

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)

**SUMMARY OF SETTLEMENT**

This summary is intended to provide only limited information concerning the \$2.65 billion Settlement of claims brought by Lead Securities Plaintiff on behalf of the Securities Class in this class action. The attached Stipulation of Settlement ("Stipulation") fully sets forth the terms of the Settlement. The Stipulation also defines the words in this summary that begin with capital letters.

**Statement of Plaintiff Recovery**

Pursuant to the Settlement described in the Stipulation, a Settlement Account consisting of at least \$2.65 billion in cash, plus accrued interest, will be established. Time Warner Inc. will pay \$2.4 billion and Ernst & Young LLP will pay \$100 million into the Settlement Account. The additional \$150 million set aside as part of Time Warner's settlement with the DOJ will also be placed in the Settlement Account as part of the Settlement. Lead Securities Plaintiff's damages expert estimates that approximately 3.4 billion of the outstanding shares of AOL and Time Warner common stock may have been damaged during the Securities Class Period as a result of the allegedly wrongful conduct. Based on the estimated number of damaged shares, as determined by Lead Securities Plaintiff's damages consultants, Lead Securities Plaintiff estimates that the average recovery per damaged share, based on the \$2.65 billion Settlement Account is \$0.78. Many of the 3.4 billion damaged shares were traded multiple times during the Securities Class Period and therefore, more than one investor may have a claim with respect to the same share. The number of Claimed Damaged Shares with Turnover is therefore higher, namely 11.315 billion. If every one of these Claimed Damaged Shares with Turnover received a recovery, then the average recovery per share would be \$0.23. A Securities Class Member's actual recovery will be a proportion of the distributed funds determined by that person's or entity's Recognized Claim as compared to the total Recognized Claims of all Securities Class Members who submit acceptable Proof of Claim and Release forms. A Securities Class Member may receive more or less than the average amounts referred to above, and may even recover nothing depending on, among other factors, when their shares were purchased or sold, the number of Securities Class Members who file valid claims, the amount of interest that has accrued on the available funds as of the time of the distribution, administrative costs, including the costs of notice and administration of the Settlement, the amount awarded by the Court for

attorneys' fees and costs, additional compensation approved by the Court for the Court-appointed Special Master(s), and the Plan of Allocation. In addition, the average recovery amounts referred to above may be further reduced by amounts that, under the Plan of Allocation, may be claimed by Securities Class Members who purchased certain call options, sold put options and/or purchased Time Warner bonds.

#### **Statement of Potential Outcome of Case**

The Parties disagree on both liability and damages and do not agree on the average amount of damages per share that would be recoverable if the Securities Class were to have prevailed on each claim alleged. The Defendants deny that they are liable to the Lead Securities Plaintiff or the Securities Class and deny that Lead Securities Plaintiff or the Securities Class have suffered any damages. The amount of damages increases or decreases significantly using different assumptions and methodologies. The issues on which the Parties disagree include, for example: (a) whether the statements made or facts allegedly omitted were materially false or misleading or otherwise actionable under the federal securities laws; (b) the appropriate economic models for determining the amounts by which AOL and Time Warner securities were artificially inflated (if at all) during the Securities Class Period; (c) the amounts by which AOL and Time Warner securities were artificially inflated (if at all) during the Securities Class Period; (d) the effect of various market forces on the trading prices of AOL and Time Warner securities at various times during the Securities Class Period; (e) the extent to which external factors, such as general market and industry conditions (for example, the bursting of the "Internet bubble"), influenced the trading prices of AOL and Time Warner securities at various times during the Securities Class Period; (f) the extent to which the various allegedly adverse material facts alleged to be misstated or omitted influenced (if at all) the trading prices of AOL and Time Warner common stock and/or bonds during the Securities Class Period; and (g) the materiality of the amount of AOL and Time Warner's restated advertising revenue as compared to the total revenue reported by AOL or Time Warner or the damages claimed.

#### **Statement of Attorneys' Fees and Costs Sought**

Lead Securities Counsel will apply to the Court for an award of attorneys' fees in connection with the Settlement on behalf of the law firms who combined their efforts to prosecute the Securities Class Action. The amount of fees requested will not exceed seven percent (7%) of \$2.5 billion, plus interest at the same rate as earned by the Settlement Sum. The requested fees are consistent with attorneys' fees awarded in contingent class actions of this size and complexity. Lead Securities Counsel will also apply for reimbursement of costs and expenses incurred in prosecuting the Securities Class claims, including the fees of Lead Securities Plaintiff's consultants and experts, in a total amount not to exceed \$5.6 million, or \$0.0016 per damaged share (\$0.0005 per share of Claimed Damaged Shares with Turnover), plus interest at the same rate as earned by the Settlement Sum. If approved by the Court, the total of the requested fees and expenses would not exceed an average of \$0.053 per damaged share, or \$0.0159 per share of Claimed Damaged Shares with Turnover. (See Statement of Plaintiff Recovery above.) Securities Class Counsel have expended considerable time and effort in the prosecution of this litigation (prosecuting the case through motions to dismiss, the completion of extensive discovery, and summary judgment briefing) on a contingent fee basis, and have advanced the expenses of litigation with the expectation that if they were successful in recovering money for the Securities Class, they would receive fees and be reimbursed for their expenses from the recovery.

### **Further Information**

Further information regarding the Securities Class Action and the Settlement may be obtained by contacting the Settlement Administrator at:

Gilardi & Co. LLC  
Settlement Administrator  
P.O. Box 808061  
Petaluma, CA 94975-8061  
(877) 800-7852  
[www.aoltimewarnersettlement.com](http://www.aoltimewarnersettlement.com)

### **Reasons for the Settlement**

Lead Securities Plaintiff believes that the Settlement is fair, reasonable and in the best interests of the Securities Class. The principal reason for the Settlement is to provide a benefit to the Securities Class now. The immediacy and certainty of this benefit must be compared to the risk that no recovery might be achieved after a contested trial and likely appeals, possibly years into the future. While Lead Securities Counsel were prepared to go to trial and were confident in their ability to present a case, they recognize that a trial is a risky proposition and that Lead Securities Plaintiff and the Securities Class might not have prevailed on all or any of their claims. In light of the amount of the Settlement and the immediacy of recovery to the Securities Class, and the significant risk that the Securities Class might receive no recovery at all if it pursued the case through trial and likely appeals, Lead Securities Plaintiff believes that the Settlement is fair, reasonable and adequate, and in the best interests of the Securities Class.

The claims advanced by the Securities Class involve numerous complex legal, financial, and accounting issues, requiring extensive expert testimony, which would add considerably to the expense and duration of the litigation. Even after extensive investigation and discovery, questions remain regarding the extent of Defendants' liability, if any, the extent to which a jury might find them liable, if at all, and the true measure of the Securities Class' damages, if any. In particular, Defendants have denied all of the allegations of wrongdoing asserted against them in the Complaint and have asserted a number of affirmative defenses. Defendants contend that none of their statements or omissions was materially false or misleading; that Defendants had no legal duty to disclose any of the facts that allegedly were omitted from their statements; that Defendants acted in good faith and in reliance on the advice of their professional advisors, and had no intent to defraud; and that the alleged losses were caused by market factors that were unrelated to any alleged fraud.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE AOL TIME WARNER, INC.  
SECURITIES & "ERISA" LITIGATION

MDL Docket No. 1500  
02 Civ. 5575 (SWK)

SEP 23

**STIPULATION OF SETTLEMENT**

This Stipulation of Settlement (the "Stipulation"), dated as of September 22, 2005, is made and entered into by and among the following Parties (as defined in Section IV.A.15. herein) to the securities class action ("Securities Class Action") in the above-entitled matter: (i) Lead Securities Plaintiff (as defined below), on behalf of itself and each of the Securities Class Members (as defined below), by and through its counsel of record in the Securities Class Action; and (ii) Defendants (as defined below), by and through their counsel of record in the Securities Class Action. This Stipulation is intended by the Parties, *inter alia*, to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof.

**I. THE SECURITIES CLASS ACTION**

**A. The Initial Filing, the MDL Action and Appointment of Lead Securities Plaintiff**

1. On July 18, 2002, and thereafter, thirty class action complaints were filed against AOL Time Warner Inc., subsequently named Time Warner Inc. (AOL Time Warner Inc. and Time Warner Inc. are together referred to herein as "Time Warner") and certain of its officers and directors, and Ernst & Young LLP ("Ernst & Young"), in the Southern District of New

York, the Eastern District of Virginia and the Eastern District of Texas, alleging violations of the Securities Act of 1933 and the Securities Exchange Act of 1934.

2. On September 9, 2002, the actions pending in the Southern District of New York were consolidated before Judge Shirley Wohl Kram, and on December 16, 2002, the Judicial Panel on Multidistrict Litigation transferred the cases in other jurisdictions to the Southern District of New York under the caption In re AOL Time Warner, Inc. Securities & "ERISA" Litigation, MDL Docket No. 1500.

