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January 15, 2004

**BY HAND**

The Honorable Denise L. Cote  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1040  
New York, New York 10007

Re: In re WorldCom Inc. Securities Litigation, Master File No. 02 Civ. 3288 (DLC)

Dear Judge Cote:

On behalf of Lead Plaintiff the New York State Common Retirement Fund and Co-Lead Counsel Barrack, Rodos & Bacine, we respectfully write to request the Court's assistance in resolving an issue regarding the Salomon Defendants' production of e-mails from fourteen current and former Salomon employees.

The issue is one of timing: despite Lead Plaintiff's repeated requests, the Salomon Defendants have refused to commit to producing these individuals' e-mails by a date certain. This presents a significant problem, because depositions of the defendants are about to commence, and there is no dispute between the parties that these fourteen employees are essential to the litigation and that their e-mails need to be produced. Indeed, a number of these individuals will be deposed by Lead Plaintiff, and their e-mails are relevant not only for their own depositions, but for the depositions of other witnesses as well.

With respect to twelve of the fourteen employees whose e-mails we seek, Lead Plaintiff requested that their e-mails be produced on September 10, 2003. Through subsequent discussions aimed at narrowing any disagreements, the parties specifically agreed on November 12, 2003 that Salomon would aim to substantially complete its production of the e-mails of these individuals (as well as certain other current and former Salomon employees) by December 5, 2003. However, as of today, Lead Plaintiff still has not received the requested e-mails from these twelve employees.<sup>1</sup>

By letter dated January 14, 2004, the Salomon Defendants informed Lead Plaintiff that (1) with respect to external e-mails (referring to e-mails sent to or received from sources outside of Salomon), the Salomon Defendants "hope" to begin producing such emails for these fourteen

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<sup>1</sup> Lead Plaintiff requested that the e-mails of the other two employees be produced on January 12, 2004.




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employees by February 6, 2004, but will not commit to a date when that production will be complete; and (2) with respect to internal e-mails (referring to e-mails sent only within Salomon), the Salomon Defendants could not even commit to a date when they would begin such production, let alone complete it. The reason provided by the Salomon Defendants for their inability to complete e-mail production in a timely manner is that the Salomon Defendants are embroiled in a host of regulatory investigations unrelated to WorldCom or the analyst research issues, and providing electronic discovery in response to subpoenas issued by those regulators has "occupied all of the available resources in connection with [the Salomon Defendants'] information and technology system and personnel." A subsequent phone conversation between the parties failed to resolve the issue.<sup>2</sup>

Lead Plaintiff respectfully submits that the reason proffered by the Salomon Defendants is not a legitimate, let alone sufficient, justification for failing to produce in a timely manner what are indisputably highly relevant documents – particularly when Lead Plaintiff first requested the e-mails of twelve of these individuals more than five months ago. Accordingly, we respectfully request that the Court order the Salomon Defendants to complete the production of e-mails, both internal and external, for these fourteen employees by January 30, 2004.

Respectfully,



Chad Johnson

cc (via facsimile):

All Defendants' Counsel  
Jeffrey Golan (Co-Lead Counsel for the NYSCRF and the Class)  
Michael Pucillo (Counsel for Fresno and FCERA)  
Samuel Sporn (Counsel for HGK Asset Management)  
Neil Selinger (Liaison Counsel for Individual Actions)  
Edward Manchur (Putative counsel for "holder" action)  
Jill Abrams (Counsel for GOALS plaintiffs)  
Lynn Sarko (Lead Counsel for the ERISA litigation)

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<sup>2</sup> The Salomon Defendants also suggested in their January 14 letter that they would not oppose a request by plaintiffs to re-open the deposition of a witness if they produced additional e-mails containing "non-duplicative, material information" from that witness subsequent to his or her deposition. While Lead Plaintiff appreciates this offer, it is unworkable in the context of this litigation where there are strict limits on the number of days and hours available for depositions. Moreover, this offer would undoubtedly lead to satellite litigation regarding what constitutes "non-duplicative" and "material" information, in addition to burdening the parties and witnesses with the need to schedule additional days of depositions.