

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP
ATTORNEYS AT LAW

NEW YORK • CALIFORNIA • NEW JERSEY • LOUISIANA

JOHN P. COFFEY
sean@blbglaw.com
212-554-1409

March 10, 2005

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 New York State Common Retirement Fund and Co-Lead Counsel Barrack, Rodos & Bacine, and Defendant Deutsche Bank Securities Inc./Deutsche Bank Alex. Brown Inc., (“Deutsche Bank”) and their counsel, Cadwalader, Wickersham & Taft LLP, we write to make a joint application on behalf of Lead Plaintiff and this Defendant.

Specifically, in light of the settlement agreement just entered into between Deutsche Bank and Lead Plaintiff and Named Plaintiffs County of Fresno, Fresno County Employees Retirement Association, and HGK Asset Management, Inc. (together, the “Settling Parties”), and for the reasons set forth below, the Settling Parties respectfully request that the Court convene a hearing promptly to consider our joint application for an order severing the Class’ claims against Deutsche Bank from those asserted against the other defendants (the “Non-Settling Defendants”).

The Settling Parties respectfully submit that a severance of the Class’ claims against Deutsche Bank is warranted. Earlier today, after extensive negotiations, counsel for the Settling Parties signed a Memorandum of Agreement (“Agreement”) settling all claims asserted against Deutsche Bank by Lead Plaintiff on behalf of the Class. Copies of the Agreement are enclosed. Among other things, the Agreement provides that Deutsche Bank will pay a total of \$325,000,000 to Lead Plaintiff, on behalf of the Class, in settlement of the Class’ claims against this Defendant.¹

We are confident that there are no obstacles to preliminary approval of this settlement; the Agreement provides for a substantial recovery for the Class; the amount to be paid by

¹ Deutsche Bank was a non-lead underwriter in each of the two Offerings at issue in this case.



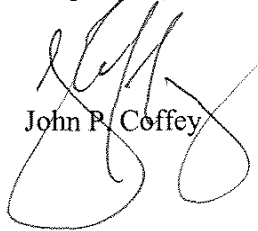
The Honorable Denise L. Cote
March 10, 2005
Page 2

Deutsche Bank is higher than those that would be yielded by the formula used to resolve the Securities Act claims against the Citigroup Defendants with regard to the 2001 Offering; the prospective stipulation of settlement ("Stipulation") will track the terms of the previously approved Citigroup stipulation in all material respects; there are no issues unique to this Settlement that have not been previously addressed in connection with the Citigroup settlement; and it would behoove all concerned, especially Lead Plaintiff and the Non-Settling Defendants, to know as promptly as possible which banks will stand trial next week.

The Settling Parties anticipate providing the Court with the Stipulation as soon as practicable after this afternoon's severance hearing.

For the reasons discussed above, the Settling Parties respectfully move the Court for an order that severs the Class' claims against Deutsche Bank from those asserted against the other Defendants. Thank you for your consideration of this application.

Respectfully submitted,



John P. Coffey

Enclosure

cc (by email, w/ encl):
All Counsel

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE WORLDCOM, INC. SECURITIES LITIGATION

This Document Relates To:

02 Civ. 3288	02 Civ. 4973	02 Civ. 8230
02 Civ. 3416	02 Civ. 4990	02 Civ. 8234
02 Civ. 3419	02 Civ. 5057	02 Civ. 9513
02 Civ. 3508	02 Civ. 5071	02 Civ. 9514
02 Civ. 3537	02 Civ. 5087	02 Civ. 9515
02 Civ. 3647	02 Civ. 5108	02 Civ. 9516
02 Civ. 3750	02 Civ. 5224	02 Civ. 9519
02 Civ. 3771	02 Civ. 5285	02 Civ. 9521
02 Civ. 4719	02 Civ. 8226	03 Civ. 2841
02 Civ. 4945	02 Civ. 8227	03 Civ. 3592
02 Civ. 4946	02 Civ. 8228	03 Civ. 6229
02 Civ. 4958	02 Civ. 8229	03 Civ. 7298
03 Civ. 7299		

MASTER FILE
02 Civ. 3288 (DLC)

MEMORANDUM OF AGREEMENT WITH DEUTSCHE BANK ALEX BROWN INC.