3. On January 8, 2003, Judge Kram appointed the Minnesota State Board of Investment ("MSBI") as the sole Lead Securities Plaintiff, and appointed Hcins, Mills & Olson, P.L.C. as lead counsel for the Securities Class ("Lead Securities Counsel").

**B. Early Investigation and Filing of Amended Consolidated Complaint**

1. For purposes of drafting the Amended Consolidated Class Action Complaint ("Amended Complaint"), and while the discovery stay imposed by the Private Securities Litigation Reform Act ("PSLRA") was in place pending the Court's decision on Defendants' motions to dismiss, Lead Securities Counsel engaged in extensive informal discovery and investigation, including:

- Review and analysis of thousands of public filings, articles and analyst reports concerning America Online, Inc. ("AOL") and Time Warner, including all of AOL's and Time Warner's financial statements over a five-year period;
- Interviews of former employees of AOL and Time Warner and various third parties with the assistance of a nationally recognized outside investigative firm, as well as in-house investigators (171 potential witnesses were identified, and interviews were conducted of at least 22 individuals located throughout the United States);

- Retention of, and consultation with, an expert accounting and auditing firm to assist in analyzing AOL and Time Warner's public documents and accounting practices, as well as Ernst & Young's auditing practices;
- Retention of, and consultation with, economics experts to assist in analyzing certain Individual Defendants' alleged insider trading activity and alleged class-wide damages; and
- Legal research and analysis of numerous emerging securities law issues, as well as the multiple claims asserted in the Securities Class Action and potential defenses thereto.

2. On April 15, 2003, Lead Securities Plaintiff filed its 309-page Amended Complaint. The Amended Complaint alleged, inter alia, that AOL and Time Warner and certain of their current and former officers, directors and employees, Morgan Stanley & Co. Incorporated (sued as "Morgan Stanley & Co."), Citigroup Global Markets Inc. (sued under its former name, Salomon Smith Barney Inc.), Citigroup, Inc., Banc of America Securities LLC, JPMorgan Chase & Co. (sued under its former name, J.P. Morgan Chase & Co.) (collectively, the "Financial Institutions"), and AOL and Time Warner's auditor, Ernst & Young, violated Sections 11, 12 and 15 of the Securities Act of 1933 and Sections 10(b), 14(a) and 20(a) of the Securities Exchange Act of 1934 and Rules 10b-5 and 14(a) promulgated thereunder.

### **C. Motion Practice**

#### **1. Dismissal Motions and Motion to Amend**

(a) Nine different motions to dismiss the Amended Complaint were brought on a variety of grounds by: (1) Time Warner and certain Individual Defendants; (2) Ernst & Young; (3) Stephen Case; (4) David Colburn; (5) Eric Keller; (6) Steven Rindner; (7) Myer Berlow; (8)

Morgan Stanley & Co. Incorporated (sued as “Morgan Stanley & Co.”); and (9) the Financial Institutions who underwrote Time Warner bonds. All of these motions were fully briefed.

(b) On May 5, 2004, Judge Kram denied the bulk of Defendants’ motions to dismiss, but granted motions to dismiss certain of Lead Securities Plaintiff’s claims against some of the Individual Defendants and to dismiss all of Lead Securities Plaintiffs’ claims against all of the Financial Institutions. Soon thereafter, Lead Securities Plaintiff moved to file its Second Amended Consolidated Class Action Complaint (“Second Amended Complaint”), supplementing its allegations against some of the dismissed Individual Defendants. After full briefing, the Court granted, in large part, Lead Securities Plaintiff’s motion to amend. The Second Amended Complaint also alleged that Defendants issued false and misleading statements and omitted material facts concerning AOL’s financial condition and performance while engaged in a systematic and fraudulent scheme to materially inflate the publicly reported AOL advertising revenue and, in turn, the value of AOL and Time Warner stock.

(c) On April 8, 2005, based on some of the formal discovery conducted in this Securities Class Action (see below), Lead Securities Plaintiff moved to file a Third Amended Consolidated Class Action Complaint (“Third Amended Complaint”) which, *inter alia*, included additional Defendants and allegations related to Lead Securities Plaintiff’s claims against Defendants under Section 11 of the Securities Act and included additional allegations relating to AOL’s use of bulk subscription programs and AOL-Europe, including allegations regarding Goldman Sachs. This motion was fully briefed and was under advisement by the Court at the time the Parties reached an agreement in principle to settle.

2. Summary Judgment. On July 30, 2004, Defendants filed a motion for summary judgment on loss causation. The matter was fully briefed, with each side submitting expert

affidavits. It was under advisement by the Court at the time the parties reached an agreement in principle to settle.

3. Discovery Motion Practice. Lead Securities Counsel analyzed and met and conferred regarding privilege logs produced by Time Warner and drafted a motion to compel the documents as to which privilege had been asserted. Lead Securities Counsel also met and conferred and prepared motions to compel additional documents from both Time Warner and Ernst & Young.

**D. Formal Discovery**

1. Document Analysis and Deposition Preparation. With Judge Kram's May 5, 2004 order denying the bulk of the dismissal motions, formal discovery was allowed to commence. During the discovery phase of the Securities Class Action, Lead Securities Counsel, with the assistance of other Securities Class Counsel working at its direction, diligently and extensively investigated the alleged misconduct pertaining to each of the Defendants. This investigation included:

- Serving discovery requests upon all Defendants (and reviewing and analyzing Defendants' responses);
- Serving subpoenas, including requests for documents, on sixty-two third-parties (and reviewing and analyzing their responses);
- Engaging in extensive discussions and negotiations with opposing and third-party counsel regarding the timing, manner and terms of document production;
- Retaining additional accounting and auditing experts to assist in analyzing the accounting for AOL's advertising revenue and other accounting and auditing issues;

- Engaging in comprehensive and detailed preparation for the depositions of Defendants, AOL and Time Warner current and former employees, Ernst & Young current and former partners and employees, and various third-parties ;
- Reviewing and analyzing over fifteen million pages of documents and emails produced by Defendants and third-parties, including those produced to the Securities and Exchange Commission (“SEC”) and the Department of Justice (“DOJ”) during the course of their investigations; and
- Reviewing and analyzing hundreds of individual transactions between AOL and/or Time Warner and third parties, and the accounting for those transactions.

2. Class Discovery. Lead Securities Plaintiff responded to numerous document requests and interrogatories served by Defendants as part of their class certification discovery, and engaged in substantial negotiations and met and conferred regarding the production of additional documents from Lead Securities Plaintiff. In addition, Time Warner served nine putative class members with discovery requests. In response, Lead Securities Plaintiff filed a Motion for a Protective Order to Preclude Defendant Time Warner from Taking Discovery of Putative Class Members. The motion was fully briefed and under advisement by the Special Master at the time the parties reached an agreement in principle to settle.

3. Protective Order. The Parties’ counsel engaged in several months of negotiations regarding the parameters of a protective order, the terms of which were agreed to in June 2005.

4. Coordination of Discovery. Counsel for the Parties engaged in more than a year of negotiations amongst themselves, as well as with plaintiffs in numerous related federal actions and individual state cases, regarding formal coordination of discovery.

**E. Settlement**

1. On September 22, 2004, the Court appointed Paul D. Wachter, Esq. as Special Master to the Securities Class Action. The Special Master's responsibilities included acting as a settlement mediator. The mediation before Special Master Wachter took place on both coasts, with face-to-face meetings starting January 18, 2005, and continuing once and sometimes twice a month thereafter through July 8, 2005. Extensive presentations and written submissions were made by the Parties regarding liability and damages throughout the mediation process. In addition, several telephone conferences were conducted with the Special Master as part of the mediation.

2. After extensive arm's-length and hard-fought negotiations, conducted under the auspices of Special Master Wachter, a Memorandum of Understanding was entered into on July 29, 2005, which led to the Parties' agreement on the terms embodied in this Stipulation.

## **II. CLAIMS OF LEAD SECURITIES PLAINTIFF AND BENEFITS OF SETTLEMENT**

Lead Securities Plaintiff believes that the claims asserted in the Securities Class Action have merit and that the evidence developed to date in the Securities Class Action supports the claims asserted. Lead Securities Plaintiff asserts, and believes it would present supporting evidence at trial, that Defendants, inter alia, issued false and misleading statements and omitted material facts concerning important financial metrics, including, among other things, AOL advertising revenue and subscription numbers; and engaged in a systematic and fraudulent scheme to materially inflate important financial metrics, including among other things, AOL advertising revenue and subscription numbers reported in AOL's and Time Warner's publicly disclosed financial statements. Lead Securities Plaintiff also believes that it would present evidence at trial showing, inter alia, that Defendants' actions artificially inflated the value of

AOL and Time Warner stock during the Securities Class Period and caused injury to Lead Securities Plaintiff and members of the Securities Class.

