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Litigation. Defendants also have denied and continue to deny, inter alia, the allegations that Plaintiffs or the Settlement Class have suffered damages; that the price of Hovnanian's securities was artificially inflated by reason of the alleged misrepresentations, omissions, or otherwise; that Plaintiffs and/or the Settlement Class were harmed by the conduct alleged in the Litigation; and/or that Defendants knew of or were reckless with respect to the alleged misconduct. In addition, Defendants maintain that they have meritorious defenses to all claims alleged in the Litigation.

Nonetheless, taking into account the uncertainty and risks inherent in any litigation, especially in complex cases, Defendants have concluded that further conduct of the Litigation would be protracted, burdensome, and expensive, and that it is desirable and beneficial to them that the Litigation be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in the Stipulation.

VI. TERMS OF THE PROPOSED SETTLEMENT

Hovnanian, on behalf of Defendants, has caused or will cause to be paid into an escrow account, pursuant to the terms of the Stipulation dated as of September 2, 2009, cash in the amount of $4,000,000.00 which has been earning and/or will earn interest for the benefit of the Settlement Class. In exchange for such payment, the Released Claims will be released, discharged and dismissed with prejudice as against each of the Released Parties.

A portion of the Settlement proceeds will be used for certain administrative expenses, including costs of printing and mailing this Notice, the cost of publishing a newspaper notice, payment of any taxes assessed against the Settlement Fund and costs associated with the processing of claims submitted. In addition, as explained below, a portion of the Settlement Fund may be awarded by the Court to Lead Counsel as attorneys' fees and for reimbursement of out-of-pocket expenses. The balance of the Settlement Fund (the "Net Settlement Fund") will be distributed according to the Plan of Allocation described below to Settlement Class Members who submit valid and timely Proof of Claim forms with required supporting material.

VII. PARTICIPATION IN THE SETTLEMENT

TO PARTICIPATE IN THE DISTRIBUTION OF THE NET SETTLEMENT FUND, YOU MUST TIMELY COMPLETE AND RETURN THE PROOF OF CLAIM FORM THAT ACCOMPANIES THIS NOTICE. The Proof of Claim must be postmarked on or before Friday, February 12, 2010 and delivered to the Claims Administrator at the address provided in the form. Unless the Court orders otherwise, if you do not timely

submit a valid Proof of Claim, you will be barred from receiving any payments from the Net Settlement Fund, but will in all other respects be bound by the provisions of the Stipulation and the Judgment.

VIII. THE RIGHTS OF SETTLEMENT CLASS MEMBERS

If you are a Settlement Class Member, you may receive the benefit of and you will be bound by the terms of the proposed Settlement described in this Notice, upon approval of it by the Court. If you are a Settlement Class Member, you have the following options:

1. You may file a Proof of Claim as described below. If you choose this option, you will remain a Settlement Class Member, you will share in the proceeds of the proposed Settlement in accordance with the Plan of Allocation if your claim is timely and valid and if the proposed Settlement is finally approved by the Court, and you will be bound by the Judgment and release described below.

2. If you do not wish to be included in the Settlement Class and you do not wish to participate in the proposed Settlement described in this Notice, you may request to be excluded. To do so, you must submit a written request for exclusion ("Request for Exclusion") that must be postmarked on or before Tuesday, December 1, 2009. A Request for Exclusion must: (a) state the name, address, and telephone number of the Person requesting exclusion; (b) identify each of the Person's purchases and sales of Hovnanian shares and/or options made during the Settlement Class Period, including the dates of purchase or sale, the number of shares and/or options purchased and/or sold, and the price paid or received per share and/or option for each such purchase or sale; (c) provide proper evidence of the Person's purchases and sales of Hovnanian shares and/or options during the Settlement Class Period; and (d) state that the Person wishes to be excluded from the Settlement Class. The Request for Exclusion must be addressed as follows:

In re Hovnanian Enterprises, Inc. Securities Litigation
c/o The Garden City Group, Inc.
P.O. Box 9524
Dublin, OH 43017-4824

NO REQUEST FOR EXCLUSION WILL BE CONSIDERED VALID UNLESS ALL OF THE INFORMATION DESCRIBED ABOVE IS INCLUDED IN ANY SUCH REQUEST. If you timely and validly request exclusion from the Settlement Class, (a) you will be excluded from the Settlement Class, (b) you will not share in the proceeds of the Settlement described herein, (c) you will not be bound by any judgment entered in the Litigation, and (d) you will not be precluded, by reason of your decision to request exclusion from the Settlement Class, from otherwise prosecuting an individual claim, if timely, against Defendants based on the matters complained of in the Litigation.

3. If you do not request in writing to be excluded from the Settlement Class as set forth in paragraph 2 above, you will be bound by any and all determinations or judgments in the Litigation in connection with the Settlement entered into or approved by the Court, whether favorable or unfavorable to the Settlement Class, and you shall be deemed to have, and by operation of the Judgment shall have fully released all of the Released Claims against the Released Parties, whether or not you submit a valid Proof of Claim.

4. You may object to the Settlement and/or the application of Lead Counsel for an award of attorneys' fees and reimbursement of expenses in the manner set forth below. The filing of a Proof of Claim by a Settlement Class Member does not preclude a Settlement Class Member from objecting to the Settlement. However, if your objection is rejected you will be bound by the Settlement and the Judgment just as if you had not objected.

5. You may do nothing at all. If you choose this option, you will not share in the proceeds of the Settlement, but you will be bound by any Judgment entered by the Court, and you shall be deemed to have, and by operation of the Judgment shall have fully released all of the Released Claims against the Released Parties.

If you are a Settlement Class Member, you may, but are not required to, enter an appearance through counsel of your own choosing at your own expense. If you do not do so, you will be represented by Lead Counsel: Glancy Binkow & Goldberg LLP.

IX. PLAN OF ALLOCATION

The Net Settlement Fund will be distributed to Authorized Claimants under the Plan of Allocation described below. The Plan of Allocation provides that you will be eligible to participate in the distribution of the Net Settlement Fund only if you have a net loss on all transactions in Hovnanian shares and/or options during the Settlement Class Period.

For purposes of determining the amount an Authorized Claimant may recover under the Plan of Allocation, Lead Counsel have consulted with their damages consultant.

To the extent there are sufficient funds in the Net Settlement Fund, each Authorized Claimant will receive an amount equal to the Authorized Claimant's claim, as defined below. If, however, the amount in the Net Settlement Fund is not sufficient to permit payment of the total claim of each Authorized Claimant, then each Authorized Claimant shall be paid the percentage of the Net Settlement Fund that each Authorized Claimant's claim bears to the total of the claims of all Authorized Claimants. Payment in this manner shall be deemed conclusive against all Authorized Claimants.

For Settlement Class Members who conducted multiple transactions in Hovnanian securities during the Settlement Class Period, the earliest subsequent sale will be matched first against those shares and/or options in the Authorized Claimant's opening position on the first day of the Settlement Class Period, and then matched chronologically thereafter against each purchase and/or sale of shares and/or options made during the Settlement Class Period ("FIFO").

Common Stock Purchases

1. For shares of Hovnanian common stock purchased or otherwise acquired between June 30, 2005 and March 9, 2007, inclusive and:

   a) Sold prior to the close of trading on March 9, 2007, the Recognized Claim is $0.00.

   b) Sold at a loss between March 12, 2007 and May 31, 2007, the Recognized Claim shall be the lesser of: a) $0.87 per share; or b) the difference between the purchase price per share and the sale price per share.

   c) Sold at a loss between June 1, 2007 and December 18, 2007, the Recognized Claim shall be the lesser of: a) $2.12 per share; or b) the difference between the purchase price per share and the sale price per share.

   d) Sold at a loss on December 19, 2007, the Recognized Claim shall be the lesser of: a) $3.00 per share; or b) the difference between the purchase price per share and the sale price per share.

   e) Sold at a loss between December 20, 2007 and March 18, 2008, the Recognized Claim shall be the lesser of: a) the difference between the purchase price per share and the mean trading price per share from December 20, 2007 through the date of sale; or b) the difference between the purchase price per share and the sale price per share.

   f) Held as of the close of trading on March 18, 2008, the Recognized Claim shall be the lesser of: a) $3.54 per share; or b) the difference between the purchase price per share and $8.21 per share.[1]

2. For shares of Hovnanian common stock purchased or otherwise acquired between March 12, 2007 and May 31, 2007, inclusive and:

[1] Pursuant to Section 21(D)(e)(1) of the Private Securities Litigation Reform Act of 1995, "in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated." $8.21 was the mean closing price of Hovnanian common stock during the 90-day period beginning on December 20, 2007 and ending on March 18, 2008 (the "PSLRA Period").

a) Sold prior to the close of trading on May 31, 2007, the Recognized Claim is $0.00.

b) Sold at a loss between June 1, 2007 and December 18, 2007, the Recognized Claim shall be the lesser of: a) $1.25 per share; or b) the difference between the purchase price per share and the sale price per share.

c) Sold at a loss on December 19, 2007, the Recognized Claim shall be the lesser of: a) $2.13 per share; or b) the difference between the purchase price per share and the sale price per share.

d) Sold at a loss between December 20, 2007 and March 18, 2008, the Recognized Claim shall be the lesser of: a) the difference between the purchase price per share and the mean trading price per share from December 20, 2007 through the date of sale; or b) the difference between the purchase price per share and the sale price per share.

e) Held as of the close of trading on March 18, 2008, the Recognized Claim shall be the lesser of: a) $2.67 per share; or b) the difference between the purchase price per share and $8.21 per share.