This Memorandum of Agreement (the "Agreement") is an agreement between (i) the Lead Plaintiff, Alan G. Hevesi, Comptroller of the State of New York, as Administrative Head of the New York State and Local Retirement Systems and as Trustee of the New York State Common Retirement Fund, and the Additional Named Plaintiffs, Fresno County Employees Retirement Association, the County of Fresno, California, and HGK Asset Management, Inc., and the Class (as defined in paragraph 1 below) (collectively, "Plaintiffs"), and (ii) Defendant Deutsche Bank Alex Brown Inc. (formerly known as Deutsche Bank Securities Inc.) (the "Settling Defendant") (collectively, the "Parties"), by and through their undersigned attorneys. The Parties have reached an agreement in principle for the settlement of the above-captioned litigation between them (the "Action") on the terms set forth below and

subject to court approval. This Agreement outlines the principal terms of the proposed settlement (the "Settlement") and is intended to be used as a basis for drafting a Stipulation and Agreement of Settlement (the "Stipulation") and accompanying papers that shall embody the terms set forth herein and such other and consistent terms as are agreed upon by counsel for the Parties.

1. The Class shall mean the Class defined in the Judgment entered by the Court on November 12, 2004, and as the Court may further clarify it through subsequent Orders. This Agreement shall apply to all members of the Class, including without limitation, those Class members who purchased or otherwise acquired debt securities issued by WorldCom in connection with offerings in May 2000 (the "May 2000 Subclass") and May 2001 (the "May 2001 Subclass") (collectively, the "May 2000 and May 2001 Subclasses").

2. Except as provided in paragraph 13, below, the Settling Defendant shall pay, in settlement of the claims against it, the Settlement Amount (together with accrued interest on that amount calculated from the date forty-five (45) days after preliminary approval of the Settlement, as defined in the Stipulation, until the date when the District Court enters a Judgment approving the Settlement (hereafter, "District Court Approval"), at the interest rate for six-month United States treasury bills on the date interest begins to run), to be deposited into an interest-bearing escrow account maintained by Plaintiffs' Co-Lead Counsel (the "Settlement Fund") within five (5) days after the date the Settlement has received District Court Approval. The Settlement Amount is \$325 million in cash, except that if, and only if, additional opt-outs from the Class are permitted in addition to those who opted out on or prior to September 1, 2004, then the Settlement Amount shall be reduced by an amount equal to the amount yielded by multiplying the Settlement Amount by a fraction, where the aggregate face value of the May 2000 and May 2001 notes held by those who are permitted to opt out after September 1, 2004 is

the numerator, and the aggregate face value of the May 2000 and May 2001 bonds remaining in the Class is the denominator, to be calculated separately for each Subclass.

3. The Settlement Fund deposited into the escrow account designated by Lead Plaintiff and all interest accruing thereon shall be deemed to be in the custody of the Court and will remain subject to the jurisdiction of the Court until such time as it is distributed to approved claimants. The Stipulation will provide that the Settlement Fund shall be a “qualified settlement fund” within the meaning of section 468B of the Internal Revenue Code and contain customary terms complying with section 468B and Treasury regulations promulgated thereunder and customary provisions concerning indemnification of the Settling Defendant by the Settlement Fund for any tax liabilities of the Settlement Fund.

