

TABLE OF CONTENTS

	Page
PRELIMINARY STATEMENT	3
ARGUMENT	6
I. THE COURT SHOULD ENTER AN ORDER GRANTING FINAL APPROVAL TO THE PROPOSED NORTEL I SETTLEMENT	6
A. The Proposed Settlement is Fair, Reasonable and Adequate.....	6
1. The Complexity, Expense and Likely Duration of the Litigation.....	8
2. The Reaction of the Class to the Settlement	10
3. The Stage of Proceedings and the Amount of Discovery Completed.....	11
4. Risks of Establishing Liability.....	12
5. Risks of Establishing Damages.....	13
6. Risks of Maintaining Class Action Through Trial.....	14
7. The Ability of Defendants to Withstand a Greater Judgment.....	15
8. The Range of Reasonableness of the Settlement Funds in Light of the Best Possible Recovery	16
9. The Range of Reasonableness of the Settlement Fund to a Possible Recovery in Light of All the Attendant Risks of Litigation.....	16
B. The Settlement Negotiations Were Procedurally Fair	17
II. THE PROPOSED PLAN OF ALLOCATION IS FAIR, REASONABLE AND ADEQUATE AND SHOULD BE APPROVED	19
CONCLUSION.....	20

TABLE OF AUTHORITIES

Page

CASES

In re Am. Bank Note Holographics, Inc. Sec. Litig.,
127 F. Supp. 2d 418 (S.D.N.Y. 2001)..... *passim*

In re Austrian & German Bank Holocaust Litig.,
80 F. Supp. 2d 164 (S.D.N.Y. 2000).....11

In re Blech Sec. Litig.,
No. 94-7696, 2002 U.S. Dist. LEXIS 23170 (S.D.N.Y. Nov. 27, 2002).....10

Carson v. Am. Brands, Inc.,
450 U.S. 79 (1981).....12

Chatelain v. Prudential-Bache Sec., Inc.,
805 F. Supp. 209 (S.D.N.Y. 1992).....17

D'Amato v. Deutsche Bank,
236 F.3d 78 (2d Cir. 2001).....6, 18

Detroit v. Grinnell Corp.,
495 F.2d 448 (2d Cir. 1974).....7, 12, 13

Dura Pharm., Inc. v. Broudo.,
544 U.S. 336 (2005).....9, 13

Ernst & Ernst v. Hochfelder,
425 U.S. 185 (1976).....12, 13

In re Global Crossing Sec. & ERISA Litig.,
225 F.R.D. 436 (S.D.N.Y. 2004)12, 13, 18

Greebel v. FTP Software, Inc.,
939 F. Supp. 57 (D. Mass. 1996) *aff'd*, 194 F.3d 185 (1st Cir. Mass. 1999).....7

Hicks v. Stanley,
No. 01-10071 2005 WL 2757792 (S.D.N.Y. Oct. 24, 2005).....8

In re Ivan F. Boesky Sec. Litig.,
948 F.2d 1358 (2d Cir. 1991).....6

Lentell v. Merrill Lynch & Co., Inc.,
396 F.3d 161 (2d Cir. 2005).....9, 13

In re Lloyd's Am. Trust Fund Litig.,
No. 96-1262 (RWS), 2002 U.S. Dist. LEXIS 22663 (S.D.N.Y. Nov. 26, 2002)12, 13

<i>Maley v. Del Global Techs. Corp.</i> , 186 F. Supp. 2d 358 (S.D.N.Y. 2002).....	6, 14, 19
<i>In re NASDAQ Market-Makers Antitrust Litig.</i> 187 F.R.D. 465 (S.D.N.Y. 1998)	14
<i>New York v. Nintendo of Am., Inc.</i> , 775 F. Supp. 676 (S.D.N.Y. 1991).....	17
<i>In re Nortel Networks Corp. Sec. Litig.</i> , No. 01-1855, 2003 U.S. Dist. LEXIS 15702 (S.D.N.Y. Sept. 5, 2003).....	1, 14
<i>In re PaineWebber Ltd. P'ships Litig.</i> , 171 F.R.D. 104 (S.D.N.Y. 1997)	11, 15, 17, 19
<i>In re Sterling Foster & Co., Sec. Litig.</i> , 238 F. Supp. 2d 480 (E.D.N.Y. 2002)	17
<i>Strougo v. Bassini</i> , 258 F. Supp. 2d 254 (S.D.N.Y. 2003).....	17
<i>In re Sumitomo Copper Litig.</i> , 189 F.R.D. 274 (S.D.N.Y. 1999)	9
<i>TSC Indus., Inc. v. Northway, Inc.</i> , 426 U.S. 438 (1976).....	12, 13
<i>Thompson v. Metro. Life Ins. Co.</i> , 216 F.R.D. 55 (S.D.N.Y. 2003)	8
<i>Trief v. Dun & Bradstreet Corp.</i> , 840 F. Supp. 277 (S.D.N.Y. 1993).....	17
<i>Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.</i> , 396 F.3d 96 (2d Cir.), <i>cert denied</i> , 125 S. Ct. 2277 (2005).....	6, 7, 8
<i>In re Warner Commc'ns Sec. Litig.</i> , 618 F. Supp. 735 (S.D.N.Y. 1985), <i>aff'd</i> , 798 F.2d 35 (2d Cir. 1986)	7, 11, 14, 15
<i>Weinberger v. Kendrick</i> , 698 F.2d 61 (2d Cir. 1982).....	7, 17