3. For shares of Hovnanian common stock purchased or otherwise acquired between June 1, 2007 and December 18, 2007, inclusive and:

a) Sold prior to the close of trading on December 18, 2007, the Recognized Claim is $0.00.

b) Sold at a loss on December 19, 2007, the Recognized Claim shall be the lesser of: a) $0.88 per share; or b) the difference between the purchase price per share and the sale price per share.

c) Sold at a loss between December 20, 2007 and March 18, 2008, the Recognized Claim shall be the lesser of: a) the difference between the purchase price per share and the mean trading price per share from December 20, 2007 through the date of sale; or b) the difference between the purchase price per share and the sale price per share.

d) Held as of the close of trading on March 18, 2008, the Recognized Claim shall be the lesser of: a) $1.42 per share; or b) the difference between the purchase price per share and $8.21 per share.

4. For shares of Hovnanian common stock purchased or otherwise acquired on December 19, 2007, inclusive and:

a) Sold prior to the close of trading on December 19, 2007, the Recognized Claim is $0.00.

b) Sold at a loss between December 20, 2007 and March 18, 2008, the Recognized Claim shall be the lesser of: a) the difference between the purchase price per share and the mean trading price per share from December 20, 2007 through the date of sale; or b) the difference between the purchase price per share and the sale price per share.

c) Held as of the close of trading on March 18, 2008, the Recognized Claim shall be the lesser of: a) $0.54 per share; or b) the difference between the purchase price per share and $8.21 per share.

7.625% Preferred Stock Purchases

1. For shares of Hovnanian preferred stock purchased or otherwise acquired between June 30, 2005 and March 9, 2007, inclusive and:

a) Sold prior to the close of trading on March 9, 2007, the Recognized Claim is $0.00.

b) Sold at a loss between March 12, 2007 and December 18, 2007, the Recognized Claim shall be the lesser of: a) $0.12 per share; or b) the difference between the purchase price per share and the sale price per share.

c) Sold at a loss on December 19, 2007, the Recognized Claim shall be the lesser of: a) $0.47 per share; or b) the difference between the purchase price per share and the sale price per share.

d) Sold at a loss between December 20, 2007 and March 18, 2008, the Recognized Claim shall be the lesser of: a) the difference between the purchase price per share and the mean trading price per share from December 20, 2007 through the date of sale; or b) the difference between the purchase price per share and the sale price per share.

e) Held as of the close of trading on March 18, 2008, the Recognized Claim shall be the lesser of: a) $1.76 per share; or b) the difference between the purchase price per share and $8.21 per share.[2]

2. For shares of Hovnanian preferred stock purchased or otherwise acquired between March 12, 2007 and December 18, 2007, inclusive and:

a) Sold prior to the close of trading on December 18, 2007, the Recognized Claim is $0.00.

b) Sold at a loss on December 19, 2007, the Recognized Claim shall be the lesser of: a) $0.35 per share; or b) the difference between the purchase price per share and the sale price per share.

c) Sold at a loss between December 20, 2007 and March 18, 2008, the Recognized Claim shall be the lesser of: a) the difference between the purchase price per share and the mean trading price per share from December 20, 2007 through the date of sale; or b) the difference between the purchase price per share and the sale price per share.

d) Held as of the close of trading on March 18, 2008, the Recognized Claim shall be the lesser of: a) $1.64 per share; or b) the difference between the purchase price per share and $8.21 per share.

3. For shares of Hovnanian preferred stock purchased or otherwise acquired on December 19, 2007, inclusive and:

a) Sold prior to the close of trading on December 19, 2007, the Recognized Claim is $0.00.

b) Sold at a loss between December 20, 2007 and March 18, 2008, the Recognized Claim shall be the lesser of: a) the difference between the purchase price per share and the mean trading price per share from December 20, 2007 through the date of sale; or b) the difference between the purchase price per share and the sale price per share.

c) Held as of the close of trading on March 18, 2008, the Recognized Claim shall be the lesser of: a) $1.29 per share; or b) the difference between the purchase price per share and $8.21 per share.

Put and Call Options

Call Option Purchases

The total recovery payable to Authorized Claimants from transactions in call or put options shall not exceed five percent (5%) of the Net Settlement Fund.

No loss shall be recognized based on a sale or writing of any call option which was subsequently repurchased.

Shares of Hovnanian acquired during the Settlement Class Period through the exercise of a call option shall be treated as a purchase on the date of exercise for the exercise price plus the cost of the call option, and any Recognized Claim arising from such transaction shall be computed as provided for other purchases of common stock.

[2] Pursuant to Section 21(D)(e)(1) of the Private Securities Litigation Reform Act of 1995, "in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated." $8.21 was the mean closing price of Hovnanian preferred stock during the 90-day period beginning on December 20, 2007 and ending on March 18, 2008.

For call options purchased between June 30, 2005 and March 9, 2007, inclusive:

a. No claim will be recognized for any Hovnanian call options purchased between June 30, 2005 and March 9, 2007 which were not owned as of the close of trading on March 9, 2007.

b. For call options purchased between June 30, 2005 and March 9, 2007 and owned as of the close of trading on March 9, 2007, an Authorized Claimant's Recognized Claim shall be the lesser of (i) 50%[3] of the difference, if a loss, between (x) the amount paid for the call options (including brokerage commissions and transaction charges) and (y) the sum for which said call options were subsequently sold at a loss after brokerage commissions and transaction charges (or $0.00 if the call option expired while still owned by the Authorized Claimant), or (ii) 50% of the Recognized Claim for Hovnanian common stock which was purchased and sold on the same dates as the call option was purchased and sold.

For call options purchased between March 12, 2007 and May 31, 2007, inclusive:

a. No claim will be recognized for any Hovnanian call options purchased between March 12, 2007 and May 31, 2007 which were not owned as of the close of trading on May 31, 2007.

b. For call options purchased between March 12, 2007 and May 31, 2007 and owned as of the close of trading on May 31, 2007, an Authorized Claimant's Recognized Claim shall be the lesser of (i) 50%[4] of the difference, if a loss, between (x) the amount paid for the call options (including brokerage commissions and transaction charges) and (y) the sum for which said call options were subsequently sold at a loss after brokerage commissions and transaction charges (or $0.00 if the call option expired while still owned by the Authorized Claimant), or (ii) 50% of the Recognized Claim for Hovnanian common stock which was purchased and sold on the same dates as the call option was purchased and sold.

For call options purchased between June 1, 2007 and December 18, 2007, inclusive:

a. No claim will be recognized for any Hovnanian call options purchased between June 1, 2007 and December 18, 2007 which were not owned as of the close of trading on December 18, 2007.

b. For call options purchased between June 1, 2007 and December 18, 2007 and owned as of the close of trading on December 18, 2007, an Authorized Claimant's Recognized Claim shall be the lesser of (i) 50%[5] of the difference, if a loss, between (x) the amount paid for the call options (including brokerage commissions and transaction charges) and (y) the sum for which said call options were subsequently sold at a loss after brokerage commissions and transaction charges (or $0.00 if the call option expired while still owned by the Authorized Claimant), or (ii) 50% of the Recognized Claim for Hovnanian common stock which was purchased and sold on the same dates as the call option was purchased and sold.

For call options purchased on December 19, 2007:

a. No claim will be recognized for any Hovnanian call options purchased on December 19, 2007 which were not owned as of the close of trading on December 19, 2007.

b. For call options purchased on December 19, 2007 and owned as of the close of trading on December 19, 2007, an Authorized Claimant's Recognized Claim shall be the lesser of (i) 50%[6] of the difference, if a loss, between (x) the amount paid for the call options (including brokerage commissions and transaction charges) and (y) the sum for which said call options were subsequently sold at a loss after brokerage commissions and transaction charges (or $0.00 if the call option expired while still owned by the Authorized Claimant), or (ii) 50% of the Recognized Claim by Hovnanian common stock which was purchased and sold on the same dates as the call option was purchased and sold.