4. Following execution of this Agreement, Lead Plaintiff, the Settling Defendant, and their counsel shall use their best efforts to finalize and execute, as soon as practicable, the Stipulation and such other documentation as may be required or appropriate in order to obtain preliminary approval of the Settlement by the District Court. The Parties contemplate that such documents will be in a form consistent with those that were approved by the Court in connection with the prior Settlement with the Defendants Citigroup Inc., Citigroup Global Markets Inc., formerly known as Salomon Smith Barney Inc., Citigroup Global Markets Limited, formerly known as Salomon Brothers International Limited, and Jack B. Grubman (the “Citigroup Defendants”); however, the Parties further contemplate that, except for the Stipulation, a proposed form of Judgment, and a simple preliminary approval form of order, other documentation relating to notice and setting the dates for objections and a final hearing shall not be presented to the Court along with the Stipulation. Promptly upon execution of the Stipulation, the Lead Plaintiff and the Settling Defendant shall apply to the Court for preliminary approval of the Settlement and proposed form of Judgment. The Parties and their counsel shall

thereafter use their best efforts to obtain final Court approval of the Settlement. The Settlement Fund, less the costs associated with notice to the Class and administration of the Settlement, applicable taxes, attorneys' fees and reimbursement of expenses and experts fees, as approved by the Court, shall constitute the Net Settlement Fund to be distributed in the manner set forth below.

5. The Stipulation shall provide (among other terms): (a) for the entry of an order by the Court preliminarily approving the Stipulation and Settlement; (b) that the Settling Defendant has denied that it has committed any act or omission giving rise to any liability and/or violation of law, and states that it is entering into this Settlement solely to eliminate the uncertainties, burden and expense of further protracted litigation, and that Plaintiffs, without conceding any defect or lack of merit in the claims they have asserted, acknowledge the uncertainties they face with respect to their claims; (c) that neither this Agreement, nor the Settlement, nor any of their terms or negotiations, nor any press release or other statement or report by the Parties or by others concerning this Agreement, the Settlement or their terms, shall constitute an admission or finding of wrongful conduct, acts or omissions on the part of any Settling Defendant Releasee (defined in paragraph 11 below) or be admissible in any proceeding (other than one to enforce the terms of the Stipulation) for any purpose whatsoever; (d) that the allocation of the Net Settlement Fund among the members of the May 2000 and May 2001 Subclasses shall be subject to the plan of allocation ("Plan of Allocation") set forth below, subject to a further allocation plan within each Subclass in the sole discretion of the Lead Plaintiff ("Supplemental Plan of Allocation"), but shall further provide that any decision by the Court concerning the Plan of Allocation or the Supplemental Plan of Allocation shall not affect the validity or finality of the proposed Settlement; (e) that the Net Settlement Fund shall be allocated among the May 2000 and May 2001 Subclasses, in a manner that Plaintiffs determined

to be consistent with the Order Approving Plan of Allocation, entered by the Court on November 12, 2004, as follows: (i) 4.25% of the Net Settlement Fund to members of the May 2000 Subclass; and (ii) 95.75% of the Net Settlement Fund to members of the May 2001 Subclass; (f) that Plaintiffs' Co-Lead Counsel may (but need not at the time the Stipulation is filed) apply for an award of attorneys' fees and reimbursement of expenses from the Settlement Fund in such amounts as may be approved by the Lead Plaintiff (consistent with the retainer agreement entered into between Lead Plaintiff and Lead Counsel), and as approved by the Court, and that any decision by the Court concerning the amount of any fee award shall not affect the validity or finality of the proposed settlement; and (g) that the Settling Defendant shall have the right to terminate the Settlement as provided in paragraph 12 below.

6. Any award of attorneys' fees and expenses paid to Plaintiffs' Co-Lead Counsel shall be paid only after District Court Approval and solely from the Settlement Fund or other settlements agreed to in this action.

7. The Settling Defendant takes no position and will take no position with respect to the proposed Plan of Allocation, set forth in paragraph 5 above, and Supplemental Plan of Allocation, or any other such plan as may be approved by the Court. Both Plaintiffs and the Settling Defendant shall be bound by the terms of this Agreement and by the Settlement, irrespective of whether the Court disapproves or modifies the Plan of Allocation and/or Supplemental Plan of Allocation.

