

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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

**ORDER PRELIMINARILY APPROVING SECURITIES CLASS
SETTLEMENT, APPROVING CLASS NOTICE, AND SETTING
FINAL APPROVAL HEARING**

This matter came before the Court on September 28, 2005, on the Motion of the Minnesota State Board of Investment ("Lead Securities Plaintiff") for Preliminary Approval of Securities Class Settlement, Approval of Securities Class Notice, and Request for Final Approval Hearing (the "Motion").

WHEREAS,

Lead Securities Plaintiff and Defendants have entered into a settlement (the "Settlement") of the securities claims asserted against Defendants in this class action, the terms of which are set forth in a Stipulation of Settlement, dated as of September 22, 2005 (the "Stipulation");

Lead Securities Plaintiff on behalf of itself and the other members of a plaintiff class of securities holders defined in the Stipulation (the "Securities Class"), has moved pursuant to Rule 23(e) of the Federal Rules of Civil Procedure for an Order (1) preliminarily approving the Settlement, (2) approving the form and plan of notice to the Securities Class, and (3) scheduling a hearing (the "Final Approval Hearing") at which the Court will consider final approval of the Settlement, a plan to allocate the Settlement funds to the Securities Class members (the "Plan of

Allocation”), and the application of Heins Mills & Olson, P.L.C. (“Lead Securities Counsel”) for an award of fees and reimbursement of expenses (the “Fee and Expense Application”);

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 (the “Summary Notice”); (4) the Plan of Allocation; and (5) all other papers submitted in connection with the Motion; and

The Court finds that sufficient grounds exist for granting the relief requested by the Motion:

IT IS HEREBY ORDERED:

1. The Motion is GRANTED in all respects.
2. For purposes of this Order, the Court adopts all defined terms as set forth in the Stipulation, which shall control if it conflicts with any definition in this Order.

Preliminary Approval of Settlement

3. The Court finds that the Settlement is within the range of potential fairness, reasonableness, and adequacy warranting notice to the Securities Class and full consideration of the fairness, reasonableness and adequacy of the Settlement.

4. Within five business days of this Order, Defendants Time Warner Inc. (“Time Warner”) and Ernst & Young, LLP (“Ernst & Young”) shall pay a total of \$2.5 billion (the “Settlement Sum”), \$2.4 billion of which shall be paid by Time Warner and \$100 million of which shall be paid by Ernst & Young, into an interest-bearing account (the “Settlement

Account”) at Wells Fargo Bank, N.A. in Minneapolis, Minnesota (the “Escrow Agent”) by wire transfer, according to instructions provided by Lead Securities Counsel.

5. The Escrow Agent shall invest the Settlement Sum, and any other funds deposited into the Settlement Account pursuant to the Stipulation, in United States Treasury securities and shall reinvest the proceeds of these securities as they mature in United States Treasury securities at the current market rates. The Escrow Agent may also invest the above-referenced monies, as necessary, in repurchase agreements with banks and authorized dealers rated no less than A/A by either Moody’s Investor Service or Standard & Poors. The collateral for the repurchase agreements must be in the form of United States Treasury securities equal to at least 102% of the amount invested in the repurchase agreements.

6. All funds in the Settlement Account shall be deemed to be in the custody of the Court, and shall remain subject to the jurisdiction of the Court, until such time as any of the funds are distributed pursuant to the Stipulation or order of the Court consistent with the terms of the Stipulation.

7. No funds shall be withdrawn from the Settlement Account except by order of the Court or, consistent with the terms of the Stipulation, for the payment of (a) fees and expenses to effect class notice as directed in Paragraph 8 of this Order, (b) fees and expenses for administration of the Settlement, (c) taxes on the Settlement Fund, and fees and expenses for preparing related tax forms, (d) fees and costs charged by the Escrow Agent, or (e) other expenses as provided in the Stipulation.

Class Notice

8. Lead Securities Plaintiff shall cause notice to be provided to the Securities Class as follows:

a. Within fifteen (15) days of this Order, a copy of the Notice, together with a copy of a Proof of Claim and Release (“Proof of Claim”), substantially in the form annexed hereto as Exhibits A and B, respectively, shall be mailed by first-class mail, postage prepaid, to all Securities Class Members at the address of each such Person as set forth in the records of Time Warner’s transfer agent, which information shall be provided in full to Gilardi & Co. LLC (the “Settlement Administrator”) within three (3) days of this Order:

b. Within twenty-four (24) days of this Order, the Summary Notice, substantially in the form annexed hereto as Exhibit C, shall be published once in the national editions of The Wall Street Journal, Investor’s Business Daily, The New York Times, and USA Today. Such publications shall be interspersed on various dates during this period.

c. Within fifteen (15) days of this Order, the Notice, Summary Notice, and Proof of Claim shall also be placed on a website maintained by the Settlement Administrator at www.aoltimewarnersettlement.com.

9. The Court approves the forms of the Notice, Proof of Claim, and Summary Notice, and finds that their mailing and publication substantially in the manner and form set forth in Paragraph 8 of this Order meet the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process, and constitute the best notice practicable under the circumstances.

