

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE AOL TIME WARNER, INC. ) MDL Docket No. 1500  
SECURITIES & "ERISA" LITIGATION ) 02 Civ. 5575 (SWK)  
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**ORDER CERTIFYING SECURITIES CLASS**

The above-captioned action (the "Securities Class Action") came before the Court on September 28, 2005, on the motion of the Minnesota State Board of Investment ("Lead Securities Plaintiff") for certification of a plaintiff class of securities holders (the "Securities Class").

**WHEREAS:**

A. Lead Securities Plaintiff, on behalf of itself and the other members of the Securities Class, and Defendants have reached a settlement of the disputes between them in the Securities Class Action (the "Settlement"), as embodied in a Stipulation of Settlement dated as of September 22, 2005 (the "Stipulation") which the parties have jointly submitted to the Court;

B. The Court has read and considered (1) the Stipulation; (2) the Notice of Proposed \$2.65 Billion Settlement of Securities Class Action, Certification of a Settlement Class, Final Approval Hearing, Application for Attorneys' Fees and Expenses, and Proposed Plan of Allocation (the "Notice"); (3) the Summary Notice of Proposed \$2.65 Billion Settlement of Class Action, Certification of a Settlement Class, Final Approval Hearing, Application for Attorneys' Fees and Expenses, and Proposed Plan of Allocation ("Summary Notice"); (4) the proposed Plan

of Allocation; (5) the proposed form of the Proof of Claim and Release; and (6) the proposed form of Final Judgment and Order of Dismissal relating to the Settlement.

C. The Court has also read and considered Lead Securities Plaintiff's Motion for Class Certification, and the papers submitted in support of the motion; and

D. The Court has fully considered all arguments of counsel and the entire file, record and proceedings in the Securities Class Action, and makes the following findings for settlement purposes only;

**IT IS HEREBY ORDERED:**

1. The Court, for purposes of this Order, adopts the definitions set forth in the Stipulation.

2. The Stipulation defines the Securities Class as follows:

All Persons who purchased, exchanged or otherwise acquired publicly traded common stock of AOL, and/or bought or sold options on AOL common stock during the period January 27, 1999 through and including January 11, 2001, and all Persons who purchased, exchanged or otherwise acquired publicly traded common stock or bonds of Time Warner and/or bought or sold options on Time Warner common stock during the period January 11, 2001 through and including August 27, 2002, and were damaged thereby (the "Securities Class"). Excluded from the Securities Class are (1) Defendants (including individuals proposed to be made Defendants in the pending motion to amend the Complaint), Defendants' immediate families, and the legal representatives, heirs, successors or assigns of any Defendant, and any Entity in which any Defendant has or had a controlling interest; and (2) the senior Officers and Directors of AOL and Time Warner at any time during the Class Period (defined, in the case of Officers, as those

individuals at AOL and Time Warner with a title of Senior Vice President or above, a list of whom Time Warner will provide to the Settlement Administrator). Also excluded from the Securities Class are any putative Securities Class members who exclude themselves by filing a request for exclusion in accordance with the requirements set forth in the Notice.

3. Rule 23(a) of the Federal Rules of Civil Procedure requires for certification of a class that (a) there is an ascertainable class that is sufficiently numerous; (b) the action involves common issues of law or fact; (c) the class representative's claims are typical of the class's claims; and (d) the class representative is able to fairly and adequately represent the class's interests.

4. Rule 23(b)(3) additionally requires for certification of a class that (a) questions of fact or law common to the class members predominate over any questions affecting only individual members; and (b) the class action device is superior to other available methods for the fair and efficient adjudication of the controversy.

5. After considering the requirements of Rule 23(a) and Rule 23(b)(3), the Court hereby makes the following findings:

a. The Securities Class is sufficiently numerous that joinder of all class members is impracticable;

b. There are numerous questions of law and fact common to all members of the Securities Class;

c. The claims of Lead Securities Plaintiff are typical of the claims of the Securities Class members;

d. Lead Securities Plaintiff can fairly and adequately represent the interests

of the Securities Class;

e. Common questions of law and fact predominate over any questions affecting only individual members of the Securities Class;

f. The class action device is superior to all other available methods of fairly and efficiently adjudicating the Securities Class Action.

6. Based on these findings, the Court concludes that certification of the Securities Class under Rules 23(a) and (b)(3) is appropriate.

7. Accordingly, pursuant to Rule 23(a) and (b)(3), the Court hereby certifies, for settlement purposes only, the Securities Class defined in paragraph 2 above.

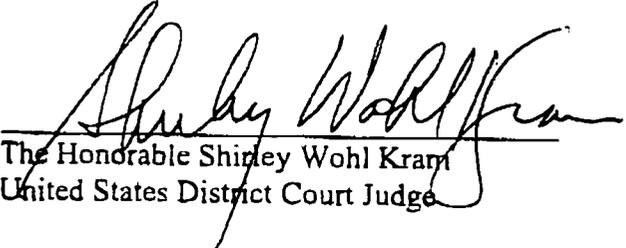
8. The Court hereby designates Lead Securities Plaintiff as the sole representative of the Securities Class, which is represented by Heins, Mills & Olson, P.L.C. as Lead Securities Counsel.

9. Persons who do not wish to be members of the Securities Class may opt out of the Securities Class in accordance with the requirements described in the Notice.

10. The Court shall retain continuing jurisdiction over the matters addressed in this Order.

**IT IS SO ORDERED.**

Dated: September 30, 2005

  
The Honorable Shirley Wohl Kram  
United States District Court Judge