8. The Settlement is not a claims made settlement and, if all conditions of the Settlement are satisfied and there is a Judgment that is not overturned or materially and adversely modified on appeal or as a result of proceedings on remand of any appeal concerning approval of the Settlement, then the Settling Defendant will relinquish its rights to an individual or collective interest in the Settlement Fund. The Net Settlement Fund shall be disbursed to Authorized

Claimants upon approval by the Court. Lead Plaintiff does not contemplate seeking a Supplemental Plan of Allocation until a later date. No funds from the Net Settlement Fund shall be disbursed to the Class until after all appeals from the Judgment approving the Settlement and any further proceedings on remand have been resolved, or the time for appeal regarding the Settlement (“Final Approval”) has expired. The Settling Defendant will have no involvement in reviewing or challenging any Proof of Claim and Release and will have no liability with respect to this process.

9. The Stipulation will provide that Bernard Ebbers, Scott Sullivan, David Myers, Buford Yates, James C. Allen, Judith Areen, Carl J. Aycock, Max E. Bobbitt, Francesco Galesi, Clifford L. Alexander, Jr., Stiles A. Kellett, Jr., Gordon S. Macklin, John A. Porter, Bert C. Roberts, Jr., the Estate of John W. Sidgmore, Lawrence C. Tucker, Arthur Andersen LLP, J.P. Morgan Chase & Co., J.P. Morgan Securities, Inc., J.P. Morgan Securities Ltd., Chase Securities Inc., Lehman Brothers Inc., Blaylock & Partners, L.P., Credit Suisse First Boston Corp., Goldman, Sachs & Co., UBS Warburg LLC, ABN AMRO Incorporated, Utendahl Capital Partners, L.P., Tokyo-Mitsubishi International plc, Westdeutsche Landesbank Girozentrale, BNP Paribas Securities Corp., Caboto Holding SIM S.p.A., Mizuho International plc (each individually and with any affiliate through which May 2000 or May 2001 notes were distributed, “Non-Settling Entity/Individual”); collectively, with the Citigroup Defendants, Lehman Brothers Inc., Credit Suisse First Boston Corp., Goldman, Sachs & Co., and UBS Warburg LLC (the “May 2000 Settling Defendants”); and Bank of America Securities LLC and Fleet Securities Inc. (the “BOA Defendants”), the “Non-Settling or Prior Settling Entities/Individuals”), are permanently BARRED, ENJOINED and RESTRAINED from commencing, prosecuting, or asserting any claim for contractual or other indemnity or contribution against the Settling Defendant Releasees (as that term is defined in paragraph 11 below), arising out of or related to

the claims or allegations asserted by Plaintiffs in the Complaint, whether arising under state, federal or foreign law as claims, cross-claims, counterclaims, or third-party claims, whether asserted in the Complaint, in this Court, in any federal or state court, or in any other court, arbitration proceeding, administrative agency, or other forum in the United States or elsewhere. Provided, however, that the Bar Order stated in this paragraph shall not apply to claims that may be asserted by Non-Settling Entities/Individuals in cases of persons who timely opted out of the Class and did not revoke their request for exclusion by September 1, 2004.

10. The Non-Settling Entities/Individuals shall be entitled to judgment credit in an amount that is the greater of the amount allocated in the Settlement to claims for which a Non-Settling Entity/Individual may be found liable for common damages or, for each such claim, the proportionate share of the Settling Defendant's fault as proven at trial.

11. In the event that the Court, after a hearing conducted on notice pursuant to Fed. R. Civ. P. 23(e) (the "Settlement Fairness Hearing"), shall ultimately approve the Settlement, the Parties shall submit to the Court an Order and Final Judgment directing consummation of the Settlement, confirming the certification of the Subclasses affected by this proposed Settlement, approving the terms and conditions of the Settlement as described above, providing for the payment of attorneys' fees and expenses, as described above, reserving jurisdiction over the effectuation of the Settlement and barring and enjoining Plaintiffs and all members of the Class from prosecuting in this Action or any other action or proceeding any Released Claims (as that term is defined below) or from pursuing outside of this Class Action any claim that arises from the facts alleged in the Complaint or the Amended Complaint in this Class Action (as provided in the Notice of Class Action dated December 11, 2003 by Order of Denise Cote, United States District Judge). The Order and Final Judgment shall further provide for the following: (a) the dismissal of this Action on the merits and with prejudice as to the

