

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE WORLDCOM, INC.	:	MASTER FILE NO.
SECURITIES LITIGATION	:	02 Civ. 3288 (DLC)
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This Document Relates to:		
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02 Civ. 3288	:	02 Civ. 4973
02 Civ. 3416	:	02 Civ. 4990
02 Civ. 3419	:	02 Civ. 5057
02 Civ. 3508	:	02 Civ. 5071
02 Civ. 3537	:	02 Civ. 5087
02 Civ. 3647	:	02 Civ. 5108
02 Civ. 3750	:	02 Civ. 5224
02 Civ. 3771	:	02 Civ. 5285
02 Civ. 4719	:	02 Civ. 8226
02 Civ. 4945	:	02 Civ. 8227
02 Civ. 4946	:	02 Civ. 8228
02 Civ. 4958	:	02 Civ. 8229
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**AGREEMENT BETWEEN LEAD PLAINTIFF AND ARTHUR ANDERSEN LLP
CONCERNING CONTINGENT PAYMENT CLAIM**

This Agreement Between Lead Plaintiff and Arthur Andersen LLP Concerning Contingent Payment Claim (the “Agreement”) is entered into between (i) the Lead Plaintiff, Thomas P. DiNapoli, 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 WorldCom Class (as defined in paragraph 1.d. of the Stipulation of Settlement between the parties hereto dated April 22, 2005 (the “WorldCom Stipulation of Settlement”))¹, and (ii) Defendant Arthur Andersen LLP (“Andersen”, and together with Plaintiffs, the “Parties”), by and through their undersigned attorneys.

¹ The WorldCom Stipulation of Settlement is fully incorporated herein and remains unmodified other than as specifically provided for herein. Any terms not otherwise defined in paragraph 1 herein shall have the meanings ascribed to them in the WorldCom Stipulation of Settlement.

WHEREAS:

A. The above-captioned action (the “Action”), which was commenced in April 2002, was resolved by settlements with the various defendants for an aggregate settlement amount of \$6.18 billion. The settlements were approved by the WorldCom Court (defined below) in November 2004 and September 2005. Between December 2006 and April 2010, four distributions from the proceeds of the settlements have been made to Authorized Claimants.

B. One of the Settlements achieved in the Action was with Andersen. On April 22, 2005, after five weeks of trial, the Parties entered into the WorldCom Stipulation of Settlement to fully and finally resolve, discharge and settle the Released Claims, as defined in that stipulation, subject to the terms and conditions set forth therein.

C. Pursuant to the terms of the WorldCom Stipulation of Settlement (paragraph 1.gg.), Andersen was to pay \$65 million immediately upon preliminary approval of the Settlement (the “Cash Payment”), and two contingent payments: (a) an amount equivalent to 20% of the amounts, if any, actually paid by Andersen to its present or former partners, participating principals, national partners and national directors in repayment of any and all subordinated notes (“the Notes”) issued in respect of paid in capital and/or subordinated loans (the “WorldCom Contingent Loan Repayment Obligation”), the Parties acknowledging at the time of the WorldCom Stipulation of Settlement that repayment of the Notes was contingent on many factors and that payments on the Notes were currently suspended, and (b) the difference between any Net Cash Amount paid in an Other Action and the Cash Payment (as such terms are defined in paragraph 36 of the WorldCom Stipulation of Settlement).

D. Lead Plaintiff is also the Lead Plaintiff in the now settled action styled *In re McKesson HBOC, Inc. Securities Litigation*, Master file No. 99-cv-20743 RMW (PVT) (N.D. Cal.) in which Andersen was a defendant.

E. Pursuant to the terms of the McKesson Stipulation of Settlement (Definition (z)), Andersen was to pay \$72.5 million on or before October 31, 2006 (the “Cash Payment”), and two contingent payments: (a) an amount equivalent to 5% of the amounts, if any, actually paid by Andersen to its present or former partners, participating principals, national partners and national directors in repayment of any and all subordinated notes issued in respect of paid in capital and/or subordinated loans (the “McKesson Contingent Loan Repayment Obligation”), the parties acknowledging at the time of the McKesson Stipulation of Settlement that repayment of the Notes was contingent on many factors and that payments on the Notes were currently suspended, and (b) the difference between any Net Cash Amount paid in an Other Action and the Cash Payment (as such terms are defined in paragraph 35 of the McKesson Stipulation of Settlement).