10. No later than seven (7) days before the date of the Final Approval Hearing, as fixed in Paragraph 12 of this Order, Lead Securities Counsel shall cause to be filed with the Clerk of Court affidavits or declarations of the person who directed mailing of the Notice and publication of the Summary Notice, showing that notice was mailed and published in accordance with this Order.

11. All nominees who hold or held AOL or Time Warner publicly traded securities for beneficial owners who are members of the Securities Class are directed to forward, within

fifteen (15) days of receipt by the nominee, the Notice and Proof of Claim to such beneficial owners or, in the alternative, to supply the names and addresses of such beneficial owners to the Settlement Administrator as set forth in the Notice.

Final Approval Hearing: Right to Be Heard

12. The Court shall hold the Final Approval Hearing on February 22, 2006, at 10:30 a.m., in the United States Courthouse, 40 Centre Street, Courtroom 619, New York, New York 10007-1581, at which time the Court shall address the fairness, reasonableness and adequacy of the Settlement and the Plan of Allocation, and also address the Fee and Expense Application.

13. Lead Securities Counsel will submit the Fee and Expense Application (as defined in the Stipulation) to the Court within 50 days after the mailing of the Notice as provided in Paragraph 8(a) above. Lead Securities Counsel shall submit any additional papers in further support of the Settlement, the Plan of Allocation, or the Fee and Expense Application (including any papers responding to objections, if any, by Securities Class Members) no later than January 30, 2006.

14. Any Securities Class Member may be heard at the Final Approval Hearing on matters to be considered by the Court at that time; provided, however, that, unless otherwise ordered by the Court, no Securities Class Member may object to the Settlement, the Plan of Allocation, the Fee and Expense Application, or any other matters to be considered at the Final Approval Hearing unless:

a. The Securities Class Member has served, by hand, overnight-delivery service or first-class mail, for receipt no later than January 9, 2006, copies of all written objections and any supporting papers and briefs (which must contain proof of all purchases, exchanges, acquisitions, sales and dispositions of publicly traded common stock or options on common stock of AOL, or publicly traded common stock or bonds, or options on common stock,

of Time Warner made by the Securities Class Member during the Securities Class Period to be considered valid) upon counsel for the parties at the following addresses:

Lead Securities Counsel:

Samuel D. Heins, Esq.
Heins Mills & Olson, P.L.C.
3550 IDS Center
80 South 8th Street
Minneapolis, MN 55402

Counsel for Defendants:

Peter T. Barbur, Esq.
Cravath, Swaine & Moore
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019

Michael L. Rugen, Esq.
Heller Ehrman LLP
333 Bush Street
San Francisco, CA 94104

and

b. On or before January 9, 2006, the Securities Class Member has properly filed the written objections and any supporting papers and briefs, and proof that they were duly served on all counsel listed above, with the Clerk of Court at the following address:

Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street, Room 120
New York, NY 10007-1312

Nothing in this Order shall be construed as suggesting that any such objection would have merit.

15. Any Securities Class Member who does not object in the manner prescribed in Paragraph 14 of this Order shall be deemed to have waived the right to object and shall not be heard at the Final Approval Hearing or otherwise permitted by the Court to present any objection

to the Settlement, the Plan of Allocation, the Fee and Expense Application, or any other matters to be considered at the Final Approval Hearing.

16. In the event that the Plan of Allocation is not approved by the Court, in whole or in part, any amended Plan of Allocation proposed by Lead Securities Plaintiff shall be posted on the website maintained by the Settlement Administrator at www.aoltimewarnersettlement.com. In addition, summary notice of the proposed amendment to the Plan of Allocation shall be provided in the manner directed by Paragraph 8(b) of this Order. No further notice to the Securities Class of any proposed amendment to the Plan of Allocation is required.

17. Without further notice to the Securities Class, the Court may adjourn or continue the Final Approval Hearing, approve the Settlement, the Plan of Allocation, and the Fee and Expense Application, or enter any other orders approving, with or without modification, the relief sought at the Final Approval Hearing.

Settlement Binding on Securities Class Members

18. Any Securities Class Member who does not mail, by first-class mail, postmarked no later than January 9, 2006, a written request to be excluded from the Securities Class in accordance with the requirements prescribed in the Notice shall be bound by all orders and judgments of the Court. Any such written request should also provide the following information as specified in the Notice: a daytime telephone number and the amount of AOL common stock held on January 26, 1999 and the date(s), price(s), and number(s) of shares of all purchases, exchanges or other acquisitions of AOL or Time Warner common stock during the Class Period. After the close of the opt-out period, Lead Counsel and counsel for the Defendants shall confer in good faith to perform the calculations provided for in section IV.H.5 of the Stipulation. Lead Counsel and counsel for the Defendants are directed to establish a procedure whereby, for Securities Class Members who opt out of the class but fail to provide information sufficient to

determine their share holdings and sales, some amount of holdings and sales is ascribed to them. Counsel for Lead Plaintiff and Defendants shall confer on a fair and equitable manner for estimating such share holdings and sales in advance of the Settlement Hearing. If no agreement can be reached within thirty (30) days prior to the date set for the Settlement Hearing, the Parties shall submit their respective positions to the Special Master for mediation and, in the event the parties to the Settlement are not able to resolve their dispute through mediation, Lead Plaintiff and the Defendants shall submit their respective positions to the Court for resolution concurrent with the Settlement Hearing, which resolution – by agreement of the parties to the Settlement – shall be final and not appealable.