[3] This discount reflects the fact that a purchase of a call option includes the payment of a time premium.
[4] This discount reflects the fact that a purchase of a call option includes the payment of a time premium.
[5] This discount reflects the fact that a purchase of a call option includes the payment of a time premium.
[6] This discount reflects the fact that a purchase of a call option includes the payment of a time premium.

Put Option Sales

For Hovnanian put options sold (written) or otherwise disposed of during the Settlement Class Period which expired unexercised, an Authorized Claimant's Recognized Claim shall be $0.00.

For put options sold (written) or otherwise disposed of between June 30, 2005 and March 9, 2007, inclusive:

a. No claim will be recognized for Hovnanian put options sold (written) between June 30, 2005 and March 9, 2007 which were not the obligation of the Authorized Claimant as of the close of trading on March 9, 2007.

b. For Hovnanian put options sold (written) or otherwise disposed of between June 30, 2005 and March 9, 2007 which were the obligation of the Authorized Claimant at the close of trading on March 9, 2007, an Authorized Claimant's Recognized Claim shall be the lesser of (i) the difference, if a loss, between (x) the amount received for writing the put option (net of brokerage commissions and transaction charges) and (y) the sum for which said put options were repurchased at a loss after the close of trading on March 9, 2007 (including brokerage commissions and transaction charges) or (ii) the difference, if a loss, between (x) the amount received for writing the put option (net of brokerage commissions and transaction charges) and (y) $3.54 per share.

c. For Hovnanian put options sold (written) or otherwise disposed of between June 30, 2005 and March 9, 2007 which were "put" to the Authorized Claimant (i.e., exercised), the Authorized Claimant's Recognized Claim shall be calculated as a purchase of common stock as shown above, and as if the sale of the put option were instead a purchase of Hovnanian common stock on the date of the sale of the put option, and the "purchase price paid" shall be the strike price less the proceeds received on the sale of the put option.

d. No loss shall be recognized based on a sale of any put option which was previously purchased.

For put options sold (written) or otherwise disposed of between March 12, 2007 and May 31, 2007, inclusive:

a. No claim will be recognized for Hovnanian put options sold (written) between March 12, 2007 and May 31, 2007 which were not the obligation of the Authorized Claimant as of the close of trading on May 12, 2007.

b. For Hovnanian put options sold (written) or otherwise disposed of between March 12, 2007 and May 31, 2007 which were the obligation of the Authorized Claimant at the close of trading on May 31, 2007, an Authorized Claimant's Recognized Claim shall be the lesser of (i) the difference, if a loss, between (x) the amount received for writing the put option (net of brokerage commissions and transaction charges) and (y) the sum for which said put options were repurchased at a loss after the close of trading on March 9, 2007 (including brokerage commissions and transaction charges) or (ii) the difference, if a loss, between (x) the amount received for writing the put option (net of brokerage commissions and transaction charges) and (y) $2.12 per share.

c. For Hovnanian put options sold (written) or otherwise disposed of between March 12, 2007 and May 31, 2007 which were "put" to the Authorized Claimant (i.e., exercised), the Authorized Claimant's Recognized Claim shall be calculated as a purchase of common stock as shown above, and as if the sale of the put option were instead a purchase of Hovnanian common stock on the date of the sale of the put option, and the "purchase price paid" shall be the strike price less the proceeds received on the sale of the put option.

d. No loss shall be recognized based on a sale of any put option which was previously purchased.

For put options sold (written) or otherwise disposed of between June 1, 2007 and December 18, 2007, inclusive:

a. No claim will be recognized for Hovnanian put options sold (written) or otherwise disposed of between June 1, 2007 and December 18, 2007 which were not the obligation of the Authorized Claimant as of the close of trading on December 18, 2007.

b. For Hovnanian put options sold (written) or otherwise disposed of between June 1, 2007 and December 18, 2007 which were the obligation of the Authorized Claimant at the close of trading on December 18, 2007, an Authorized Claimant's Recognized Claim shall be the lesser of (i) the difference, if a loss, between (x) the amount received for writing the put option (net of brokerage commissions and transaction charges) and (y) the sum for which said put options were repurchased at a loss after the close of trading on December 18, 2007 (including brokerage commissions and transaction charges) or (ii) the difference, if a loss, between (x) the amount received for writing the put option (net of brokerage commissions and transaction charges) and (y) $1.42 per share.

c. For Hovnanian put options sold (written) or otherwise disposed of between June 1, 2007 and December 18, 2007 which were "put" to the Authorized Claimant (i.e., exercised), the Authorized Claimant's Recognized Claim shall be calculated as a purchase of common stock as shown above, and as if the sale of the put option were instead a purchase of Hovnanian common stock on the date of the sale of the put option, and the "purchase price paid" shall be the strike price less the proceeds received on the sale of the put option.

d. No loss shall be recognized based on a sale of any put option which was previously purchased.

For put options sold (written) or otherwise disposed of on December 19, 2007:

a. No claim will be recognized for Hovnanian put options sold (written) or otherwise disposed of on December 19, 2007 which were not the obligation of the Authorized Claimant as of the close of trading on December 19, 2007.

b. For Hovnanian put options sold (written) or otherwise disposed of on December 19, 2007 which were the obligation of the Authorized Claimant at the close of trading on December 19, 2007, an Authorized Claimant's Recognized Claim shall be the lesser of (i) the difference, if a loss, between (x) the amount received for writing the put option (net of brokerage commissions and transaction charges) and (y) the sum for which said put options were repurchased at a loss after the close of trading on December 19, 2007 (including brokerage commissions and transaction charges) or (ii) the difference, if a loss, between (x) the amount received for writing the put option (net of brokerage commissions and transaction charges) and (y) $0.54 per share.

c. For Hovnanian put options sold (written) or otherwise disposed of on December 19, 2007 which were "put" to the Authorized Claimant (i.e., exercised), the Authorized Claimant's Recognized Claim shall be calculated as a purchase of common stock as shown above, and as if the sale of the put option were instead a purchase of Hovnanian common stock on the date of the sale of the put option, and the "purchase price paid" shall be the strike price less the proceeds received on the sale of the put option.

d. No loss shall be recognized based on a sale of any put option which was previously purchased.

In the event a Settlement Class Member has more than one purchase or sale of Hovnanian common stock, Preferred Stock and/or Hovnanian common stock options, all purchases and sales shall be matched on a First In/First Out ("FIFO") basis. Settlement Class Period sales will be matched first against any Hovnanian shares and/or options held at the beginning of the Settlement Class Period, and then against purchases in chronological order, beginning with the earliest purchase made during the Settlement Class Period. Purchases and sales of Hovnanian common stock, Preferred Stock and options shall be deemed to have occurred on the "contract" or "trade" date as opposed to the "settlement" or "payment" date. The receipt or grant by gift, devise or operation of law of Hovnanian common

stock, Preferred Stock and/or options during the Settlement Class Period shall not be deemed a purchase or sale of these Hovnanian securities for the calculation of an Authorized Claimant's Recognized Claim nor shall it be deemed an assignment of any claim relating to the purchase of such Hovnanian securities unless specifically provided in the instrument of gift or assignment. The receipt of Hovnanian common stock during the Settlement Class Period in exchange for securities of any other corporation or entity shall not be deemed a purchase or sale of Hovnanian common stock.

Each Authorized Claimant shall be allocated, pro rata, the cash in the Net Settlement Fund based on his, her or its Recognized Claim as compared to the total Recognized Claims of all Authorized Claimants. Claims for Each Authorized Claimant shall be paid an amount determined by multiplying the total cash in the Net Settlement Fund, by a fraction the numerator of which shall be his, her or its "Recognized Claim" and the denominator of which shall be the Total Recognized Claims of all Authorized Claimants. This computation weighs each Settlement Class Member's claim against every other Settlement Class Member's claim. Each Authorized Claimant will receive pro rata shares of the cash in the Net Settlement Fund based on his, her or its Recognized Claim.

The amount of a Settlement Class Member's Recognized Claim as computed above is not intended to be an estimate of what a Settlement Class Member might have been able to recover at trial, and it is not an estimate of the amount that will be paid pursuant to the Settlement. Instead, this computation is only a method to weight Settlement Class Members' claims against one another. Each Authorized Claimant will receive pro rata shares of the cash in the Net Settlement Fund based on his, her or its Recognized Claim.