Lead Securities Counsel recognizes and acknowledges the expense and length of continued proceedings necessary to prosecute the Securities Class Action through trial and through appeals. Lead Securities Counsel also has taken into account the uncertain outcome and the risk of any litigation, especially in complex actions such as the Securities Class Action, as well as the difficulties and delays inherent in such litigation. Lead Securities Counsel also is mindful of the inherent problems of proof and possible defenses to the violations asserted in the Securities Class Action, including the defenses asserted by Defendants.

In light of the foregoing, Lead Securities Plaintiff agrees with Lead Securities Counsel and believes that the settlement ("Settlement") set forth in this Stipulation confers substantial benefits upon the Securities Class and its members. Lead Securities Plaintiff, based on the evaluation of Lead Securities Counsel, has determined that the Settlement set forth in the Stipulation is fair, adequate and reasonable to and in the best interests of the Lead Securities Plaintiff and the Securities Class.

Lead Securities Plaintiff enters into this Stipulation based upon, among other things, the Parties' agreement herein that, to the fullest extent permitted by law, neither this Stipulation nor any of its terms or provisions, nor any of the negotiations or proceedings connected therewith, shall be offered as evidence in the Securities Class Action or in any pending or future civil, criminal, or administrative action or other proceeding to establish any liability or admission by any of Lead Securities Plaintiff's Released Persons (as defined below) or any other matter adverse to the Lead Securities Plaintiff's Released Persons, except as expressly set forth herein.

**III. DEFENDANTS' STATEMENT AND DENIALS OF WRONGDOING AND LIABILITY**

Defendants have denied and continue to deny liability with respect to each and all of the claims alleged by Lead Securities Plaintiff on behalf of the Securities Class.

Nonetheless, Defendants have concluded that further conduct of the Securities Class Action would be protracted and expensive, and it is desirable that the Securities Class Action be fully and finally settled in the manner and upon the terms and conditions set forth in this Stipulation to limit further expense, inconvenience and distraction; to dispose of the burden of protracted litigation; and to permit the operation of Time Warner's and Ernst & Young's business without further distraction and diversion of the companies' executives and other personnel with respect to the matters at issue in the Securities Class Action. Defendants also have taken into account the uncertainty and risks inherent in any litigation, especially in complex cases like this Securities Class Action.

Defendants have, therefore, determined that it is desirable and beneficial to them that the Securities Class Action be settled in the manner and upon the terms and conditions set forth in this Stipulation. Defendants enter into this Stipulation without in any way acknowledging any fault, liability, or wrongdoing of any kind. There has been no adverse determination by any court or otherwise against any of the Defendants on the merits of the claims asserted by the Lead Securities Plaintiff. Neither this Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by any of the Defendants of the merit or truth of any of the allegations or wrongdoing of any kind on the part of any of the Defendants. Defendants enter into this Stipulation based upon, among other things, the parties' agreement herein that, to the fullest extent permitted by law, neither this Stipulation nor any of its terms or provisions, nor any of the negotiations or proceedings connected therewith, shall be offered as evidence in the Securities Class Action or in any pending or future civil, criminal, or administrative action or other proceeding to establish any liability or admission by any of the Defendants' Released Persons (as defined below) or any

other matter adverse to any of the Defendants' Released Persons, except as expressly set forth herein.

#### **IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT**

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Lead Securities Plaintiff (for itself and the Securities Class members), by and through Lead Securities Counsel, and Defendants, by and through their counsel of record, that, subject to the approval of the Court, the Securities Class Action and the Released Claims shall be finally and fully compromised, settled and released, and the Securities Class Action shall be dismissed with prejudice, upon and subject to the terms and conditions of the Stipulation, as follows:

##### **A. Definitions**

As used in this Stipulation, the following terms have the meanings specified below:

1. "Authorized Claimant" means any Securities Class Member whose claim for recovery is allowed pursuant to the terms of this Stipulation.
2. "Claimant" means any Securities Class Member who files a Proof of Claim and Release within such time as the Court shall prescribe, and in such form and manner and with such content as set forth in Exhibit A hereto, or in such form and manner and with such content as the Court shall otherwise prescribe.
3. "Court" means the Honorable Shirley Wohl Kram, or if she is unavailable, another judge of the United States District Court for the Southern District of New York.
4. "Defendants" means Time Warner Inc., f/k/a AOL Time Warner Inc., America Online, Inc., Historic Time Warner Inc., f/k/a Time Warner Inc., Stephen M. Case, Robert W. Pittman, J. Michael Kelly, David M. Colburn, Eric Keller, Joseph A. Ripp, Stephen Rindner, Gerald M. Levin, Wayne H. Pace, Paul T. Cappuccio, Kenneth J. Novack, Barry Schuler, Richard D. Parsons, Miles R. Gilburne, James W. Barge, Daniel F. Ackerson, Stephen F. Bollenbach, Frank J. Caufield, Franklin D. Raines, Myer Berlow, Ernst & Young LLP, Morgan Stanley & Co. Incorporated, Citigroup Global Markets Inc., Citigroup, Inc., Banc of America Securities LLC and JP Morgan Chase & Co..

5. "Effective Date" means the first date by which all of the events and conditions specified in Section IV.H.1. of this Stipulation have been met and have occurred.

6. "Entity" means any non-natural Person.

7. "Escrow Agent" means Wells Fargo Bank, N.A. in Minneapolis, Minnesota.

8. "Fee and Expense Application" means Lead Securities Counsel's application for Securities Class Counsel's attorneys' fees and reimbursement of costs and expenses.

9. "Final" means: (a) the date of final affirmance on an appeal from the Judgment, the expiration of the time for a petition for a writ of certiorari to review the Judgment and, if certiorari is granted, the date of final affirmance of the Judgment following review pursuant to that grant; or (b) the date of final dismissal of any appeal from the Judgment or the final dismissal of any proceeding on certiorari to review the Judgment; or (c) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from the Judgment, *i.e.*, thirty (30) days after entry of the Judgment (or, if the date for taking an appeal or seeking review shall be extended beyond this time by order of the Court, by operation of law or otherwise, or if such extension is requested, the date of expiration of any extension if any appeal or review is not sought); or (d) if the Court enters a judgment that is not substantially in the form and with the content set forth in Exhibit B hereto (an "Alternative Judgment") and neither Lead Securities Plaintiff, Time Warner nor Ernst & Young elects to terminate the Settlement pursuant to Section IV.H.4. of this Stipulation, the date that such Alternative Judgment becomes final as defined in parts (a) to (c) above and no longer subject to appeal or review. Any proceeding or order, or any appeal or petition for a writ of certiorari pertaining solely to any plan of allocation and/or application for attorneys' fees, costs, or expenses shall not in any way delay or preclude the Judgment from becoming final.

10. "Individual Defendants" means Stephen M. Case, Robert W. Pittman, J. Michael Kelly, David M. Colburn, Eric Keller, Joseph A. Ripp, Stephen Rindner, Gerald M.

Levin, Wayne H. Pace, Paul T. Cappuccio, Kenneth J. Novack, Barry Schuler, Richard D. Parsons, Miles R. Gilburne, James W. Barge, Daniel E. Ackerson, Stephen F. Bollenbach, Frank J. Caulfeld, Franklin D. Raines and Myer Berlow.

11. "Judgment" means the judgment to be rendered by the Court dismissing the Securities Class Action with prejudice, substantially in the form and with the content as set forth in the Final Order Approving Settlement and Dismissing the Action attached hereto as Exhibit B.

12. "Lead Securities Counsel" means Heins Mills & Olson, P.L.C.

13. "Lead Securities Plaintiff" means the Minnesota State Board of Investment.

14. "Notice" means 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, which is attached as Exhibit C hereto.

15. "Parties" means, collectively, each of the Defendants and the Lead Securities Plaintiff on behalf of itself and the other members of the Securities Class.

16. "Person" means an individual, corporation (including all divisions and subsidiaries), partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or political subdivision or agency, and/or any business or legal entity, and the spouse, heir, predecessor, successor, representative, or assign of any such entity.

17. "Plan of Allocation" means a plan or formula of allocation of the Settlement Sum prepared by Lead Securities Counsel for approval by the Court and attached to this Stipulation as Exhibit D (and which is referred to and attached to the Notice to be sent to Securities Class Members in connection with the Settlement) whereby the Net Settlement Sum (as defined below), the DOJ Funds, plus accrued interest, and if made available, the SEC Fair Fund (or portion thereof), plus accrued interest, shall be distributed to Authorized Claimants.