19. If the Settlement is approved, all Securities Class Members who have not mailed, by first-class mail, postmarked no later than January 9, 2006, a proper written request for exclusion from the Securities Class in accordance with the requirements prescribed in the Notice shall be bound by the terms of the Stipulation, and by any judgment or determination of the Court affecting Securities Class Members, regardless of whether or not a Securities Class Member has submitted a Proof of Claim.

Settlement Administration

20. In order to be entitled to participate in the Settlement, if approved, a Securities Class Member, as defined in the Stipulation, must timely submit a valid Proof of Claim, substantially in the form annexed as Exhibit B hereto, to:

AOL Time Warner Securities Litigation
Settlement Administrator
c/o Gilardi & Co. LLC
P.O. Box 808061
Petaluma, CA 94975-8061
877 800-7852
Web site: www.gilardi.com

To be valid and accepted, a Proof of Claim must be postmarked no later than February 21, 2006.

21. Any Securities Class Member who does not timely submit a valid Proof of Claim shall not be entitled to share in any monies distributed under the Settlement, except as specifically ordered by the Court, and in any event shall be barred and enjoined from asserting any of the Released Claims and shall be bound by any judgment or determination of the Court affecting the Securities Class Members.

22. Once the Settlement Administrator has considered a timely submitted Proof of Claim, Lead Securities Counsel, through the Settlement Administrator, shall determine, based upon the Plan of Allocation, as approved by the Court, whether such claim is valid, deficient or rejected. For each claim determined to be either deficient or rejected, the Settlement Administrator shall send a deficiency letter or a rejection letter, as appropriate, describing the bases on which the claim was so determined. Each Securities Class Member who receives a deficiency or rejection letter shall have 30 days from the date of such letter to supply to the Settlement Administrator documentation and/or explanations sufficient to remedy the deficiency or rejection. Any Securities Class Member who receives a deficiency letter or a rejection letter and who fails to submit within that time documentation or explanation sufficient to remedy the deficiency or reason for rejection shall have such claim deemed finally rejected. Such finally rejected claims shall be submitted to the Court as rejected claims at such time as Lead Securities Plaintiff moves the Court for an Order approving distribution of monies pursuant to the Settlement, unless the recipient objects in writing to the deficiency letter or rejection letter, in which case the claim shall be submitted to the Court as a disputed claim.

23. If a Securities Class Member timely responds to a deficiency letter or rejection letter by providing an explanation and/or documentation in response to such a deficiency letter or rejection letter, Lead Securities Counsel, through the Settlement Administrator, shall determine whether such explanation and/or documentation is sufficient to remedy the deficiency or reason

for rejection. If Lead Securities Counsel, through the Settlement Administrator, determines that the explanation and/or documentation submitted in response to the deficiency letter or the rejection letter is sufficient, such claim shall be deemed a valid claim. If, on the other hand, Lead Securities Counsel, through the Settlement Administrator, determines that the explanation and/or documentation is not sufficient to remedy the deficiency or reason for rejection, such claim shall be deemed formally rejected. Such finally rejected claims shall be submitted to the Court as disputed claims at such time as Lead Securities Plaintiff moves the Court for an Order approving distribution of monies pursuant to the Settlement.

No Admission of Liability

24. Neither the Stipulation nor the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement is or may be deemed to be, or may be used as, an admission of, or evidence of, (a) the validity of any Released Claim, or of any wrongdoing or liability of the Released Persons; or (b) any fault or omission of any of the Defendants in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal.

Extension of Deadlines

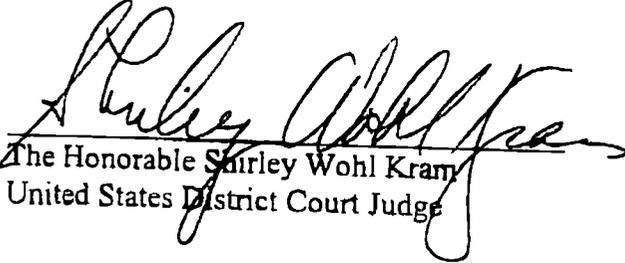
25. The Court may, for good cause, extend any of the deadlines set forth in this Order without further notice to the Securities Class.

Continuing Jurisdiction

26. The Court shall retain continuing jurisdiction over all matters related to the Settlement and its administration.

IT IS SO ORDERED.

Dated: September 30, 2005


The Honorable Shirley Wohl Kram
United States District Court Judge