Settling Defendant; (b) the release by Plaintiffs and all members of the Class who are members of the May 2000 and May 2001 Subclasses (the "Releasers") of all claims of every nature and description, known and unknown, asserted by or that could have been asserted by Plaintiffs in the Complaint, including, but not limited to, all claims arising out of or relating to investments (including, but not limited to, purchases, sales, exercises, and decisions to hold) in securities issued by WorldCom, as well as options or derivatives based on the value of securities issued by WorldCom, or arising out of or relating to any disclosures, registration statements or other statements by WorldCom, including without limitation claims asserted by or that could have been asserted by Plaintiffs in the Complaint based on or related to the Securities Act of 1933, the Securities Exchange Act of 1934, or any federal or state statute or common law, including without limitation any claims based on allegedly intentional, reckless, or negligent conduct, whether arising under state, federal or foreign law as claims, cross-claims, counterclaims, or third-party claims, whether asserted in the Complaint, in this Court, in any federal or state court, or in any other court, arbitration proceeding, administrative agency, or other forum in the United States or elsewhere (the "Released Claims"), against the Settling Defendant, its respective present and former parents, subsidiaries, divisions and affiliates, including without limitation Deutsche Bank London AG, the present and former employees, officers and directors of each of them, the present and former attorneys, accountants, insurers, and agents of each of them, and the predecessors, heirs, successors and assigns of each (all of whom together are referred to as the "Settling Defendant Releasees"), and any person or entity in which any Settling Defendant Releasee has or had a controlling interest or which is or was related to or affiliated with any Settling Defendant Releasee; and (c) the release by the Settling Defendant and its counsel, of Plaintiffs, their respective present and former parents, subsidiaries, divisions and affiliates, Plaintiffs' Co-Lead Counsel and assisting counsel, the present and former employees, officers

and directors of each of them, the present and former accountants, insurers, and agents of each of them, and the predecessors, heirs, successors and assigns of each, and the members of the May 2000 and May 2001 Subclasses, from any claims relating to the institution or prosecution of the Action. The releases described in this paragraph do not operate to preclude any plaintiff or claimant from making any claim with respect to any funds made available as a result of the WorldCom bankruptcy, WorldCom's settlement with the Securities and Exchange Commission, or any other regulatory agency fund. Moreover, nothing in this paragraph is intended to release any claims asserted by the Class against the Non-Settling Entities/Individuals. Until the Settlement becomes final or is terminated, Plaintiffs agree that they will not enter into any settlement agreement with any of the Underwriter Defendants, unless the settlement agreement with any such Underwriter Defendant(s) contains a provision pursuant to which the Underwriter Defendant(s) agrees that it will not bring any claim for contractual or other contribution or indemnity against any Settling Defendant Releasee based upon the claims made by Plaintiffs against such Underwriter Defendant(s) in this action. Provided that a reciprocal commitment is made by the BOA Defendants and the May 2000 Settling Defendants with respect to the Settling Defendant's Releasees, until the Settlement becomes final or is terminated, the Settling Defendant agrees that it will not bring any claim for contractual or other contribution or indemnity against any BOA or May 2000 Settling Defendant Releasee, as that term is defined in paragraph 11 of the Memorandum of Agreement in this Action dated March 2, 2005, based upon the claims made by Plaintiffs against the Settling Defendant. Similarly, provided that a reciprocal commitment is made by any subsequently settling Underwriter Defendant, the Settling Defendant further agrees that, until the Settlement between Plaintiffs and the Settling Defendant becomes final or is terminated, the Settling Defendant will not bring any claim for contractual or

other contribution or indemnity against any such subsequently settling *Underwriter Defendant(s)* based upon the claims made by Plaintiffs against the Settling Defendant in this Action.