18. “Released Claims” shall collectively mean any and all claims, debts, demands, rights, or causes of action or liabilities (including, but not limited to, any claims for damages, interest, attorneys’ fees, expert or consulting fees, and any other costs, expenses or liability), whether based on federal, state, local, statutory or common law or any other law, rule or regulation (including, but not limited to, claims for violation of federal or state securities laws, negligence, gross negligence, indemnification, breach of duty of care and/or breach of duty of loyalty, fraud, misrepresentation, breach of fiduciary duty, negligent misrepresentation, unfair competition, insider trading, professional negligence, malpractice, mismanagement, corporate waste, or breach of contract), whether fixed or contingent, accrued or unaccrued, liquidated or not liquidated, at law or in equity, matured or not matured, including both known claims and Unknown Claims, (i) that have been asserted in this Securities Class Action against any of the Defendants’ Released Persons, or (ii) that could have been asserted in this Securities Class Action against any of the Defendants’ Released Persons, which arise out of, or are based upon, or relate to the allegedly false financial statements, the scheme to inflate revenues, as well as the other allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in any of the complaints filed by the Lead Securities Plaintiff in this Securities Class Action, or which arise out of, or are based upon, the purchase or exchange or other acquisition of AOL and Time Warner stock or options to purchase or sell AOL and Time Warner stock, or the purchase of Time Warner bonds, during the Securities Class Period. Released claims do not include claims to enforce the Settlement. Released claims also do not include any existing derivative claims, any existing books and records actions, any amendments or supplements thereto (including related to potential third parties) (together “the Actions”) or any current or future supplemental, ancillary, or third-party proceedings arising out of the Actions; and any claims brought under the Employees Retirement Income Security Act (“ERISA”), including the claims which have been asserted in *In re AOL Time Warner ERISA Litigation*, Civil Action No. 02 CV 8853 (SWK).

19. “Released Defendants’ Claims” means any and all claims, rights, or causes of action or liabilities whatsoever, whether based on federal, state, local, statutory, or common law or any other law, rule, or regulation, including both known claims and Unknown Claims, that have been or could have been asserted in the Securities Class Action or any forum by Defendants’ Released Persons or any of them or the successors and assigns of any of them against any of the Lead Securities Plaintiff’s Released Persons, including, Lead Securities Plaintiff, Securities Class Members, Lead Securities Counsel or any other Securities Class Counsel, or Securities Plaintiffs or Securities Plaintiffs’ Counsel, which arise out of or relate in any way to the institution, prosecution, or settlement of the Securities Class Action (except for claims to enforce the Settlement).

20. “Released Persons” means the “Defendants’ Released Persons” and the “Lead Securities Plaintiff’s Released Persons.”

a. “Defendants’ Released Persons” means each and all of the Defendants and their respective past or present directors, officers, employees, partners, principals, agents, underwriters, insurers, co-insurers, reinsurers, controlling shareholders, any Entity in which the Defendant and/or any member(s) of any Defendant’s immediate family has or have a controlling interest, attorneys, accountants, auditors, banks, personal or legal representatives, predecessors, successors, parents, subsidiaries, divisions, joint ventures, assigns, spouses, heirs, associates, related or affiliated Entities, any members of their immediate families, or any trust of which any Defendant is the trustee or settler or which is for the benefit of any Defendant and/or member(s) of his family.

b. “Lead Securities Plaintiff’s Released Persons” means the Lead Securities Plaintiff, and all other Securities Class Members, Securities Class Counsel, including Lead Securities Counsel, Securities Class Plaintiffs and Securities Plaintiffs’ Counsel, and the past, present or future officers, partners, members, board members, employees and agents of any of the foregoing and their

predecessors, successors and assigns, and the heirs, administrators, executors and personal representations of each, their respective present and former parents, subsidiaries, divisions and affiliates, their present and former attorneys, accountants, insurers and agents of each of them and the predecessors, heirs, successors and assigns of each and any Person in which the Lead Securities Plaintiff, any other Securities Class Member, Lead Securities Counsel, or any other Securities Class Counsel and/or any Securities Plaintiff or any Securities Plaintiffs' Counsel has or had a controlling interest.

21. "Securities Class" means 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. Lead Securities Plaintiff will seek certification from the Court of the Securities Class for settlement purposes only at the same time Lead Securities Plaintiff requests preliminary approval of the Settlement.

22. “Securities Class Counsel” means Lead Securities Counsel and all other counsel who have acted at Lead Securities Counsel’s direction in this matter on behalf of the Securities Class, or who performed services for Securities Plaintiffs in any securities class action consolidated herewith, which, in Lead Counsel’s opinion, benefited the Class.

23. “Securities Class Member” means a member of the Securities Class who does not submit a timely, and proper, signed request for exclusion in accordance with the terms of the Notice.

24. “Securities Class Period” means the period beginning January 27, 1999 through August 27, 2002, inclusive.

25. “Securities Plaintiffs” means each of the plaintiffs who is a Securities Class Member and filed a securities class action complaint which has been consolidated before or transferred to the Court in the above-captioned matter, including, but not limited to, the Lead Securities Plaintiff.

26. “Securities Plaintiffs’ Counsel” means counsel who have appeared as counsel for any of the Securities Plaintiffs, including, but not limited to, Lead Securities Counsel.

27. “Settlement Account” means an interest-bearing escrow account at Wells Fargo Bank, N.A. in Minneapolis, Minnesota into which the Settlement Sum, the DOJ Funds and the SEC Fair Fund (to the extent the SEC Fair Fund or a portion thereof is made available for distribution pursuant to this Stipulation), are to be deposited.

28. “Settlement Administrator” means Gilardi & Co. LLC.

29. “Settlement Sum” means the principal amount of \$2.5 billion in cash, plus any accrued interest thereon.

30. “Summary Notice” means the Summary 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, which is attached as Exhibit E hereto.

31. "Unknown Claims" means any Released Claims which the Lead Securities Plaintiff or any Securities Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of the Defendants' Released Persons, and any Released Defendants' Claims that any Defendant does not know or suspect to exist in his or its favor at the time of the release of the Lead Securities Plaintiff's Released Persons, which, if known by him, her, or it, might have affected his, her, or its decision(s) with respect to this Settlement. With respect to any and all Released Claims and Released Defendants' Claims, the Parties stipulate and agree that, upon the Effective Date, Lead Securities Plaintiff and Defendants expressly waive and relinquish, and the Securities Class Members and Defendants Released Persons shall be deemed to have, and by operation of the Judgment shall have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of § 1542 of the California Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

The Released Persons shall be deemed to waive, and upon the Effective Date and by operation of the Judgment shall have waived, any and all provisions, rights, and benefits conferred by any law of the United States or any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code. The Lead Securities Plaintiff and the Securities Class Members may hereafter discover facts in addition to or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Claims, but each of them hereby stipulates and agrees that the Lead Securities Plaintiff does settle and release, and each Securities Class Member shall be deemed to settle and release, and upon the Effective Date and by operation of the Judgment shall have settled and released, fully, finally, and forever, any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or which heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is

negligent or intentional and with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts. Similarly, Defendants and Defendants' Released Persons may hereafter discover facts in addition to or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of Released Defendants' Claims, but each of them hereby stipulates and agrees that Defendants do settle and release, and each Defendants' Released Person shall be deemed, upon the Effective Date and by operation of the Judgment, to have fully, finally, and forever settled and released any and all Released Defendants' Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Parties acknowledge that the foregoing waiver was bargained for and a key element of the Settlement, of which this release is a part.

**B. Settlement Sum**

**1. Settlement Sum**

a. Defendants Time Warner and Ernst & Young shall pay into the Settlement Account the Settlement Sum as follows: (a) Defendant Time Warner shall pay \$2.4 billion (the "Time Warner Funds"); and (b) Defendant Ernst & Young shall pay \$100 million (the "E&Y Funds"). The Settlement Sum shall be deposited by Time Warner and Ernst & Young into the Settlement Account, at Wells Fargo Bank, N.A. in Minneapolis, Minnesota by wire transfer according to the instructions to be supplied by Lead Securities Counsel.

b. The payments made by Defendants Time Warner and Ernst & Young pursuant to the Settlement are not, and shall not be considered, the payment or compromise of a claim for punitive damages or a penalty or fine

under state or federal laws, rules or regulations or any other applicative statute or provision. Rather, they are, and shall be considered, payments to compromise claims asserted against Defendants for compensatory and equitable relief.

2. Timing of Defendants' Payment of Settlement Sum. Time Warner and Ernst & Young shall each deposit its respective portion of the Settlement Sum into the Settlement Account within five (5) business days after the Court preliminarily approves the Settlement. No funds are to be paid or withdrawn from the Settlement Account absent a Court order, except as is consistent with the terms of this Stipulation for the payment of notice and settlement administration, taxes on the Settlement Account, tax form preparation, and escrow fees and costs, or as otherwise provided in this Stipulation.