To the extent a Claimant had a gain from his, her or its overall transactions in Hovnanian common stock, Preferred Stock and/or Hovnanian put and call options during the Settlement Class Period, the value of the Recognized Claim will be zero. Such claimants will in any event be bound by the Settlement. To the extent that a Claimant suffered an overall loss on his, her or its overall transactions in Hovnanian common stock, Preferred Stock and/or options during the Settlement Class Period, but that loss was less than the Recognized Claim calculated above, then the Recognized Claim shall be limited to the amount of the actual loss.

For purposes of determining whether a Claimant had a gain from his, her or its overall transactions in Hovnanian common stock during the Settlement Class Period or suffered a loss, the Claims Administrator shall: (i) total the amount the Claimant paid for all Hovnanian common stock, Preferred Stock and Hovnanian options purchased during the Settlement Class Period, and the cost or amount paid to repurchase or close after the Settlement Class Period any Hovnanian put options written by the Claimant during the Settlement Class Period that were open obligations of the Claimant at the end of the Settlement Class Period (the "Total Purchase Amount"); (ii) match any sales of Hovnanian common stock, Preferred Stock or options during the Settlement Class Period first against the Claimant's opening position in the common stock and Preferred Stock (the proceeds of those sales will not be considered for purposes of calculating gains or losses); (iii) total the amount received for sales of the remaining shares of Hovnanian common stock, Preferred Stock and any options sold during the Settlement Class Period (the "Sales Proceeds"); and (iv) ascribe a $8.21 per share holding value for the number of shares of Hovnanian common stock and Preferred Stock, purchased during the Settlement Class Period and still held at the end of the 90-day PSLRA Period and add the value at the end of Settlement Class period of any call options still held by the Claimant at the end of the Settlement Class Period ("Holding Value"). The difference between (x) the Total Purchase Amount ((i) above) and (y) the sum of the Sales Proceeds ((iii) above) and the Holding Value ((iv) above) will be deemed a Claimant's gain or loss on his, her or its overall transactions in Hovnanian securities during the Settlement Class Period.

X. DISMISSAL AND RELEASES

If the proposed Settlement is approved, the Court will enter the Final Judgment. The Final Judgment will dismiss the Released Claims with prejudice as to all Released Parties. The Final Judgment will provide that all Settlement Class Members shall be deemed to have released and forever discharged all Released Claims against all Released Parties and that the Released Parties shall be deemed to have released and discharged all Settlement Class Members and Lead Counsel from all claims arising out of the prosecution and settlement of the Litigation or the Released Claims.

XI. APPLICATION FOR FEES AND EXPENSES

At the Settlement Hearing, Lead Counsel will request that the Court award attorneys' fees in the amount up to 30% of the Settlement Fund, plus reimbursement of the expenses, not to exceed $150,000.00 which were incurred in connection with the Litigation, plus interest thereon. Such sums as may be approved by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses.

To date, Lead Counsel have not received any payment for their services in conducting this Litigation on behalf of Lead Plaintiffs and the Settlement Class Members, nor have counsel been reimbursed for their out-of-pocket expenses. The fee requested by Lead Counsel will compensate counsel for their efforts in achieving the Settlement Fund for the benefit of the Settlement Class and for their risk in undertaking this representation on a wholly contingent basis.

XII. CONDITIONS FOR SETTLEMENT

The Settlement is conditioned upon the occurrence of certain events described in the Stipulation. Those events include, among other things: (1) entry of the Judgment by the Court, as provided for in the Stipulation; and (2) the expiration of the applicable period to file all appeals from the Judgment without the filing of any appeals, or, in the event of any appeal, the entry of an order dismissing the appeal or affirming the appealed Judgment, and the expiration of any time period for further appeal, including a writ of certiorari. If, for any reason, any one of the conditions described in the Stipulation is not met, the Stipulation might be terminated and, if terminated, will become null and void, and the parties to the Stipulation will be restored to their respective positions as of August 28, 2009.

XIII. THE RIGHT TO BE HEARD AT THE HEARING

Any Settlement Class Member who timely and validly files a written objection to any aspect of the Settlement, the Plan of Allocation, or the application for attorneys' fees and expenses, may appear and be heard at the Settlement Hearing. Any such Person must submit a written notice of objection to each of the following, so that it is postmarked on or before Tuesday, December 1, 2009:

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
50 Walnut Street, Newark, New Jersey 07102

Lead Counsel for Plaintiffs

Glancy Binkow & Goldberg LLP
Marc L. Godino
1801 Avenue of the Stars, Suite 311
Los Angeles, CA 90067
Telephone: (310) 201-9150

Counsel for Defendants

Simpson Thacher & Bartlett LLP
Michael J. Chepiga
Lynn K. Neuner
425 Lexington Avenue
New York, New York 10017-3954

Morrison & Foerster LLP
Jamie Levitt
1290 Avenue of the Americas
New York, New York 10104

The notice of objection must demonstrate the objecting Person's membership in the Settlement Class, including the number of Hovnanian shares and/or options purchased and sold during the Settlement Class Period, and contain a statement of the reasons for objection. Only Settlement Class Members who have submitted written notices of objection in this manner will be entitled to be heard at the Settlement Hearing, unless the Court orders otherwise.

XIV. SPECIAL NOTICE TO NOMINEES

If you are a nominee for any Settlement Class Member, then, within ten (10) days after you receive this Notice, you must either: (1) send a copy of this 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:

In re Hovnanian Enterprises, Inc. Securities Litigation
c/o The Garden City Group, Inc.
P.O. Box 9524
Dublin, OH 43017-4824

If you choose to mail the 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 or expected to be incurred in connection with forwarding the Notice and Proof of Claim and which would not have been incurred but for the obligation to forward the Notice and Proof of Claim, upon submission of appropriate documentation to the Claims Administrator.

XV. EXAMINATION OF PAPERS

This Notice is a summary and does not describe all of the details of the Stipulation. All capitalized terms used but not otherwise defined herein shall have the same meanings as in the Stipulation. For full details of the matters discussed in this Notice, you may review the Stipulation filed with the Court, which may be inspected during business hours, at the office of the Clerk of the Court, United States Courthouse, District of New Jersey, 50 Walnut Street, Newark, New Jersey 07102, or on the website of Lead Counsel. If you have any questions about the Settlement of the Litigation, you may contact Lead Counsel by writing:

Glancy Binkow & Goldberg LLP
Marc L. Godino
1801 Avenue of the Stars, Suite 311
Los Angeles, CA 90067
Tel: (301) 201-9150

DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE REGARDING THIS NOTICE.

Dated: October 15, 2009

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

EXHIBIT N

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

PENSION TRUST FUND FOR OPERATING ENGINEERS, Individually and on Behalf of All Others Similarly Situated, Plaintiff, v. DEVRY EDUCATION GROUP, INC., DANIEL HAMBURGER, RICHARD M. GUNST, PATRICK J. UNZICKER, AND TIMOTHY J. WIGGINS, Defendants.	Case No. 1:16-cv-05198 Hon. Mary M. Rowland

NOTICE OF PENDENCY OF CLASS ACTION, PROPOSED SETTLEMENT, AND MOTION FOR ATTORNEYS' FEES AND EXPENSES

If you purchased or otherwise acquired DeVry Education Group, Inc. publicly-traded common stock and/or exchange-traded call options (and/or sold exchange-traded put options on such common stock) ("DeVry Equity Securities") during the period from August 26, 2011 through January 27, 2016, inclusive, (the "Settlement Class Period") and were allegedly damaged thereby, you may be entitled to a payment from a class action settlement.

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

- The purpose of this Notice is to inform you of the pendency of this securities class action (the "Action"), the proposed settlement of the Action (the "Settlement"),[1] and a hearing to be held by the Court to consider: (i) whether the Settlement should be approved; (ii) whether the proposed plan for allocating the proceeds of the Settlement (the "Plan of Allocation") should be approved; and (iii) Lead Counsel's application for Attorneys' Fees and Expenses (the "Fee and Expense Application"). This Notice describes important rights you may have and what steps you must take if you wish to participate in the Settlement, wish to object, or wish to be excluded from the Settlement Class.
- If approved by the Court, the Settlement will create a $27,500,000 cash fund, plus earned interest, for the benefit of eligible Settlement Class Members, after the deduction of Attorneys' Fees and Expenses awarded by the Court, Notice and Administration Expenses, and Taxes.
- The Settlement resolves claims by Court-appointed Lead Plaintiff Utah Retirement Systems ("URS" or "Lead Plaintiff") that have been asserted on behalf of the Settlement Class (defined below) against Adtalem Global Education Inc. f/k/a DeVry Education Group, Inc. ("Adtalem," the "Company," or "DeVry"), Daniel Hamburger, Richard M. Gunst, Patrick J. Unzicker, and Timothy J. Wiggins (collectively, the "Defendants"). It avoids the costs and risks of continuing the litigation; pays money to eligible investors; and releases the Released Defendant Parties (defined below) from liability.
- The Action and Settlement involve the time period when the Company was known as DeVry Education Group. During this time, the Company's common stock traded under the ticker "DV." On or about May 24, 2017, the Company changed its name to Adtalem and its common stock began to trade under the ticker "ATGE." Accordingly, your account information may refer to DV before May 2017, but ATGE after May 2017.