12. The consummation of the Settlement as provided herein shall be subject to the following conditions: (a) the drafting and execution of the Stipulation and such other documentation as may be required to obtain final court approval of the Settlement; and (b) final court approval of the Settlement. The Settling Defendant may, in its sole discretion, withdraw from and terminate the Settlement if the Court declines to grant severance as set forth in paragraph 16 below. The Settling Defendant may, in its sole discretion, withdraw from and terminate the Settlement if final Court approval is not obtained of a bar provision that does not vary materially from the terms set forth in paragraph 9 of this Agreement.

13. Notwithstanding the provisions of paragraph 2, above, Plaintiffs' Co-Lead Counsel may apply to the District Court, in conjunction with seeking preliminary approval (and the Settling Defendant shall pay upon the granting of preliminary approval if the Court so orders), for up to \$1,000,000 out of the Settlement Fund to fund the Notice and Administration Fund (as defined in paragraph 14 below) incurred by Plaintiffs' Co-Lead Counsel in connection with this Settlement. The Settling Defendant shall pay the balance of the Settlement Amount as provided in paragraph 2, above. Plaintiffs' Co-Lead Counsel shall refund to the Settling Defendant the portion of the Notice and Administration Fund that has not been paid or incurred, and the remaining balance of the Settlement Fund, including any interest earned or accrued, within 5 days if the Settlement is not approved, overturned or materially and adversely modified on appeal or as a result of further proceedings on remand of any appeal with respect to the Settlement, or otherwise does not become effective.

14. Any Notice and Administration Costs, as well as all applicable taxes, shall be paid out of the Settlement Fund. Notice and Administration Costs shall include, among other

things, the cost of publishing summary notice in the national and international editions of The Wall Street Journal or other national news service, printing and mailing the a notice of this Settlement, as directed by the Court, and the cost of processing proofs of claim and distributing the *Net Settlement Fund to May 2000 and May 2001 Subclasses members who timely submit a valid Proof of Claim and Release.*

15. If the Settlement outlined in this Agreement is not approved by the Court or is terminated: (a) the Settlement shall be without force and effect upon the rights of the Parties hereto, and none of its terms shall be effective or enforceable, with the exception of this paragraph and the second sentence of paragraph 16, which shall remain effective and enforceable; and (b) the Parties shall revert to their litigation positions immediately prior to the execution of this Agreement. Neither this Agreement, nor the Settlement, nor the fact of the existence of this Agreement or the Settlement, nor any of the terms of this Agreement or the Settlement, nor any press release or other statement or report by the Parties or by others concerning this Agreement, the Settlement, their existence or terms, nor the negotiations thereof, nor any negotiations or proceedings hereunder, shall be offered or received in evidence in any trial of this Action or any other action or proceedings, nor shall they be deemed to constitute any evidence or admission of liability or wrongdoing on the part of any of the Settling Defendant or Releasees, which is expressly and unequivocally denied.

16. Plaintiffs and the Settling Defendant agree to apply jointly to the Court, as part of the preliminary approval proposed form of Order, for severance of the claims against the Settling Defendant from the claims against the Non-Settling Entities/Individuals, pending a determination on whether the Settlement is approved. In the event the Settlement is not approved by the Court or is terminated, the Parties agree that, subject to Court approval, any trial of the claims against the Settling Defendant in this Action shall commence no earlier than four

(4) months after such non-approval or termination; and, in all events, any trial of the claims against the Settling Defendant shall not be scheduled until after the completion of the trial of the claims asserted against the Non-Settling Entities/Individuals. Plaintiffs acknowledge that, given the amount of discovery taken by them of the Settling Defendant and others, including extensive document and other written discovery as well as numerous depositions and expert depositions, and the determination of the Underwriter Defendants' motions for summary judgment, Plaintiffs are satisfied that an adequate factual record has been established that supports the Settlement and hereby waive any right to conduct further discovery to assess or confirm the Settlement.

17. The Claims Administrator shall be the Administrator approved by the Court in the Hearing Order of July 16, 2004.

18. Plaintiffs and their counsel have concluded that the Settlement constitutes a fair, reasonable and adequate resolution of the claims that Plaintiffs and members of the May 2000 and May 2001 Subclasses asserted against the Settling Defendant, and that it promotes the public interest. Plaintiffs and their counsel have further concluded that the Plan of Allocation set forth in the Settlement is fair and reasonable. The Parties agree that unless ordered by the Court, they will not publicize, disseminate, refer to, or otherwise distribute to any third party any information regarding the negotiations between the Parties.