3. The DOJ Funds and the SEC Fair Fund. Time Warner has reached a settlement with the Department of Justice ("DOJ") which provided for the payment by Time Warner of \$150 million in connection with certain of the same conduct alleged in the Securities Class Action. It has also reached a related settlement with the SEC providing for the payment of \$300 million. As part of the Settlement, Time Warner will direct that the \$150 million paid as part of the DOJ settlement, plus any interest actually accrued thereon (the "DOJ Funds"), be made available to the Securities Class (in addition to the Settlement Sum) as further consideration for the Release of Securities Class claims. Time Warner shall take all necessary steps to effect the transfer of the DOJ funds for that purpose so that the DOJ Funds are deposited in the Settlement Account within five (5) business days after the Court preliminarily approves the Settlement. Time Warner shall use its best efforts to reach agreement with the SEC that the entire \$300 million paid as part of the SEC settlement, plus any interest actually accrued thereon (the "SEC Fair Fund"), be transferred to the Settlement Account for distribution to the Securities Class, without additional payment of funds to the SEC by Defendants. The Settlement is not contingent upon the success of those efforts. If those efforts are successful, Time Warner shall seek a court order in the related SEC action directing that the SEC Fair Fund (or any portion thereof made available for distribution as part of the Securities Class settlement) be transferred to

and deposited in the Settlement Account within thirty (30) business days of preliminary approval of the Settlement for distribution to the Securities Class.

**C. Payments from the Settlement Account**

1. The Escrow Agent

a. The Escrow Agent shall invest the Settlement Sum, and the DOJ Funds and the SEC Fair Fund (or portion thereof) made available for distribution as part of the Securities Class Settlement, 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.

b. The Escrow Agent shall not disburse the Settlement Sum, or the DOJ Funds and the SEC Fair Fund (or portion thereof) made available for distribution as part of the Securities Class Settlement, except as provided in the escrow agreement, the Stipulation, or by an order of the Court (consistent with the terms of the Stipulation).

c. Subject to such further order and direction by the Court as may be necessary, the Escrow Agent is authorized to execute such transactions on behalf of the Securities Class Members as are consistent with the terms of the Stipulation, and the escrow agreement.

d. All funds held by the Escrow Agent shall be deemed and considered to be in the custody of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed

pursuant to the Stipulation and/or further order(s) of the Court consistent with the terms of the Stipulation.

e. The Escrow Agent may pay from the Settlement Account at any time, in accordance with the terms of the escrow agreement, the costs and expenses of the Escrow Agent; the Taxes and Tax Expenses as defined in Section IV.C.2.c.; and the costs and expenses incurred in connection with providing notice to the Securities Class, locating Securities Class Members, soliciting Securities Class claims, assisting with the filing of claims, administering and distributing the Settlement Sum to members of the Securities Class, and processing Proofs of Claim, including, without limitation, the actual costs of publication, printing and mailing the Notice, reimbursements to nominee owners for forwarding notice to their beneficial owners, and the administrative expenses incurred and fees charged by the Settlement Administrator in connection with providing notice and processing the submitted claims.

## 2. Taxes

a. The Parties and the Settlement Administrator agree to treat the Settlement Account as being at all times a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B-1. In addition, the Settlement Administrator and, as required, Defendants shall jointly and timely make the “relation-back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such election shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Settlement Administrator to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties and thereafter to cause the appropriate filing to occur.

b. For the purposes of § 468B of the Internal Revenue Code of 1986, and Treas. Reg. § 1.468B, the “administrator” shall be the Settlement

Administrator. The Settlement Administrator shall timely and properly file all informational and other tax returns (and other documents), and otherwise comply with tax reporting requirements, necessary or advisable with respect to the Settlement Account (including, without limitation, the returns described in Treas. Reg. § 1.468B-2(l)). Such returns (as well as the election described in Section IV.C.2.a. of this Stipulation) shall be consistent with this Section IV.C.2.b. of this Stipulation and in all events shall reflect that all taxes (including, without limitation, any estimated taxes, interest, additions to tax or penalties) on the income earned by the Settlement Account shall be paid out of the Settlement Account as provided in Section IV.F. hereof.

c. All (i) taxes (including, without limitation, any estimated taxes, interest, additions to tax or penalties) arising with respect to the income earned by the Settlement Account and withholding taxes and the distribution or payments made by the Settlement Account or otherwise owed by the Settlement Account (“Taxes”), and (ii) expenses and costs incurred in connection with the operation and implementation of this Section IV.C.2., including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns, and otherwise complying with (or failing to comply with) the tax reporting requirements, described in this Section IV.C.2. (“Tax Expenses”), shall be paid out of the Settlement Account by the Escrow Agent in accordance with the escrow agreement; in all events the Released Persons shall not have any responsibility for, or any liability whatsoever with respect to, the Taxes, the Tax Expenses, or the filing of any informational and other tax returns or other documents with the Internal Revenue Service or any other foreign, state or local taxing authority, or other tax reporting requirements. The Settlement Administrator shall indemnify and hold the Released Persons harmless for Taxes and Tax Expenses (including,

without limitation, taxes (including, without limitation, any estimated taxes, withholding taxes, interest, additions to tax or penalties) payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement and shall be timely paid by the Escrow Agent out of the Settlement Account without prior order from the Court, and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(l)(2)); the Released Persons are not responsible and shall have no liability therefore, or for any reporting requirements that may relate thereto. The Parties hereto agree to cooperate with the Settlement Administrator and Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Section IV.C.2.c.

3. Termination

In the event that this Stipulation is not approved, or is terminated, is cancelled, or fails to become effective pursuant to Section IV.H. (in its entirety or just as to particular Parties), the Settlement Sum (including any tax refund attributable to the Settlement Sum), less any expenses and costs which have been paid or incurred for notice and administration of the Settlement pursuant to Section IV.C.1. herein, any Taxes paid or incurred pursuant to Section IV.C.2. herein with respect to the Settlement Sum or Tax Expenses paid or incurred pursuant to Section IV.C.2. herein with respect to the Settlement Account, and any fees or costs paid or incurred in connection with the establishment and maintenance of the Settlement Account, shall be refunded to Time Warner and/or Ernst & Young in proportion to the amount they paid into the Settlement Account. If the Settlement is terminated in its entirety, the DOJ Funds and the SEC Fair Fund (or portion thereof), if any (including any tax refund attributable to those monies), plus any accrued interest thereon, less any Taxes paid or incurred pursuant to Section IV.C.2. herein with

respect to those monies, shall be returned to the DOJ and SEC, respectively. At the request of Time Warner and/or Ernst & Young, and after obtaining approval of Lead Securities Plaintiff, the Settlement Administrator or its designee shall apply for any tax refund owing to the Settlement Account and the Escrow Agent shall pay the proceeds of any tax refund, less the costs of obtaining the tax refund, consistent with the terms of this Section IV.C.3.

**D. Notice Order, Notice, and Settlement Hearing**

1. Lead Securities Plaintiff shall present this Stipulation together with its exhibits to the Court and shall apply for entry of an order, substantially in the form and with the content set forth in Exhibit F hereto, requesting preliminary approval of the Settlement set forth in this Stipulation ("Preliminary Approval Order"), including approval for the mailing of a Notice substantially in the form and with the content set forth in Exhibit C, and the publication of a Summary Notice substantially in the form and with the content set forth in Exhibit E. In addition, Lead Securities Plaintiff will seek certification of the Securities Class for settlement purposes only. The Parties shall use their best efforts to present such matters to the Court for hearing on or before September 30, 2005. In the event that the Parties are unable to do so, then they shall present such matters to the Court promptly after execution of this Stipulation, but in no event later than ten (10) calendar days after this Stipulation is signed (unless such time is extended by the written agreement of Lead Securities Counsel and counsel for Defendants).

2. The Parties shall request that after the notice described above is given, the Court hold the hearing to finally approve the Settlement as set forth herein ("Final Approval Hearing"). At the Final Approval Hearing, Lead Securities Counsel also will seek approval from the Court of the Plan of Allocation and the Fee and Expense Application.

3. Subject to the approval of the Court, the schedule for provision of Notice to Securities Class Members and the Final Approval Hearing, including the hearing on the Fee and Expense Application and Plan of Allocation, shall be as follows:

a. Lead Securities Counsel or its designated agents shall cause Notice to be provided to the Securities Class, in the manner set forth in the Preliminary Approval Order or as otherwise ordered by the Court, on or before fifteen (15) calendar days after preliminary approval of the Settlement.

b. The deadline for requests for exclusion from the Securities Class and for objections to the Settlement, the Fee and Expense Application or the Plan of Allocation, shall be seventy-five (75) calendar days after the last date to provide Notice as set forth above, or such other date as the Court may order.

c. The Final Approval Hearing, including the hearing on the Fee and Expense Application and the Plan of Allocation, shall be thirty (30) calendar days after the deadline for objections to the Settlement, the Fee and Expense Application or the Plan of Allocation, or such other date as the Court may order.

**E. Releases**

1. By operation of the Judgment, upon the Effective Date, the Lead Securities Plaintiff and each of the Securities Class Members (who do not include Persons that elect to exclude themselves from the Securities Class), on behalf of themselves and their respective heirs, executors, administrators, successors and assigns shall, with respect to each and every Released Claim (including Unknown Claims as defined herein), waive, release, forever discharge and dismiss and agree not to institute, maintain or prosecute any or all Released Claims against any or all of the Defendants' Released Persons, and shall be permanently and finally enjoined, without the necessity of posting a bond, from commencing or prosecuting any actions or other proceedings asserting any of the Released Claims against any of the Defendants' Released Persons.