F. At the time the WorldCom Stipulation of Settlement and the McKesson Stipulation of Settlement were entered into, Andersen confronted substantial litigation claims and other contingencies which, as a result, had caused Andersen to suspend all payments on the Notes and rendered highly uncertain whether, when or to what extent Andersen would be in a position to make any repayments with respect to the Notes. Andersen now anticipates the possibility of making some repayments with respect to the Notes in the future, although the timing and amounts of any such repayments remains uncertain and subject to multiple contingencies.

G. To the extent that Andersen makes repayments on the Notes in the future, any such repayments, when and if made, would trigger the Contingent Loan Repayment Obligations under the terms of the WorldCom and McKesson Stipulations of Settlement. The ultimate amounts of any such repayments with respect to the Notes, and the number of such repayments, and the time period over which any such repayments would be made, are unknown at this time and may not become known for a number of years.

H. Lead Plaintiff and Lead Counsel have considered the contingencies and uncertainties that could affect the ultimate amount of the repayments made in respect of the Notes as well as the extended time period over which such repayments may be made.

I. Based on their consideration of these factors, Lead Plaintiff and Lead Counsel have concluded that the terms and conditions of this Agreement are fair, reasonable and adequate to Lead Plaintiff and the other members of the WorldCom Class, and in their best interests and Lead Plaintiff, with the input of Lead Counsel, has agreed to settle the claim in paragraph 1.gg. of the WorldCom Stipulation of Settlement on the terms and conditions of this Agreement.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between Lead Plaintiff for itself and on behalf of the WorldCom Class and Andersen, through their respective attorneys, subject to Court approval, in consideration of the benefits flowing to the Parties from this settlement, that all claims against Andersen with respect to paragraph 1.gg. of the WorldCom Stipulation of Settlement shall be compromised, released and relinquished, upon and subject to the following terms and conditions:

DEFINITIONS

1. As used in this Agreement, the following terms shall have the following meanings:

a. “Effective Date” means the first business day following the date the Judgments become Final.

b. “Final” with respect to the Judgments means: (a) if no appeal is filed, the expiration date of the time provided for filing or noticing of any appeal under the Federal Rules of Civil Procedure, i.e., thirty (30) days after entry of any order or judgment; or (b) if there is an appeal from any order or either one or both of the Judgments, the date of (i) final dismissal of all such appeals, or the final dismissal of any proceeding on certiorari or otherwise to review the order or judgment, or (ii) the date the order or judgment is finally affirmed on an appeal, the expiration of the time to file a petition for a writ of certiorari or other form of review, or the denial of a writ of certiorari or other form of review of the order or judgment, and, if certiorari or other form of review is granted, the date of final affirmance of the order or judgment following review pursuant to that grant. However, any appeal or proceeding seeking subsequent judicial review pertaining solely to an order issued with respect to attorneys’ fees, costs or expenses shall not in any way delay or preclude the Judgments from becoming Final.

c. “Judgments” mean (1) the judgment to be entered by the WorldCom Court approving the proposed settlement of the WorldCom Settled Claim; and (2) the judgment to be entered by the McKesson Court approving the proposed settlement of the McKesson Settled Claim.

d. “McKesson Action” means the action styled *In re McKesson HBOC, Inc. Securities Litigation*, Master file No. 99-CV-20743 RMW (PVT), that was brought in the United

States District Court for the Northern District of California, San Jose Division.

e. “McKesson Class” means the Settlement Class defined in Definition (aa) of the McKesson Stipulation of Settlement.

f. “McKesson Court” means the United States District Court for the Northern District of California, San Jose Division.

g. “McKesson Settled Claim” means the claim of Lead Plaintiff and the McKesson Class set forth in Definition (z) of the McKesson Stipulation of Settlement.

h. “McKesson Settlements” means the settlements previously achieved in the McKesson Action that have been approved by the McKesson Court.

i. “McKesson Stipulation of Settlement” means the Stipulation and Agreement of Settlement between Lead Plaintiff and Defendant Arthur Andersen LLP dated December 19, 2006 in the McKesson Action.

j. “Notice and Administration Costs” means the costs, fees and expenses that are incurred by the Claims Administrator and/or Lead Counsel in connection with (i) providing notice to the WorldCom Class; and (ii) administering the Claims process, as well as the costs, fees and expenses incurred in connection with the Escrow Account.

