

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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IN RE WORLDCOM, INC. ERISA LITIGATION : MASTER FILE
: 02 Civ. 4816 (DLC)
: This Document Relates to: All Actions :
:-----X

**FINDINGS AND ORDER
PRELIMINARILY APPROVING PROPOSED SETTLEMENTS**

This litigation involves consolidated actions asserting claims for alleged violations of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1001, *et seq.* (“ERISA”), with respect to the WorldCom, Inc. 401(k) Salary Savings Plan (the “Plan”).

Presented to the Court for preliminary approval are settlements of the litigation as against defendant Scott Sullivan and defendant Merrill Lynch Trust Company, F.S.B. (“Merrill Lynch”). The terms of these settlements are set out in the Stipulation and Agreement of Settlement with Scott D. Sullivan, dated July 28, 2005, and the Stipulation and Agreement with Merrill Lynch, dated July 6, 2005. Also presented to the Court for preliminary approval is a Note Satisfaction Agreement, dated July 11, 2005, with defendant Bernard Ebbers, who had previously settled with the Named Plaintiffs. These three agreements are referred to collectively as the “Settlements.”

On August 25, 2005, the Court preliminarily considered the Settlements to determine among other things, whether the Settlements are sufficient to warrant the issuance of notice to members of the Class certified by the Court in its Order dated October 12, 2004.

It is hereby ORDERED, ADJUDGED AND DECREED as follows:

1. The Court preliminarily finds that (i) the proposed Settlements resulted from arm's-length negotiation, (ii) the proposed Settlements were reached only after Lead Counsel had conducted pre-settlement discovery, (iii) Lead Counsel has concluded that the proposed Settlements are fair, reasonable and adequate, and (iv) the proposed Settlements are sufficiently fair, reasonable and adequate to warrant sending notice thereof as provided for herein.

2. A hearing is scheduled for November 11, 2005 (the "Fairness Hearing") *at 11:00 am, or as soon thereafter as the parties may be heard,* to determine, among other things:

- a. whether the Settlements should be approved as fair, reasonable and adequate;
- b. whether the litigation should be dismissed with prejudice as to defendant Scott Sullivan pursuant to the terms of the settlement with Scott Sullivan;
- c. whether the notice methodology implemented notice that (i) was reasonable and constituted due, adequate and sufficient notice to all persons entitled to notice and (ii) met all applicable requirements of the Federal Rules of Civil Procedure, and any other applicable law;
- d. whether Lead Counsel adequately represented the Class for purposes of entering into and implementing the Settlements; and

- e. whether the applications for attorney fees and expenses filed by Lead Counsel should be approved.

3. Named Plaintiffs have presented to the Court a proposed form of summary class notice, which is appended hereto as Exhibit A, and a proposed form of class notice, which is appended hereto as Exhibit B. With respect to such forms of class notice, the Court finds that ^{with the alterations discussed on the record today, Exhibit B} such forms fairly and adequately (a) describe the terms and effect of the Settlements, (b) give notice to the Class of the time and place of the Fairness Hearing, and (c) describe how the recipients of the notice may object to approval of one or more of the Settlements. Named Plaintiffs have proposed the following manner of communicating the notice to members of the Class, and the Court finds that such proposed manner is reasonable under the circumstances, and directs that Lead Counsel shall:

- a. By no later than September 2, 2005, cause the ~~summary~~ class notice, ^{appended as Exhibit B} with such non-substantive modifications thereto as may be agreed upon by the settling parties and presented to the Court, to be mailed, by first-class mail, postage prepaid, to the last known address of each member of the Class who can be located with reasonable effort.
- b. ~~By no later than September 2, 2005, cause the class notice to be published on the website identified in the class notice and to be emailed to each member of the Class as to whom an email address is reasonably available to Lead Counsel.~~

At or before the Fairness Hearing, Lead Counsel shall file with the Court a proof of timely compliance with the foregoing mailing and publication requirements.

4. All of the following persons shall be referred to herein as "Objectors": members of the Class who wish to object to the fairness, reasonableness or adequacy of any of the Settlements, to any term of any of the Settlements, or to the proposed award of attorneys' fees and expenses. Any Objector must file with the Court a statement of his, her or its objection(s), specifying the reason(s), if any, for each such objection made, including any legal support and/or evidence that such Objector wishes to bring to the Court's attention or introduce in support of such objection. The Objector must also mail the objection and all supporting law and/or evidence to Lead Counsel. The addresses for filing objections with the Court and service on counsel are as follows:

Clerk of Court
United States District Court
for the Southern District of New York
500 Pearl Street
New York, NY 10007-1312
Re: Case No. 02 Civ. 4816 (DLC)

To Lead Counsel:

Lynn Lincoln Sarko, Esq.
Gary A. Gotto, Esq.
Keller Rohrback LLP
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052

The Objector and his, her or its counsel (if any) must both effect service of the objection on counsel listed above and file it with the Court by no later than October 17, 2005. Any member of the Class or other Person who does not timely file and serve a written objection complying with the terms of this paragraph shall be deemed to have waived,

and shall be foreclosed from raising, any objection to the Settlement, and any untimely objection shall be barred. By no later than October 24, 2005, Lead Counsel shall file with the Court and serve on all Objectors, Scott Sullivan, Merrill Lynch, and Bernard Ebbers (1) a memorandum summarizing and responding to all objections and (2) a final application for an award of attorney fees and reimbursement of expenses. Scott Sullivan, Bernard Ebbers, or Merrill Lynch may also file memoranda in response to objections on or before the same date.

5. Any Objector who files and serves a timely, written objection in accordance with paragraph 4 above, may also appear at the Fairness Hearing either in person or through counsel retained at the Objector's expense. Objectors or their attorneys intending to appear at the Fairness Hearing must effect service of a notice of intention to appear setting forth, among other things, the name, address and telephone number of the Objector (and, if applicable, the name, address and telephone number of the Objector's attorney) on Lead Counsel and file it with the Court by no later than October ¹⁷~~24~~, 2005. Any Objector who does not timely file and serve a notice of intention to appear in accordance with this paragraph shall not be permitted to appear at the Fairness Hearing, except for good cause shown.

6. The expenses of printing and mailing all notices required hereby, not to exceed \$50,000, shall be reimbursed to Lead Counsel from the settlement proceeds paid by Scott Sullivan into the settlement fund promptly upon Lead Counsel providing request for reimbursement and appropriate supporting materials to the custodian of the settlement fund. If such expenses exceed \$50,000, Lead Counsel may include a request for

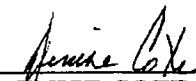
reimbursement in its application for attorney's fees and expenses to be considered at the Fairness Hearing.

7. Lead Counsel shall promptly furnish copies of any and all objections that come into its possession to counsel for Scott Sullivan, Bernard Ebbers, and Merrill Lynch.

8. If any of the Settlements is not finally approved, this Order shall become null and void with respect thereto, and shall be without prejudice to the rights of the settling parties of that particular settlement, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order, and this Order shall not be construed or used as an admission, concession or declaration by or against any person. Nor shall the Order be construed or used as an admission, concession or declaration by or against Named Plaintiffs or the Class that their claims lack merit or that the relief requested in the ERISA action is inappropriate, improper or unavailable, or as a waiver by any party of any defenses or claims he, she or it may have.

9. The Court reserves the right to continue the Fairness Hearing without further written notice.

SO ORDERED this 25th day of August, 2005.



HON. DENISE COTE
United States District Judge