2. Upon the Effective Date, each of the Defendants' Released Persons, on behalf of themselves and their respective heirs, executors, administrators, successors and assigns,

shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged the Lead Securities Plaintiff's Released Persons from all claims (including Unknown Claims as defined herein) arising out of, relating to, or in connection with the institution, prosecution, assertion, or resolution of the Securities Class Action or the Released Defendants' Claims and shall be permanently and finally enjoined, without the necessity of posting a bond, from commencing or prosecuting any actions or other proceedings asserting any such claims against Lead Securities Plaintiff's Released Persons.

3. By operation of the Judgment, upon the Effective Date, Time Warner and Ernst & Young shall mutually release each other from any claims asserted in the Securities Class Action.

4. Except as otherwise expressly provided in this Stipulation, the Parties and the Released Persons shall each bear their own respective attorneys' fees, expenses, and costs incurred in connection with the conduct and settlement of the Securities Class Action, and the preparation, implementation, and performance of the terms of this Stipulation.

5. Only those Securities Class Members filing valid and timely Proofs of Claim and Release shall be entitled to participate in the Settlement and to receive any distributions from the Settlement Account. The Proofs of Claim and Release to be executed by the Securities Class Members shall release all Released Claims against the Defendants' Released Persons, and shall be substantially in the form and with the content set forth in Exhibit A hereto.

**F. Administration and Calculation of Claims, Final Awards, and Supervision and Distribution of Settlement Sum**

1. Lead Securities Counsel, or its authorized agents, acting on behalf of the Securities Class, has formulated a Plan of Allocation of the Net Settlement Sum (as defined below), the DOJ Funds, and if made available, the SEC Fair Fund (or portion thereof) to the

Securities Class Members, subject to Court approval. The Settlement Administrator, subject to the supervision, direction, and approval of the Court, shall administer and calculate the claims submitted by Securities Class Members and shall oversee distribution of the Net Settlement Sum, the DOJ Funds and, if made available, the SEC Fair Fund (or portion thereof) that are finally awarded by the Court to Authorized Claimants.

2. The Settlement Sum shall be applied as follows:

a. To pay all unpaid costs and expenses actually incurred in connection with providing notice to the Securities Class, including locating members of the Securities Class, soliciting Securities Class claims, assisting with the filing of claims, administering and distributing the Settlement Sum to the Securities Class, processing Proofs of Claim and Release and paying escrow, or Settlement Administrator fees and costs, if any;

b. To pay Taxes and Tax Expenses;

c. To pay Securities Class Counsel's attorneys' fees, expenses, and costs, with interest thereon (the "Fee and Expense Award"), if and to the extent allowed by the Court;

d. To pay escrow fees and costs associated with the Settlement Account that will hold the Settlement Sum until distribution;

e. To create a total reserve fund of \$250,000 in the Settlement Account to be used to adjust for errors in payment, pay possible late claims, meet other contingencies, and make equitable adjustments regarding claims. Any unused portion of the reserve fund shall be contributed to one or more appropriate

national public interest, organizations or charities, approved by the Court, that directly or indirectly benefit investors;

f. To pay additional compensation approved by the Court for the Court-appointed Special Master(s);

g. To pay the amount, if any, to Time Warner and/or Ernst & Young to reduce the Settlement Sum pursuant to Section IV.H.5. of this Stipulation and the Supplemental Agreement referred to in that Section; and

h. To distribute the balance of the Settlement Sum (the "Net Settlement Sum") to Authorized Claimants as allowed by this Stipulation, the Plan of Allocation, or the Court.

3. After the Effective Date and subject to such further approval and further order(s) of the Court as may be required, the Net Settlement Sum, the DOJ Funds, including accrued interest thereon, and, if made available, the SEC Fair Fund (or portion thereof), including accrued interest thereon, shall be distributed to Authorized Claimants, subject to and in accordance with the following:

a. Within one-hundred and twenty (120) days after the mailing of the Notice or such other time as may be set by the Court, each Person claiming to be an Authorized Claimant shall (in order to be eligible to participate in the distribution of the monies under the Settlement) be required to submit to the Settlement Administrator a separate completed Proof of Claim and Release as attached to the Notice and substantially in the form and with the content set forth in Exhibit A hereto, signed under penalty of perjury and supported by such

documents as specified in the Proof of Claim and Release and as are reasonably available to the Claimant.

b. Except as otherwise ordered by the Court, all Securities Class Members who fail to timely submit a valid Proof of Claim and Release within such period, or such other period as may be ordered by the Court, or who have not already done so, shall be forever barred from receiving any payments of money pursuant to this Stipulation and the Settlement set forth herein (including payments from the Net Settlement Sum, the DOJ Funds and, if made available, the SEC Fair Fund (or portion thereof), but will in all other respects be subject to and bound by the provisions of the Stipulation, the Settlement and releases contained herein, and the Judgment.

c. The Net Settlement Sum, the DOJ Funds, including accrued interest thereon, and, if made available, the SEC Fair Fund (or portion thereof), including accrued interest thereon, shall be distributed to the Authorized Claimants in accordance with and subject to the Plan of Allocation, a copy of which is attached hereto as Exhibit D.

4. Defendants' Released Persons shall have no responsibility for, interest in, or liability whatsoever with respect to: (a) the investment or distribution of the Settlement Sum or the Net Settlement Sum; (b) the Plan of Allocation; (c) the determination, calculation, payment, or administration of claims; (d) the determination, withholding, payment, or administration of taxes; or (e) any losses incurred in connection with (a), (b), (c), or (d).

5. No Person shall have any claim against the Securities Plaintiffs (including Lead Securities Plaintiff), Securities Class Counsel (including Lead Securities Counsel), or

Securities Plaintiffs' Counsel, or any Settlement Administrator, or other agent designated by Lead Securities Counsel, or experts retained to assist in the preparation of or provide advice regarding the Plan of Allocation, based on the distributions made substantially in accordance with this Stipulation and the Settlement contained herein, the Plan of Allocation, or further orders of the Court.

6. Approval of the Plan of Allocation, or any other particular plan of allocation, is not a condition of this Stipulation. Any decision by the Court concerning the Plan of Allocation, or any other particular plan of allocation, shall not affect the validity or finality of this Stipulation or the Settlement.

7. The Settlement is not a claims-made settlement.

**G. Securities Class Counsel's Attorneys' Fees and Reimbursement of Expenses**

1. Lead Securities Counsel will submit an application or applications to the Court for an order (the "Fee and Expense Application") for distributions to them from the Settlement Account for: (a) an award of Securities Class Counsel's attorneys' fees, (b) reimbursement of all expenses and costs, including the fees of any experts or consultants, incurred by Securities Class Counsel in connection with prosecuting the Securities Class Action, and (c) interest on such attorneys' fees, costs, and expenses at the same rate and for the same periods as earned by the Settlement Account (until paid), as may be awarded by the Court.

2. Securities Class Counsel's fees, expenses, and costs, including the fees of experts and consultants, as awarded by the Court (the "Fee and Expense Award"), may be transferred to Lead Securities Counsel from the Settlement Account one day after both of the following conditions are satisfied: (a) the Court enters the Judgment; and (b) the Court approves a Fee and Expense Award, notwithstanding the potential for any collateral attack or appeal that could result in a reversal or modification of the award of fees and/or costs. Lead Securities Counsel shall allocate the Fee and Expense Award among Securities Class Counsel in a manner

in which Lead Securities Counsel in good faith believes reflects the contributions of such counsel to the prosecution and/or settlement of the Securities Class Action. The disbursement of Securities Class Counsel attorneys' fees and costs to Lead Securities Counsel from the Settlement Account, upon an award of the Court, is subject to the obligations of Lead Securities Counsel (and the other Securities Class Counsel who share in the fees and costs awarded by the Court) to make appropriate repayment to the Settlement Account, plus interest actually earned thereon, if and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the award of attorneys' fees and costs is modified or vacated. Lead Securities Counsel (and the other Securities Class Counsel who share in the fees and costs awarded by the Court) shall make the appropriate refund or repayment within thirty (30) days of being requested to do so in accordance with this Section, following any final order which reduces the fee or cost award, or the termination of the Settlement. Lead Securities Counsel (in conjunction with any Securities Class Counsel who share in the fee and costs awarded by the Court) shall provide adequate security for repayment.

3. Defendants' Released Persons, and Defendants' counsel, shall take no position on the reasonableness of the attorneys' fees and costs sought by Securities Class Counsel.

4. Defendants' Released Persons shall have no responsibility for, and no liability whatsoever with respect to, the allocation of any Fee and Expense Award that the Court may make in the Securities Class Action.