k. “Taxes” means: (i) all federal, state and/or local taxes of any kind on any income earned by the WorldCom Settlement Fund; and (ii) the expenses and costs incurred by Lead Counsel in connection with determining the amount of, and paying, any taxes owed by the WorldCom Settlement Fund (including, without limitation, expenses of tax attorneys and accountants).

l. “WorldCom Class” means the Class defined in paragraph 1.d. of the WorldCom Stipulation of Settlement.

m. "WorldCom Court" means the United States District Court for the Southern District of New York.

n. "WorldCom Settled Claim" means the claim of Lead Plaintiff and the WorldCom Class set forth in paragraph 1.gg. of the WorldCom Stipulation of Settlement.

o. "WorldCom Settlement Amount" means \$38,000,000 in cash.

p. "WorldCom Settlements" means the settlements previously achieved in the Action that have been approved by the WorldCom Court.

q. "WorldCom Stipulation of Settlement" means the Stipulation of Settlement between the Parties hereto dated April 22, 2005.

SETTLEMENT CONSIDERATION

2. In consideration of the settlement of the WorldCom Settled Claim against Andersen, Andersen shall pay a total of \$38,000,000 as provided for herein. Payment of such amount shall be contingent upon the entry of Judgments by both the WorldCom Court and the McKesson Court approving the respective proposed settlements. Provided that both the WorldCom Court and the McKesson Court enter Judgments approving the respective proposed settlements, the WorldCom Settlement Amount shall be deposited by Andersen, in accordance with instructions from Lead Counsel, into an escrow account to be maintained by Lead Counsel, within ten (10) business days of the later of the two Judgments. Lead Plaintiff agrees not to withdraw the WorldCom Settlement Amount or any portion of it from the escrow account until the Effective Date. If either of the Judgments is reversed on appeal, Lead Plaintiff agrees that the WorldCom Settlement Amount with any interest earned, minus the costs of providing notice of this proposed settlement, bank fees and Taxes on the interest earned on the WorldCom Settlement Amount, will be returned to Andersen within ten (10) business days of the reversal.

RELEASE OF WORLDCOM SETTLED CLAIM

3. The obligations incurred pursuant to this Agreement shall be in full and final disposition of any claim against Andersen with respect to its obligations set forth in paragraph 1.gg. of the WorldCom Stipulation of Settlement, including but not limited to the WorldCom Contingent Loan Repayment Obligation, and shall fully and finally release the WorldCom Settled Claim as against the Settling Defendant Releasees.

4. As of the Effective Date, Lead Plaintiff, all WorldCom Class Members and their respective heirs, executors, administrators, successors and assigns, and any persons they represent, agree to release, and by operation of the Judgment shall have released, the WorldCom Settled Claim against the Settling Defendant Releasees.

5. As of the Effective Date, Lead Plaintiff, all WorldCom Class Members and their respective heirs, executors, administrators, successors and assigns, and any persons they represent, will be forever barred and enjoined from commencing, instituting or prosecuting any action against the Settling Defendant Releasees with respect to, based on, or arising from the WorldCom Settled Claim.

USE OF WORLDCOM SETTLEMENT AMOUNT

6. The WorldCom Settlement Amount shall be added to the funds remaining in the distribution account for the WorldCom Settlements. After payment of any Taxes, any Notice and Administration Costs and any attorneys' fees and expenses as may be awarded by the WorldCom Court, the balance of the WorldCom Settlement Amount (the "Net WorldCom Settlement Amount") shall be distributed to Authorized Claimants consistent with the provisions of the Court-approved Final Distribution Plan for the proceeds of the WorldCom Settlements, i.e., the Net WorldCom Settlement Amount will be added to the balance in the distribution

account for Authorized Claimants with claims against Andersen, and will be distributed to Authorized Claimants who cashed the last distribution check sent and who would receive at least \$5.00 in such distribution, with subsequent distributions to be made in like manner until the Claims Administrator and Lead Plaintiff determine that further redistribution is not cost-effective, at which time the balance remaining in the distribution account after payment of any unpaid costs or fees incurred in connection with administering the Net Settlement Fund shall be donated to non-sectarian, not-for-profit, 501(c)(3) organization(s) recommended by Lead Plaintiff and approved by the Court. Andersen shall have no responsibility or liability with respect to any Notice to the WorldCom Class, the payment of any Taxes arising from the payment of the WorldCom Settlement Amount or any interest earned thereon, or the distribution of the WorldCom Settlement Amount to the WorldCom Class.