19. Except for attorney notes, pleadings, other Court submissions and transcripts of depositions, Plaintiffs agree to return to the Settling Defendant, at the Settling Defendant's option, all discovery obtained from the Settling Defendant within thirty (30) days after all the claims in the above-captioned litigation against all Defendants have either been settled, tried to final judgment, or otherwise resolved.

20. This Agreement may be executed in counterparts, including by signature transmitted by facsimile. Each counterpart when so executed shall be deemed to be an original,

and all such counterparts together shall constitute the same instrument. The undersigned signatories represent that they have authority from their clients to execute this Agreement.

21. The Parties acknowledge that this Agreement is legally binding and constitutes the entire substantive agreement between the Parties, and that it has been entered into following substantial arm's length negotiations between the Parties in an effort to resolve all claims that have been or could be asserted by Plaintiffs on behalf of the Class against the Settling Defendant.

22. The terms of this Agreement and Settlement shall inure to and be legally binding upon the Parties and their successors in interest. This Agreement may be amended or modified only by a written instrument signed by each of the respective Parties hereto, or their counsel acting on their behalf.

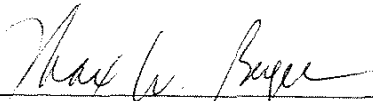
23. All applications to the Court with respect to any aspect of this Settlement shall be presented to and determined by United States District Judge Denise Cote (the "Court"). Upon execution of this Agreement, the Parties shall promptly advise the Court of the Settlement.


24. The Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to choice of law principles, to the extent that federal law does not apply. Any action based on this Agreement or to enforce any of its terms shall be venued in the United States District Court for the Southern District of New York, which shall retain jurisdiction over all such disputes.

IT IS HEREBY AGREED by the undersigned as of March 10, 2005.

BERNSTEIN LITOWITZ BERGER &
GROSSMANN LLP

BARRACK, RODOS & BACINE

By: 
Max W. Berger
John P. Coffey

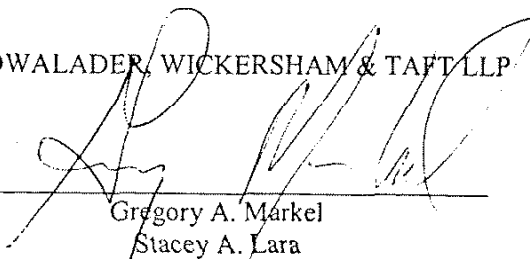
By: 
Leonard Barrack
Jeffrey W. Golan

1285 Avenue of the Americas
New York, New York 10019
(212) 554-1400

3300 Two Commerce Square
2001 Market Street
Philadelphia, Pennsylvania 19103
(215) 963-0600

Co-Lead Counsel for the Class and on Behalf of Lead Plaintiff
Alan G. Hevesi, Comptroller of the State of New York

CADWALADER, WICKERSHAM & TAFT LLP

By: 
Gregory A. Markel
Stacey A. Lara

One World Financial Center
New York, NY 10281
(212) 504-6000

On Behalf of the Settling Defendant

Additional Class Plaintiffs' Counsel:

BERMAN DEVALERIO PEASE TABACCO
BURT & PUCILLO

SCHOENGOLD, SPORN, LAITMAN &
LOMETTI, P.C.

By: Joseph J. Tabacco/mb
Joseph J. Tabacco

By: Christopher Lometti/ams
Samuel P. Sporn
Christopher Lometti

425 California Street, Suite 2025
San Francisco, California 94104
(415) 433-3200

Cannon's Walk
19 Fulton Street, Suite 406
New York, New York 10038
(212) 267-8137

On Behalf of Class Plaintiffs County of Fresno
and Fresno County Employees' Retirement
Association

On Behalf of Class Plaintiff HGK Asset
Management