5. Defendants' Released Persons shall have no responsibility for, and no liability whatsoever with respect to, any attorneys' fees, costs, or expenses incurred by or on behalf of the Securities Class or Securities Class Members that are not paid from the Settlement Account.

6. The procedure for and the allowance and disallowance by the Court of the Fee and Expense Application are not part of the Settlement set forth in this Stipulation, and are to be considered by the Court separately from the Court's consideration of (a) the fairness,

reasonableness, and adequacy of the Settlement set forth in this Stipulation and/or (b) the Plan of Allocation. Any order or proceedings relating to the Fee and Expense Application, or any appeal from any order relating thereto, shall not operate to terminate or cancel this Stipulation or affect the finality of the Court's Judgment approving this Stipulation and the Settlement set forth herein, including, but not limited to, the release, discharge, and relinquishment of the Released Claims or Defendants' Released Claims against the Released Persons, or any other orders entered pursuant to this Stipulation.

**H. Conditions of Settlement; Effect of Disapproval, Cancellation, or Termination**

1. The Effective Date of this Stipulation shall be conditioned upon occurrence of all of the following events:
  - a. Time Warner and Ernst & Young shall have timely transferred or caused to be timely transferred the Settlement Sum as required in Section IV.B.1. above, and Time Warner has timely transferred or caused to be timely transferred the DOJ Funds as required by Section IV.B.3. above;
  - b. The Court shall have entered the Preliminary Approval Order as described by Section IV.D. above;
  - c. The Court shall have entered the Judgment, or a judgment substantially in the form and with the content as set forth in Exhibit B hereto; and
  - d. The Judgment shall have become Final, as defined in Section IV.A.9. above; and
  - e. The Court shall have certified, for settlement purposes only, a Securities Class as defined in Section IV.A.21. above.
2. Upon satisfaction of the conditions and events set forth in Section IV.H.1. above, any and all remaining interest or right of Time Warner and Ernst & Young to the Settlement Sum or the DOJ Funds shall be absolutely and forever extinguished.

3. Neither a modification nor a reversal on appeal of the Plan of Allocation, or any other plan of allocation, or of any award of attorneys' fees, costs, expenses, and/or interest awarded by the Court to any Securities Class Counsel shall constitute a condition to the Effective Date or grounds for cancellation and termination of the Stipulation.

4. If any of the conditions set forth in Section IV.H.1. above are not met, then Lead Securities Plaintiff shall have the right to terminate the Settlement and this Stipulation. If any of the conditions set forth in Section IV.H.1. b., c., d. and e. are not met, then Time Warner (as to all Defendants except Ernst & Young) and Ernst & Young (only as to Ernst & Young) shall have the right to terminate their participation in the Settlement and this Stipulation. If Lead Securities Plaintiff, Time Warner and/or Ernst & Young terminate the Settlement and this Stipulation pursuant to this Section, it shall provide written notice of its election to do so to all other Parties within thirty (30) calendar days of: (a) the Court's declining to enter the Preliminary Approval Order in any material respect; (b) the Court's refusal to approve this Stipulation or any material part of it; (c) the Court's declining to enter the Judgment in any material respect; (d) the date upon which the Judgment is modified or reversed in any material respect by the Court of Appeals or the Supreme Court; (e) the date upon which an Alternative Judgment is modified or reversed in any material respect by the Court of Appeals or the Supreme Court; (f) the date upon which the Court enters an order denying a motion to certify, for settlement purposes, the Securities Class; and (g) any other event giving rise to the right to terminate the Settlement and this Stipulation.

5. Defendants Time Warner and Ernst & Young have the right, within five (5) days from receipt by Time Warner and Ernst & Young of confirmation from the Settlement Administrator of the total number of shares sold or held (that would otherwise be entitled to damages under the Plan of Allocation) by Opt-Outs (as defined below), at their option, to terminate and cancel the Settlement (by Time Warner as to all Defendants except Ernst & Young, and by Ernst & Young only as to Ernst & Young) if the Persons who would otherwise be members of the Securities Class, but who exclude themselves from the Securities Class (but not

including Persons that have brought and maintained the actions referred to in Exhibit G attached hereto) in accordance with the terms of the Notice (“Opt-Outs”), sold or held shares (that would otherwise be entitled to damages under the Plan of Allocation) that collectively exceed the Opt Out Percentage of the total number of shares alleged to have been damaged during the Securities Class Period, taking into account turnover (“Claimed Damaged Shares with Turnover”). The number of Claimed Damaged Shares with Turnover is 11,315,000,000 shares. The Settlement Administrator shall provide Time Warner, Ernst & Young, and Lead Securities Counsel with confirmation of the total number of shares sold or held (that would otherwise be entitled to damages under the Plan of Allocation) by Opt-Outs as soon as possible after the date for the deadline for exclusion from the Securities Class. If the Opt-Outs collectively account for or exceed the Opt-Out Percentage and Time Warner and Ernst & Young elect not to terminate and cancel the Settlement, then the Settlement Sum shall be reduced, for each of Time Warner and Ernst & Young, in proportion to their respective contributions to the Settlement Sum, by payment from the Settlement Account of a pro-rata amount of the Settlement Sum for each excluded damaged share in excess of the Reduction Percentage of Claimed Damaged Shares with Turnover, provided that the reduction of the Settlement Sum shall not exceed \$250 million. The pro-rata amount shall be calculated using Claimed Damaged Shares with Turnover as the denominator and the number of excluded damaged shares in excess of the Reduction Percentage as the numerator. The “Opt Out Percentage” and “Reduction Percentage” are defined, and the procedures, terms and conditions for implementation of this Section IV.H.5. are set forth, in the Supplemental Agreement among Lead Securities Counsel, Time Warner and Ernst & Young, dated September 22, 2005 (the “Supplemental Agreement”). The Supplemental Agreement shall be made available, if necessary, for the Court’s in camera review consistent with the terms and conditions of the Supplemental Agreement.

6. Unless otherwise ordered by the Court, in the event this Stipulation (or any portion thereof) terminates, is cancelled, or does not become effective for any reason, within five (5) business days of the Escrow Agent’s receipt of written notification of such event by Lead

Securities Counsel and Time Warner and/or Ernst & Young, the Settlement Sum, or remaining portion thereof (including accrued interest), shall be refunded as set forth in Section IV.C.3. above.

7. In the event that this Stipulation is not approved by the Court or the Settlement (or portion thereof) set forth herein is terminated or fails to become effective in accordance with its terms, this Stipulation and all negotiations and proceedings relating hereto shall be without prejudice to any or all Parties (with respect to whom the Settlement and Stipulation are not effective) who shall be restored to their respective positions in the Securities Class Action as of July 29, 2005. In such event, the terms and provisions of this Stipulation, with the exception of Sections IV.A.1., IV.C.1.b., IV.C.1.d., IV.C.1.e., IV.C.2. (including all subparts), IV.C.3., IV.F.4.– IV.F.5. IV.G.4. – IV.G.6., IV.H. (including all subparts), IV.J.4., IV.J.5, IV.J.8., IV.J.11., IV.J.13. and IV.J.19 herein, shall have no further force and effect with respect to the Parties (with respect to whom the Settlement and Stipulation are not effective) and shall not be used in the Securities Class Action or in any other proceeding for any purpose and any Judgment or order entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, nunc pro tunc. Neither Lead Securities Plaintiff nor any other putative member of the putative class may or will use the fact of the execution of this Stipulation consenting to certification of a class for settlement purposes as a basis to argue that Defendants have in any way circumscribed their ability to oppose, for any reason, certification of a class other than for settlement purposes. No order of the Court or modification or reversal on appeal of any order of the Court concerning the Plan of Allocation or the amount of any attorneys' fees, costs, expenses, and/or interest awarded by the Court to Securities Class Counsel shall constitute grounds for cancellation or termination of this Stipulation.

8. If a case is commenced with respect to Time Warner and/or Ernst & Young on behalf of any Defendant under Title 11 of the United States Code (Bankruptcy), or a trustee, receiver, or conservator is appointed under any similar law, and in the event of the entry of a final order of a court of competent jurisdiction determining the transfer of the Settlement

Sum, or any portion thereof, by or on behalf of Time Warner and/or Ernst & Young to be a preference, voidable transfer, fraudulent conveyance or similar transaction and any portion thereof is required to be returned, and such amount is not promptly deposited to the Settlement Account by Time Warner and/or Ernst & Young, as applicable, then, at the election of Lead Securities Counsel, the Parties shall jointly move the Court to vacate and set aside the Judgment entered in favor of such Defendant(s), and vacate and set aside the release given with respect to such Defendant(s)' Released Persons, pursuant to this Stipulation, which releases and Judgment shall be null and void, and the Parties shall be restored to their respective positions in the litigation as of July 29, 2005 and any cash amounts in the Settlement Account shall be returned as provided in Section IV.C.3. above.