If you are a Settlement Class Member, your legal rights will be affected by this Settlement whether you act or do not act. Please read this Notice carefully.

[1] The terms of the Settlement are in the Stipulation of Settlement, dated August 29, 2019 (the "Settlement Agreement"), which can be viewed at www.DeVrySecuritiesSettlement.com and www.labaton.com. All capitalized terms not defined in this Notice have the same meanings as defined in the Settlement Agreement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM BY NOVEMBER 29, 2019	The only way to get a payment. *See* Question 8 below for details.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY NOVEMBER 15, 2019	Get no payment. This is the only option that, assuming your claim is timely brought, might allow you to ever bring or be part of any other lawsuit against Defendants and/or the other Released Defendant Parties concerning the Released Claims. *See* Question 11 below for details.
OBJECT BY NOVEMBER 15, 2019	Write to the Court about why you do not like the Settlement, the Plan of Allocation, and/or Lead Counsel's Fee and Expense Application. If you object, you will still be a member of the Settlement Class. *See* Question 16 below for details.
GO TO A HEARING ON DECEMBER 6, 2019 AND FILE A NOTICE OF INTENTION TO APPEAR BY NOVEMBER 15, 2019	Ask to speak in Court at the Final Approval Hearing about the Settlement. *See* Question 18 below for details.
DO NOTHING	Get no payment. Give up rights.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made to all Settlement Class Members who timely submit valid Claim Forms, if the Court approves the Settlement and after any appeals are resolved. Please be patient.

SUMMARY OF THE NOTICE

Statement of the Settlement Class's Recovery

1. Subject to Court approval, Lead Plaintiff, on behalf of the Settlement Class, has agreed to settle the Action in exchange for a payment of $27,500,000 in cash (the "Settlement Payment"), which will be deposited into an interest-bearing Escrow Account (the "Settlement Fund"). Based on Lead Plaintiff's damages expert's estimate of the number of shares of DeVry publicly-traded common stock eligible to participate in the Settlement, and assuming that all investors eligible to participate in the Settlement do so, it is estimated that the average recovery, before deduction of any Court-approved fees and expenses, such as attorneys' fees, litigation expenses, Taxes, and Notice and Administration Expenses, would be approximately $0.40 per allegedly damaged share.[2] If the Court approves Lead Counsel's Fee and Expense Application (discussed below), the average recovery would be approximately $0.29 per allegedly damaged share. **These average recovery amounts are only estimates and Settlement Class Members may recover more or less than these estimated amounts.** A Settlement Class Member's actual recovery will depend on, for example: (i) the total number of claims submitted; (ii) the amount of the Net Settlement Fund; (iii) when the Settlement Class Member purchased or acquired DeVry Equity Securities during the Settlement Class Period; and (iv) whether and when the Settlement Class Member sold DeVry Equity Securities. *See* the Plan of Allocation beginning on page 10 for information on the calculation of your Recognized Claim.

Statement of Potential Outcome of Case if the Action Continued to Be Litigated

2. The Parties disagree about both liability and damages and do not agree about the amount of damages that would be recoverable if Lead Plaintiff were to prevail on each claim alleged. The issues on which the Parties disagree include, for example: (i) whether Defendants made any statements or omitted any facts that were materially false or misleading, or otherwise actionable under the federal securities laws; (ii) whether any such allegedly materially false or misleading statements or omissions were made with the required level of intent or recklessness; (iii) the amounts by which the prices of DeVry Equity Securities were allegedly artificially inflated (or deflated in the case of put options), if at all, during the Settlement Class Period, and the extent to which factors such as general market, economic and industry conditions influenced the trading prices of the securities; and (iv) whether Settlement Class Members suffered any damages.

3. Defendants have denied and continue to deny any and all allegations of wrongdoing or fault asserted in the Action, deny that they have committed any act or omission giving rise to any liability or violation of law, and deny that Lead Plaintiff and the Settlement Class have suffered any loss attributable to Defendants' actions or omissions. While Lead Plaintiff believes it has meritorious claims, it recognizes that there are significant obstacles in the way of recovery.

Statement of Attorneys' Fees and Expenses Sought

4. Lead Counsel, on behalf of itself and all Plaintiffs' Counsel, will apply to the Court for an award of attorneys' fees from the Settlement Fund in an amount not to exceed 27% of the Settlement Fund, which includes any accrued interest. Lead Counsel will also apply for payment of litigation expenses incurred by Plaintiffs' Counsel in prosecuting the Action in an amount not to exceed $225,000, plus accrued interest, which may include an application

[2] An allegedly damaged share might have been traded, and potentially damaged, more than once during the Settlement Class Period, and the average recovery indicated above represents the estimated average recovery for each share that allegedly incurred damages.

pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA") for the reasonable costs and expenses (including lost wages) of Lead Plaintiff directly related to its litigation efforts. If the Court approves Lead Counsel's Fee and Expense Application in full, the average amount of fees and expenses, assuming claims are filed for all shares eligible to participate in the Settlement, will be approximately $0.11 per allegedly damaged share. A copy of the Fee and Expense Application will be posted on www.DeVrySecuritiesSettlement.com and www.labaton.com after it has been filed with the Court.

Reasons for the Settlement

5. For Lead Plaintiff, the principal reason for the Settlement is the guaranteed cash benefit to the Settlement Class. This benefit must be compared to the uncertainty of being able to prove the allegations in the Complaint; maintaining certification of the class through trial; the risk that the Court may grant some or all of the anticipated summary judgment motions to be filed by Defendants; the uncertainty of a greater recovery after a trial and appeals; the risks of litigation, especially in complex actions like this; as well as the difficulties and delays inherent in such litigation (including any trial and appeals).

6. For Defendants, who deny all allegations of wrongdoing or liability whatsoever and deny that Settlement Class Members were damaged, the principal reason for entering into the Settlement is to end the burden, expense, uncertainty, and risk of further litigation.

Identification of Attorneys' Representatives

7. Lead Plaintiff and the Settlement Class are represented by Lead Counsel, Carol C. Villegas, Labaton Sucharow LLP, 140 Broadway, New York, NY 10005, 1-888-219-6877, www.labaton.com, settlementquestions@labaton.com.

8. Further information regarding this Action, the Settlement, and this Notice may be obtained by contacting the Claims Administrator: KCC Class Action Services, 1-888-810-9152, www.DeVrySecuritiesSettlement.com; or Lead Counsel.

Please Do Not Call the Court with Questions About the Settlement.

BASIC INFORMATION

1. Why did I get this Notice?

9. You or someone in your family may have purchased or acquired DeVry Equity Securities during the period from August 26, 2011 through January 27, 2016, inclusive. **Receipt of this Notice does not mean that you are a Member of the Settlement Class or that you will be entitled to receive a payment. If you wish to be eligible for a payment, you are required to submit the Claim Form that is being distributed with this Notice. *See* Question 8 below.**

10. The Court directed that this Notice be sent to Settlement Class Members because they have a right to know about the proposed Settlement of this class action lawsuit, and about all of their options, before the Court decides whether to approve the Settlement.

11. The Court in charge of the Action is the United States District Court for the Northern District of Illinois, and the case is known as *Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc., et al.*, No. 1:16-cv-05198. The Action is assigned to the Honorable Mary M. Rowland, United States District Judge.

2. What is this case about and what has happened so far?

12. During the Settlement Class Period, the Company, then known as DeVry Education Group, Inc., provided educational services through DeVry University and several subsidiaries. DeVry was one of the largest postsecondary educational institutions in the United States and, according to Lead Plaintiff, a core asset of the Company during the Settlement Class Period. In general, the Complaint alleges that, during the Settlement Class Period, Defendants made a number of materially false and misleading statements and omissions regarding the job placement and salary outcomes achieved by DeVry's students after graduation. These metrics were allegedly critical to DeVry's investors who viewed superior outcomes as a sign of DeVry's financial health and stability. The Complaint further alleges that when the truth regarding the Company's education metrics was allegedly disclosed to the market, the price of DeVry publicly-traded common stock declined, causing damages to the proposed class.