ATTORNEYS' FEES AND EXPENSES

7. With the prior approval of Lead Plaintiff, Lead Counsel may separately apply to the WorldCom Court for an award of attorneys' fees and expenses in connection with achieving this settlement, provided that such amounts may be paid only from WorldCom Settlement Amount obtained pursuant to this settlement. The disposition of any application by Lead Counsel for an award of attorneys' fees in this Action or in the McKesson Action is not a material term of this Agreement and it is not a condition of this Agreement that such applications be granted.

MISCELLANEOUS PROVISIONS

8. This Agreement relates only to the settlement and release of claims with respect to Andersen's WorldCom Settled Claim. It supersedes the WorldCom Settlement Stipulation only to the extent provided herein. In all other respects, the terms and conditions of the

WorldCom Settlement Agreement remain in full force and effect as does the WorldCom Court's continuing jurisdiction over the implementation of that agreement.

9. Neither this Agreement nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the Settlement: (i) is or may be deemed to be or may be used or offered as an admission or evidence of the validity of any released WorldCom Settled Claim or of any wrongdoing or liability of any Settling Defendant Releasee; or (ii) is or may be deemed to be or may be used or offered as an admission or evidence of any fault or omission of any Settling Defendant Releasee in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal, other than as may be necessary to consummate or enforce this Agreement, the Settlement or the Judgment.

10. Neither this Agreement nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the Settlement: (i) is or may be deemed to be or may be used or offered as an admission or evidence against Lead Plaintiff or any WorldCom Class Members that any of their claims are without merit or that the Contingent Payment Claim recoverable under paragraph 1.gg. of the WorldCom Stipulation of Settlement would not have exceeded the Settlement Amount; or (ii) is or may be deemed to be or may be used or offered as an admission or evidence of any fault or omission of Lead Plaintiff or any WorldCom Class Members in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal, other than as may be necessary to consummate or enforce this Agreement, the Settlement or the Judgment.

11. This Agreement and its exhibits constitute the entire agreement among the Parties concerning this Settlement, and no representations, warranties, or inducements have been made to any party concerning this Agreement or its exhibits other than the representations, warranties

and covenants contained and memorialized in such documents.

12. This Agreement may be amended or modified only by a written instrument signed by all counsel for the Parties hereto or their successors-in-interest.

13. The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

14. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

15. This Agreement may be executed in one or more original and/or faxed or emailed counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the signatories of this Agreement shall exchange among themselves original signed counterparts.

16. Each counsel signing this Agreement represents that such counsel has authority to sign this Agreement on behalf of its clients.

17. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

18. The construction, interpretation, operation, effect and validity of this Agreement, and all documents necessary to effectuate it, shall be governed by the internal laws of the State of New York without regard to conflicts of laws, except to the extent that federal law requires that federal law govern.

19. This Agreement shall not be construed more strictly against one Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Parties, it being recognized that this Agreement is the result of arm's-length negotiations between the Parties and all Parties have contributed substantially and materially to

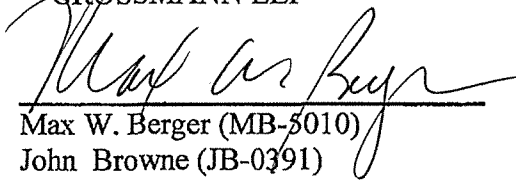
the preparation of this Agreement.

20. Lead Counsel and Andersen's Counsel agree to cooperate fully with one another in seeking Court approval of the WorldCom and McKesson Settlements, and to use best efforts to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval by the respective courts of the Settlements.


21. The administration and consummation of this Settlement as embodied in this Agreement shall be under the authority of the WorldCom Court, and the WorldCom Court shall retain jurisdiction for the purpose of entering orders providing for awards of attorneys' fees and expenses and enforcing the terms of this Agreement.

Dated: September 27, 2012

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632256.9

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Dated: September __, 2012

BERNSTEIN LITOWITZ BERGER &
GROSSMANN LLP

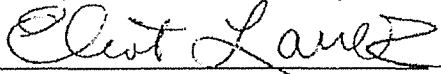
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