9. In the event this Stipulation is terminated as set forth in Sections IV.H.4. and IV.H.5. above, the Parties (with respect to whom the Stipulation is cancelled) shall, within two weeks of providing notice of election to terminate, jointly request a status conference with the Court to be held on the Court's first available date. At such status conference, the Parties shall ask the Court's assistance in scheduling continued proceedings in the Securities Class Action between the Parties. Pending such status conference or the expiration of sixty (60) calendar days from the Parties' joint request for a status conference, whichever occurs first, none of the Parties shall file or serve any further motions on any of the other Parties in connection with this Securities Class Action nor shall any response be due by any of the Parties to any outstanding pleading, motion or discovery requested by any other of the Parties.

**I. Entry of Judgment**

The Parties agree to the entry of Judgment substantially in the form and with the content as set forth in Exhibit B hereto.

**J. Miscellaneous Provisions**

1. The Parties (a) acknowledge that it is their intent to consummate the Settlement and this Stipulation; and (b) agree to cooperate to the extent necessary to effectuate

and implement all terms and conditions of this Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of this Stipulation.

2. Time Warner warrants that, at the time the payments provided for herein are made on its behalf, it is not insolvent and the payment will not render it insolvent. This representation is made by Time Warner as to itself and is not made by counsel to Time Warner.

3. Ernst & Young warrants that, at the time the payments provided for herein are made on its behalf, it is not insolvent and the payment will not render it insolvent. This representation is made by Ernst & Young as to itself and is not made by counsel to Ernst & Young.

4. The Parties agree that the amount of the Settlement Sum, as well as the other terms of the Settlement, were negotiated in good faith by the Parties and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel. Neither this Stipulation, nor the Settlement contained herein, nor any term of this Stipulation, nor any act performed or document executed pursuant to or in furtherance of this Stipulation: (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim or Defendants' Released Claim, or of any wrongdoing or liability of the Released Persons; or (ii) is, may be deemed to be, may be used as, or may be argued to be an admission of, or evidence of, any fault or omission of any of the Released Persons in any pending or future civil, criminal, or administrative proceeding in any court, administrative agency or tribunal; or (iii) shall be identified or described in any public statement by any Party as an admission of, or evidence of, any fault or omission of any of the Released Persons.

5. Unless ordered by a court, no Party or counsel shall disseminate, refer to, or otherwise distribute to any third party any information regarding the negotiation of the Settlement, or any information or documents they obtained from another Party in connection with the Securities Class Action or the Settlement, or the Memorandum of Understanding executed by the Parties.

6. The Released Persons may file this Stipulation and/or the Judgment from this action in any other action that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good-faith settlement, judgment bar, or reduction or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

7. The Parties intend for this Settlement to be a final and complete resolution of all disputes asserted or which could be asserted as part of or arising from the Securities Class Action. Accordingly, the Parties agree not to assert in the Securities Class Action or in any other judicial forum that the Securities Class Action was brought or defended in bad faith or without a reasonable basis. Defendants agree (and Defendants' Released Persons shall be deemed to have agreed by operation of law) not to assert any claim under Rule 11 of the Federal Rules of Civil Procedure or any similar law, rule or regulation, that the Securities Class Action or any pleading filed, motion made, or position taken by Lead Securities Plaintiff or Lead Securities Counsel was brought or made in bad faith or without a reasonable basis. Lead Securities Plaintiff agrees (and all members of the Securities Class shall be deemed to have agreed by operation of law) not to assert any claim under Rule 11 of the Federal Rules of Civil Procedure or any similar law, rule or regulation, that any pleading filed, motion made, or position taken by Defendants or their counsel was brought or made in bad faith or without a reasonable basis. The Parties agree that the amount paid and the other terms of the Settlement were negotiated at arms' length and in good faith by the Parties, and reflect a settlement that was reached voluntarily based upon adequate information and after consultation with experienced legal counsel, and under the supervision of the Special Master.

8. To the extent permitted by law, all agreements made and orders entered during the course of the Securities Class Action relating to the confidentiality of information shall survive this Stipulation.

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

10. All of the exhibits to this Stipulation, except any Plan of Allocation, to the extent incorporated in those exhibits, are material and integral parts hereof and are fully incorporated herein by this reference.

11. Nothing in this Stipulation, or the negotiations relating thereto, is intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, attorney/client privilege, joint defense privilege, or work product protection.

12. This Stipulation may be amended or modified only by a written instrument signed by or on behalf of all Parties or their successors-in-interest.

13. This Stipulation and the exhibits (including the Supplemental Agreement) attached hereto constitute the entire settlement agreement among the Parties hereto and no representations, warranties, or inducements have been made to any Party concerning the Stipulation or its exhibits other than the representations, warranties, and covenants contained and memorialized in such documents.

14. Lead Securities Counsel, on behalf of the Securities Class, is expressly authorized by the Lead Securities Plaintiff to take all appropriate action required or permitted to be taken by the Securities Class pursuant to the Stipulation to effectuate its terms and also is expressly authorized to enter into any modifications or amendments to this Stipulation on behalf of the Securities Class which it deems appropriate.

15. Each counsel or other Person executing this Stipulation or any of its exhibits on behalf of any Party hereto hereby warrants that such Person has the full authority to do so.

16. The Stipulation may be executed by facsimile and in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Counsel for the Parties to this Stipulation shall exchange among themselves original signed counterparts and a complete set of original executed counterparts shall be filed with the Court.

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

18. The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of this Stipulation, and all Parties hereto and their counsel submit to the exclusive jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Stipulation.

19. This Stipulation and the exhibits hereto shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of New York, and the rights and obligations of the parties to this Stipulation shall be construed and enforced in accordance with, and governed by, the laws of the State of New York without giving effect to that State's choice-of-law principles.

20. Any discovery necessary to effectuate this Settlement and/or the Plan of Allocation shall be produced by Defendants on a mutually agreeable basis.

IN WITNESS WHEREOF, the Parties hereto have caused this Stipulation to be executed by their duly-authorized attorneys as of September 22, 2005.

Dated: 9/22, 2005

HEINS MILLS & OLSON, P.L.C.

By: Samuel D. Heins, by [Signature]  
Samuel D. Heins  
Lead Securities Counsel

Dated: 7/22, 2005

CRAVATH SWAINE & MOORE LLP

By: 

Peter T. Barbur

Attorneys for Defendant Time Warner Inc., AOL  
Time Warner Inc., America Online, Inc., Robert W.  
Pittman, J. Michael Kelly, Joseph A. Ripp, Gerald  
M. Levin, Wayne H. Pace, Paul T. Cappuccio, and  
Kenneth J. Novack, Barry Schuler, Richard D.  
Parsons, Miles R. Gilburne, James W. Barge,  
Daniel F. Ackerson, Stephen F. Bollenbach, Frank  
J. Caufield and Franklin D. Raines

Dated: \_\_\_\_\_, 2005

HELLER ERHMAN LLP

By: \_\_\_\_\_

Michael Rugen

Attorneys for Defendant Ernst & Young LLP

Dated: \_\_\_\_\_, 2005

O'MELVENY & MYERS LLP

By: \_\_\_\_\_

Robert M. Stern

Attorneys for Defendant Stephen M. Case

Dated: \_\_\_\_\_, 2005

ZUCKERMAN SPAEDER LLP

By: \_\_\_\_\_

Roger C. Spaeder

Attorneys for Defendant David M. Colburn

Dated: \_\_\_\_\_, 2005

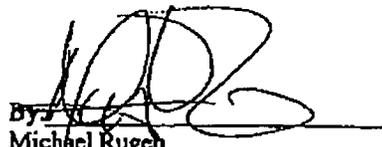
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Dated: SEP 22, 2005

HELLER ERHMAN LLP

By:  \_\_\_\_\_

Michael Rugeh  
Attorneys for Defendant Ernst & Young LLP

Dated: \_\_\_\_\_, 2005

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Attorneys for Defendant Stephen M. Case

Dated: \_\_\_\_\_, 2005

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Roger C. Spaeder  
Attorneys for Defendant David M. Colburn

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Attorneys for Defendant Ernst & Young LLP

Dated: 9/22, 2005

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Dated: 9/22, 2005

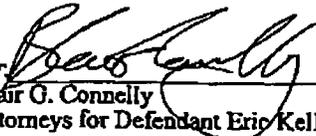
ZUCKERMAN SPAEDER LLP

By: Carl S. Kravitz / CTA

~~Roger C. Spaeder~~ Carl S. Kravitz  
Attorneys for Defendant David M. Colburn

Dated: \_\_\_\_\_, 2005

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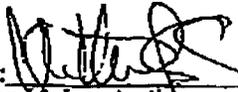
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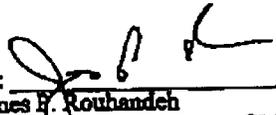
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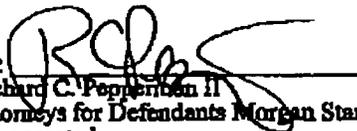
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