13. On May 13, 2016, a putative federal securities class action complaint entitled *Pension Trust Fund for Operating Engineers v. DeVry Education Group, Inc., et al.*, (No. 1:16-cv-05198) was filed in the Court on behalf of investors in DeVry common stock. On August 24, 2016, pursuant to the PSLRA, the Court issued an order appointing URS as Lead Plaintiff and approving its selection of counsel, Spector, Roseman & Kodroff, PC.

14. URS filed an Amended Class Action Complaint on November 8, 2016. The Amended Complaint alleged violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 promulgated thereunder by the U.S. Securities and Exchange Commission ("SEC") on behalf of a class of all purchasers of DeVry's publicly-traded common stock between August 26, 2011 and January 27, 2016, inclusive. URS filed a Second Amended Complaint shortly thereafter, on December 23, 2016. The Second Amended Complaint added, among other things, allegations regarding a settlement that DeVry entered into with the Federal Trade Commission ("FTC") in a related false advertising lawsuit.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

DANIEL TUROCY, et al., Individually and on Behalf of All Others Similarly Situated, Plaintiffs, vs. EL POLLO LOCO HOLDINGS, INC., et al., Defendants.	Case No. 8:15-cv-01343-DOC-KES **(Consolidated)** CLASS ACTION

NOTICE OF PENDENCY AND SETTLEMENT OF CLASS ACTION

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

NOTICE OF PENDENCY OF CLASS ACTION: Please be advised that your rights may be affected by the above-captioned class action lawsuit pending in this Court (the "Litigation") if you purchased or otherwise acquired the common stock or exchange-traded call options, or sold exchange-traded put options ("Securities") of El Pollo Loco Holdings, Inc. ("El Pollo Loco" or the "Company") from May 15, 2015 through August 13, 2015, inclusive (the "Class Period"), and were damaged thereby.[1]

NOTICE OF SETTLEMENT: Please also be advised that Lead Plaintiffs Peter Kim, Dr. Richard J. Levy, Sammy Tanner and Ron Huston (collectively, "Lead Plaintiffs"), on behalf of the Class (as defined in ¶1 below), have reached a proposed settlement of the Litigation for a total of $20 million in cash that will resolve all claims in the Litigation (the "Settlement").

This Notice explains important rights you may have, including your possible receipt of cash from the Settlement. Your legal rights will be affected whether or not you act. Please read this Notice carefully!

1. **Description of the Litigation and the Class**: This Notice relates to a proposed Settlement of a class action lawsuit pending against the following defendants: El Pollo Loco, Trimaran Capital Partners, Trimaran Pollo Partners, L.L.C., Freeman Spogli & Co., Stephen J. Sather, Laurance Roberts and Edward J. Valle ("Defendants") (collectively, with Lead Plaintiffs, the "Settling Parties"). The proposed Settlement, if approved by the Court, will apply to the following Class (the "Class"): all persons and entities who purchased or otherwise acquired El Pollo Loco common stock or exchange-traded call options, or who sold exchange-traded El Pollo Loco put options, between May 15, 2015 and August 13, 2015, inclusive, and were damaged thereby. Excluded from the Class are Defendants; present or former executive officers of El Pollo Loco and their immediate family members (as defined in 17 C.F.R. §229.404, Instructions (1)(a)(iii) and (1)(b)(ii)). Also excluded from the Class are those Persons who exclude themselves by submitting a request for exclusion, as set forth in ¶54 below, that is accepted by the Court. Anyone with questions as to whether or not they are excluded from the Class may call the Claims Administrator toll-free at 1-866-446-5054.

2. **Statement of Class' Recovery**: Subject to Court approval, and as described more fully in ¶¶42-48 below, Lead Plaintiffs, on behalf of the Class, have agreed to settle all Released Plaintiffs' Claims (as defined in ¶44 below) against Defendants and other Released Defendant Parties (as defined in ¶45 below) in exchange for a settlement payment of $20 million in cash (the "Settlement Amount") to be deposited into an escrow account. The Net Settlement Fund (the Settlement Fund less Taxes and Tax Expenses, Notice and Administration Expenses, attorneys' fees and litigation expenses, and an amount to Lead Plaintiffs pursuant to 15 U.S.C. §78u-4(a)(4) in connection with their representation of the Class) will be distributed in accordance with a plan of allocation (the "Plan of Allocation") that will be approved by the Court and will determine how the Net Settlement Fund shall be distributed to Members of the Class. The Plan of Allocation is a basis for determining the relative positions of Class Members for purposes of allocating the Net Settlement Fund. The proposed Plan of Allocation is included in this Notice, and may be modified by the Court without further notice.

[1] All capitalized terms used in this Notice that are not otherwise defined herein shall have the meanings provided in the Stipulation of Settlement dated April 3, 2019 (the "Stipulation"), which is available on the website www.ElPolloLocoSecuritiesSettlement.com.

3. **Statement of Average Distribution Per Share**: The Settlement Fund consists of the $20 million Settlement Amount plus interest earned. Lead Plaintiffs' expert has estimated that there are 16.67 million damaged shares. Assuming all estimated potential Class Members elect to participate, the estimated average recovery is $1.20 per damaged share before deduction of Court-approved fees and expenses. Class Members may recover more or less than this amount depending on, among other factors, the aggregate value of the Recognized Claims represented by valid and acceptable Claim Forms; when their shares were purchased or acquired and the price at the time of purchase or acquisition; and whether the shares were sold, and if so, when they were sold and for how much. In addition, the actual recovery of Class Members may be further reduced by the payment of fees and costs from the Settlement Fund, as approved by the Court, including the cost of notifying Class Members and settlement administration and any attorneys' fees and expenses awarded by the Court to Lead Counsel and any award to Lead Plaintiffs for their representation of the Class.

4. **Statement of the Parties' Position on Damages**: Defendants vigorously deny and have denied all claims of wrongdoing, that they engaged in any wrongdoing, that they are liable to Lead Plaintiffs and/or the Class and that Lead Plaintiffs or other Members of the Class suffered any injury. Moreover, the parties do not agree on the amount of recoverable damages if Lead Plaintiffs were to prevail on each of the claims. The issues on which the parties disagree include, but are not limited to, whether: (1) the statements made or facts allegedly omitted were material, false or misleading; (2) Defendants are otherwise liable under the securities laws for those statements or omissions; and (3) all or part of the damages allegedly suffered by Members of the Class were caused by economic conditions or factors other than the allegedly false or misleading statements or omissions.

5. **Statement of Attorneys' Fees and Expenses Sought**: Lead Counsel will apply to the Court, on behalf of all Plaintiffs' Counsel, for an award of attorneys' fees from the Settlement Fund of no more than 30% of the Settlement Amount, plus interest earned at the same rate and for the same period as earned by the Settlement Fund. In addition, Lead Counsel also will apply to the Court for payment from the Settlement Fund for Plaintiffs' Counsel's litigation expenses (reasonable expenses or charges of Plaintiffs' Counsel in connection with commencing and prosecuting the Litigation), in an amount not to exceed $750,000, plus interest earned at the same rate and for the same period as earned by the Settlement Fund. If the Court approves Lead Counsel's fee and expense application, the estimated average cost per damaged share is $0.40. In addition, Lead Plaintiffs may apply for an amount not to exceed $3,000 each pursuant to 15 U.S.C. §78u-4(a)(4) in connection with their representation of the Class.

6. **Identification of Attorneys' Representatives**: Lead Plaintiffs and the Class are being represented by Robbins Geller Rudman & Dowd LLP and The Rosen Law Firm, P.A. (collectively, "Lead Counsel"). Any questions regarding the Settlement should be directed to Ryan A. Llorens at Robbins Geller Rudman & Dowd LLP, 655 W. Broadway, Suite 1900, San Diego, CA 92101, (800) 449-4900, djr@rgrdlaw.com, or Laurence M. Rosen at The Rosen Law Firm, P.A., 355 South Grand Avenue, Suite 2450, Los Angeles, CA 90071, (213) 785-2610, lrosen@rosenlegal.com.

DO NOTHING	Receive no payment pursuant to this Settlement. Remain a Class Member. Give up your rights.
REMAIN A MEMBER OF THE CLASS AND SUBMIT A CLAIM FORM **POSTMARKED** NO LATER THAN AUGUST 6, 2019	This is the only way to be potentially eligible to receive a payment.
EXCLUDE YOURSELF FROM THE CLASS (OPT OUT) BY SUBMITTING A WRITTEN REQUEST FOR EXCLUSION SO THAT IT IS ***POSTMARKED*** NO LATER THAN JULY 31, 2019	Receive no payment pursuant to this Settlement. This is the only option that allows you to ever potentially be part of any other lawsuit against any of the Defendants or the other Released Defendant Parties concerning the Released Plaintiffs' Claims.
OBJECT TO THE SETTLEMENT SO THAT IT IS ***RECEIVED*** NO LATER THAN JULY 31, 2019	Write to the Court if you have any objections to the fairness of the Settlement, the request for attorneys' fees and expenses, the requested award to Lead Plaintiffs pursuant to 15 U.S.C. §78u-4(a)(4) in connection with their representation of the Class, or the proposed Plan of Allocation.
GO TO THE HEARING ON AUGUST 21, 2019, AT 8:30 A.M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS ***RECEIVED*** NO LATER THAN July 31, 2019	Ask to speak in Court about the fairness of the Settlement, the proposed Plan of Allocation, the request for attorneys' fees and litigation expenses, or the requested award to Lead Plaintiffs.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LARRY FREUDENBERG, Individually and On Behalf of All Others Similarly Situated, Plaintiff, - against – E*TRADE FINANCIAL CORPORATION, MITCHELL H. CAPLAN, ROBERT J. SIMMONS and DENNIS E. WEBB, Defendants.	Civil Action No. 07 Civ. 8538 (JPO) (MHD)

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION

To: All persons and entities who purchased or otherwise acquired the securities of E*TRADE Financial Corporation between April 19, 2006 and November 9, 2007, both dates inclusive.

PLEASE READ THIS NOTICE CAREFULLY.

YOUR RIGHTS WILL BE AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.

PLEASE NOTE THAT IF YOU ARE A CLASS MEMBER, YOU MAY BE ENTITLED TO SHARE IN THE PROCEEDS OF THE SETTLEMENT DESCRIBED IN THIS NOTICE. TO CLAIM YOUR SHARE, YOU MUST TIMELY **SUBMIT A VALID PROOF OF CLAIM POSTMARKED NO LATER THAN OCTOBER 31, 2012**, IN CONNECTION WITH THIS SETTLEMENT. A PROOF OF CLAIM ACCOMPANIES THIS NOTICE. IF YOU NEED AN ADDITIONAL PROOF OF CLAIM YOU MAY REQUEST ONE FROM THE CLAIMS ADMINISTRATOR, AS EXPLAINED BELOW.

I. SUMMARY OF THIS NOTICE

This Notice has been sent to you 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 ("Court"). The purpose of this Notice is to inform you of the proposed settlement of a class action lawsuit ("Action"), as set forth in the Stipulation of Settlement ("Stipulation" or "Settlement"), and of the hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement. This Notice is not intended to be, and should not be understood as, an expression of any opinion by the Court concerning the merits of the Action. This Notice describes the rights you may have in connection with the Settlement and what steps you may take in relation to the Settlement.

The proposed Settlement creates a fund in the amount of $79,000,000 in cash before deductions of attorneys' fees, costs, and expenses. Plaintiffs Kristen Management Limited, Straxton Properties, Inc., Javed Fiyaz, Ira Newman, Peter Farah, and Andrea Frascaroli ("Plaintiffs") and defendants E*TRADE Financial Corporation ("E*TRADE"), Mitchell H. Caplan, Robert J. Simmons, and Dennis E. Webb ("Individual Defendants" and together with E*TRADE, "Defendants") disagree on the potential liability of Defendants and they do not agree on the average amount of damages per share, if any, that would be recoverable if Plaintiffs were to have prevailed at trial on each claim alleged. Plaintiffs and Plaintiffs' Counsel (as defined below) believe that the proposed Settlement is an excellent recovery and is in the best interests of the Settlement Class (as defined below) in light of the risks associated with continuing to litigate and proceeding to trial. The Settlement Class, as certified by the Court for the purposes of settlement on June 12, 2012 consists of all Persons (as defined on page 2) (other than those Persons who timely and validly request exclusion from the Settlement Class) who purchased or otherwise acquired the securities of E*TRADE between April 19, 2006 and November 9, 2007 ("Settlement Class Period"), both dates inclusive, excluding Defendants, members of the immediate families of any of the Individual Defendants, the directors, officers, subsidiaries, and affiliates of E*TRADE, any firm, trust, corporation, or other entity in which any Defendant has a controlling interest, and the legal representatives, affiliates, heirs, successors-in-interest or assigns of any such excluded person ("Settlement Class").

If the Settlement is approved by the Court, Court-appointed Lead Counsel for Plaintiffs, Brower Piven, A Professional Corporation, 488 Madison Avenue, 8th Floor, New York, NY 10022 and Court-appointed Co-Lead Counsel for Plaintiffs, Levi & Korsinsky, LLP, 30 Broad Street, 24th Floor, New York, NY 10004 ("Plaintiffs' Counsel") will apply to the Court for an award of attorneys' fees not to exceed 33.33% of the Settlement Fund (as defined below), and reimbursement of out-of-pocket expenses, as compensation for successfully prosecuting the Action. You may contact the claims administrator, the firm The Garden City Group, Inc. ("Claims Administrator"), or a representative of Plaintiffs' Counsel for further information about the Settlement; see below under "Further Information" for the contact information.

Statement of Plaintiffs' Recovery – The proposed Settlement with Defendants creates a fund in the amount of $79,000,000 in cash, which will include interest that accrues prior to distribution ("Settlement Fund"). Based on Plaintiffs' Counsel's estimate of the number of shares of stock that may have been damaged by the alleged fraud, and assuming that all those shares participate in the Settlement, Plaintiffs estimate that the average recovery would be approximately $0.145 per share. Your recovery from this fund, however, will depend on a number of variables, including the number of shares of E*TRADE securities you purchased during the Settlement Class Period, the timing of your purchases and any sales, the number and amount of claims actually filed, and the estimate of recoverable losses based on the analysis of Plaintiffs' damages consultant. You are advised to review the Plan of Allocation set forth on pages 6 to 9 below in the Notice, which provides the actual formulas that will be applied to claims submitted by each eligible individual, corporation, partnership, limited partnership, association, joint stock company, joint venture, limited liability company, professional corporation, estate, legal representative, heir, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity, and their predecessors, successors, representatives, or assignees ("Person") who falls within the definition of the Settlement Class ("Settlement Class Member"). This estimate above is also before deduction of any Court-awarded expenses, such as attorneys' fees and out-of-pocket expenses, and the cost of sending this Notice and administering the distribution of the Settlement proceeds.

Statement of Potential Outcome of Case – Plaintiffs and Defendants disagree on the potential liability of Defendants and they do not agree on the average amount of damages per share, if any, that would be recoverable if Plaintiffs were to have prevailed at trial on each claim alleged. Defendants deny that they are liable in any respect or that Plaintiffs suffered any injury. The issues on which the parties disagree include: (1) whether any Defendant engaged in any conduct subject to challenge under the federal securities laws; (2) the amounts by which E*TRADE securities were allegedly artificially inflated (if at all) during the Settlement Class Period (as defined above); (3) the effect of various market forces influencing the trading price of E*TRADE securities at various times during the Settlement Class Period; (4) the extent to which the various matters that Plaintiffs alleged were materially false or misleading influenced (if at all) the trading price of E*TRADE securities during the Settlement Class Period; (5) the extent to which the various allegedly adverse material facts that Plaintiffs alleged were omitted influenced (if at all) the trading price of E*TRADE securities during the Settlement Class Period; (6) whether the statements made or facts allegedly omitted were material, false, misleading, or otherwise actionable under the securities laws; and (7) whether, even if liability could be proven, total damages would be greater than $0.

Statement of Attorneys' Fees and Costs Sought – Plaintiffs' Counsel have committed a substantial amount of time prosecuting claims against Defendants on behalf of Plaintiffs and the Settlement Class. In addition, they have not been reimbursed for out-of-pocket expenses. If the Settlement is approved by the Court, Plaintiffs' Counsel will apply to the Court for an award of attorneys' fees not to exceed 33.33% of the Settlement Fund and reimbursement of out-of-pocket expenses not to exceed $750,000, to be paid from the Settlement Fund. If the amounts described above are requested and approved by the Court, the average cost will be approximately $0.049 per share. In addition, Plaintiffs' Counsel may apply to the Court, from time to time, for their fees and expenses, including hourly time billing incurred solely for administration of the Settlement.

Reasons for Settlement – Plaintiffs believe that the proposed Settlement with Defendants is an excellent recovery and is in the best interests of the Settlement Class. Because of the risks associated with continuing to litigate and proceeding to trial, there was a danger that the Settlement Class would not have prevailed on their claims against Defendants, in which case the Settlement Class would receive nothing from Defendants. The amount of damages recoverable by Settlement Class Members was and is challenged by Defendants. Recoverable damages in this case are limited to losses caused by conduct actionable under applicable law and, had the Action gone to trial, Defendants would have asserted that all or most of the losses of Settlement Class Members were caused by non-actionable conduct or market, industry, or general economic factors. Defendants would also assert, among other things, that their conduct complied with all applicable legal standards and that they did not act with the required state of mind to be liable for any violations of the federal securities laws.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

IN RE TYCO INTERNATIONAL LTD., SECURITIES LITIGATION	MDL Docket No. 02-1335-PB This document relates to: Securities Action Civil Action No. 02-266-PB

NOTICE OF PROPOSED SETTLEMENT, MOTION FOR ATTORNEYS' FEES AND FAIRNESS HEARING

If You Purchased Or Otherwise Acquired The Common Stock, Notes Or Options On Common Stock Of Tyco International Ltd. ("Tyco") From December 13, 1999 To June 7, 2002, Inclusive (the "Class Period"), You May Be A Member Of The Class In This Action And Entitled To Share In A $3.2 Billion Settlement.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

If you belong to the Class and this Settlement is approved, your legal rights will be affected whether you act or not. Read this Notice carefully to see what your rights and options are in connection with this Settlement. [1]

- On July 13, 2007, a settlement between the Class and defendants Tyco, Michael A. Ashcroft ("Ashcroft"), Mark A. Belnick ("Belnick") (collectively, the "Tyco Settling Defendants") and PricewaterhouseCoopers LLP ("PwC") (collectively, with the Tyco Settling Defendants, the "Settling Defendants") was preliminarily approved by the Court in the above-captioned action. If finally approved, the Settlement will resolve all claims of the Class in this litigation, since the only remaining claims against certain Non-Settling Defendants have been assigned to Tyco (the "Officer Assigned Claims") in exchange for a sharing arrangement for the benefit of the Class as further described herein.

- In exchange for the payment by the Tyco Settling Defendants of $2.975 billion in cash, plus interest, and the provision of additional consideration resulting from the Officer Assigned Claims (the "Tyco Settlement"), and the payment by PwC of $225 million in cash, plus interest (the "PwC Settlement"), the Class shall release any and all claims it has against the Settling Defendants and their Releasees. The total cash amount of $3.2 billion, plus interest, is referred to herein as the Settlement Fund. The Settlement Fund, less attorneys' fees and other costs ("Net Settlement Fund"), will be distributed solely to Class Members who submit acceptable Proofs of Claim.

- In connection with the Officer Assigned Claims, the Class will assign to Tyco any claims it may have against Non-Settling Defendants L. Dennis Kozlowski ("Kozlowski"), Mark H. Swartz ("Swartz") or Frank E. Walsh, Jr. ("Walsh"). The Class will then be entitled to receive a fifty percent (50%) interest in any recovery Tyco collects from these individuals, either in Tyco's own litigation against them or in connection with the Officer Assigned Claims. Any such recovery shall be reduced for any offsets or counterclaims of the Non-Settling Defendants against Tyco and any attorneys' fees and expenses to be paid in connection with the litigation of such claims. While the Class Representatives expect that the Officer Assigned Claims will result in additional recoveries to be added to the Settlement Fund, no guarantees can be offered in this regard.

- The Settlement, if approved, shall also have the effect of resolving certain other Actions alleging similar claims that are currently pending in state courts in Illinois and Florida, as further described herein and listed on Exhibit A-1(b).

- The Class was certified by the Court by Order dated June 12, 2006. The Class consists of all persons and entities who purchased or otherwise acquired Tyco securities during the Class Period, and who were damaged thereby, excluding defendants, all of the officers, directors and partners thereof, members of their immediate families and their legal representatives, heirs, successors or assigns, and any entity in which any of the foregoing have or had a controlling interest.

- The Settling Parties disagree on the amount of damages, if any, that could have been recovered if the Class prevailed on each claim at trial. The Class Representatives estimate that the approximate average amount of recoverable damages to members of the Class who purchased Tyco common stock were this case to go to trial would be approximately $5.423 per share based upon an estimate of 1.997 billion outstanding Tyco shares as of the last day of the Class Period. The Settling Defendants do not believe that they violated the federal securities laws, deny all allegations of wrongdoing asserted against them, and deny that any of Tyco's public statements were materially false or misleading. They have also asserted affirmative defenses to the claims alleged in this case. Accordingly, the Settling Defendants assert that they are not liable to the Class for any amount of damages.

- Class Representatives estimate that if all Class Members make a claim against the Settlement Fund, the average payment to Class Members will be $1.474 per share of Tyco common stock, after taking into consideration the relative average payment

[1] This Notice summarizes and is qualified in its entirety by the Settlement Agreement, which sets forth the terms of the Settlement. Please refer to the Settlement Agreement for a complete description of the terms and provisions thereof. A copy of the Settlement Agreement is available at www.tycoclasssettlement.com.

that would be paid to purchasers of Tyco Notes during the Class Period (estimated at approximately 8% of total damages). Of this amount, fees and expenses requested by the attorneys will not exceed $0.30 per share of Tyco common stock. **Please note that these amounts are only estimates.**

- Co-Lead Counsel intend to seek an award of attorneys' fees of up to 17.5% of the gross Settlement Fund, plus interest earned at the same rate earned by the Class on the Settlement Fund. Co-Lead Counsel have been litigating this case for the past five years without any payment whatsoever, advancing millions of dollars in time and expense. In addition, at the final hearing, Co-Lead Counsel will seek reimbursement of the expenses they have incurred in connection with the prosecution of this Action which will not exceed $40 million.

- In reaching the Settlement, Class Representatives and Settling Defendants have avoided the cost and time of a trial and Class Representatives have agreed to the Settlement to avoid the risk of the dismissal of some or all of the claims of the Class against the Settling Defendants.

- Further information regarding the Settlement and this Notice may be obtained by contacting Plaintiffs' Co-Lead Counsel: Jay W. Eisenhofer, Esquire, Grant & Eisenhofer P.A., Chase Manhattan Centre, Suite 2100, 1201 North Market Street, Wilmington, DE 19801, Telephone: 302-622-7000; Sanford P. Dumain, Esquire, Milberg Weiss LLP, One Pennsylvania Plaza, New York, NY 10119, Telephone: 212-594-5300; or Richard S. Schiffrin, Esquire, Schiffrin Barroway Topaz & Kessler, LLP, 280 King of Prussia Road, Radnor, PA 19087, Telephone: 610-667-7706.

Submit a Proof of Claim Form (by December 28, 2007)	If the Settlement is approved and you are a member of the Class, you may be entitled to receive a payment only if you submit a Proof of Claim form. A copy of the Proof of Claim form is enclosed, and is also available at www.tycoclasssettlement.com. If you remain in the Class, you will be bound by the Settlement and will give up any "Released Claims" you may have against the Settling Defendants and others (as more fully described below in Answer to Question No. 2), so it is in your interest to submit a Proof of Claim form.
Exclude Yourself (by September 28, 2007)	If you do not wish to participate in the Settlement, you *must* exclude yourself (as described below in Answer to Question No. 13) and you ***will not*** receive any payment from the Settlement Fund. You cannot bring or be part of another lawsuit or arbitration against any of the Settling Defendants and related parties based on any Released Claims unless you exclude yourself from the Class.
Object (by September 28, 2007)	If you do not exclude yourself, but you wish to object to any part of the Settlement, you may (as discussed below in Answer to Question No. 18) write to the Court about your objections.
Attend the Fairness Hearing (to be held on November 2, 2007)	If you have submitted a written objection to any aspect of the Settlement to the Court, you may (but do not have to) attend the Fairness Hearing and present your objections to the Court at that hearing.
Do Nothing	If you are a Class Member and you do not either submit a Proof of Claim form or request exclusion, you will be bound by the release of the Settling Defendants and related parties, you will receive no payment, and you will not be able to bring or pursue any Released Claims in any other lawsuit or arbitration.

- These rights and options – **and the deadlines to exercise them** – are explained in this Notice. Please note the date of the Fairness Hearing – currently scheduled for November 2, 2007 – is subject to change without further notice. If you plan to attend the hearing, you should check with the Court to be sure no change to the date and time of the hearing has been made.

- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made to Class Members only if the Court approves the Settlement and that approval is upheld in appeals that are filed, if any.

WHAT THIS NOTICE CONTAINS