OTHER AUTHORITIES

<i>Manual for Complex Litigation, Fourth</i> § 21.612 (2004).....	17
---	----

**LEAD PLAINTIFF'S MEMORANDUM OF LAW
IN SUPPORT OF FINAL APPROVAL
OF THE PROPOSED NORTEL I CLASS ACTION SETTLEMENT
AND PROPOSED PLAN OF ALLOCATION**

Lead plaintiff, the Ontario Public Service Employees' Union Pension Plan Trust Fund ("Lead Plaintiff"), respectfully requests, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, that this Court grant final approval of the proposed settlement (the "Nortel I Settlement") of this certified class action pursuant to the terms of a Stipulation and Agreement of Settlement dated June 20, 2006 (the "Stipulation") entered between Lead Plaintiff, on behalf of itself and the Class, and defendant Nortel Networks Corporation ("Nortel"). The Class, as certified herein pursuant to this Court's September 5, 2003 Decision and Order on Class Certification, includes "all persons and entities who, during the period October 24, 2000 and continuing through and including February 15, 2001 [(the "Nortel I Class Period")] purchased Nortel common stock or call options or sold Nortel put options, and who suffered damages thereby, including but not limited, to those persons who traded in Nortel securities on the New York Stock Exchange and/or the Toronto Stock Exchange." *In re Nortel Networks Corp. Sec. Litig.* ("Nortel I"), No. 01-1855, 2003 U.S. Dist. LEXIS 15702, at *2-4 (S.D.N.Y. Sept. 5, 2003). The Nortel I Settlement will provide the Class with a cash settlement fund in the initial amount¹ of \$438,667,428 (US\$) and 314,333,875 shares of Nortel common stock. As of June 30, 2006²

¹ The cash portion of the settlement has been deposited in escrow and is already earning interest for the benefit of the Class.

² As of June 30, 2006 Nortel common stock had a NYSE closing price of \$2.24 making the value of the Settlement Shares approximately \$704 million.

the total value of the cash and stock being provided by the proposed Nortel I Settlement was some \$1.142 billion (US\$).³

Simultaneously herewith, Nortel is also settling a separate federal securities law action (the “Nortel II Action”) relating to a separate and later class period, April 24, 2003 through April 27, 2004 (the “Nortel II Class Period”). The Nortel I Settlement is conditioned upon approval of the settlements of both the Nortel I Action and the Nortel II Action in the Southern District of New York, as well as certain actions pending in courts in Ontario, Quebec and British Columbia (the “Canadian Actions”). The Canadian Actions involve allegations similar to those contained in the Nortel I Action or the Nortel II Action but with respect to Classes limited to persons resident in Canadian jurisdictions. Unless waived by Nortel, the Settlements must be approved by all such courts because a judgment adverse to Nortel in either the Nortel I Action or the Nortel II Action could potentially devastate Nortel. The Classes in the Canadian actions are essentially subclasses of either the Nortel I Class or the Nortel II Class. Members of the Nortel I Canadian Classes⁴ may participate in the Settlement on exactly the same basis as all other Nortel I Class Members.⁵

³ The terms of the Nortel I Settlement also require Nortel to adopt substantial corporate governance reforms, and to contribute to the Nortel I Class 25% of any recovery it obtains from Nortel’s ongoing lawsuit against certain Nortel executives who were terminated for cause in 2004.

⁴ The definitions of the Classes certified for settlement purposes in the Canadian Actions do not include the limitation “and suffered damages thereby.” Thus the Canadian Classes may include persons who were not damaged by their purchase of Nortel securities. Nevertheless, the Plan of Allocation provides that only class members who have suffered damages will have a Recognized Claim and be entitled to share in the Settlement’s proceeds.

⁵ The settlement of the Canadian Actions in exchange for their class members’ right to share in the settlement proceeds in the Nortel I or Nortel II Settlement is subject to the approval of the courts where the Canadian Actions are pending, which Canadian courts may award fees to

Lead Plaintiff respectfully submits that the proposed Nortel I Settlement is an outstanding result for the Class herein and merits final approval. The reasons to approve the Settlement are set forth herein and in the accompanying: Joint Declaration of Lead Counsel in Support of Proposed Settlement and Motion for an Award of Attorneys' Fees and Reimbursement of Expenses⁶ (the "Joint Declaration"); Declaration of Heather Gavin, Chief Administrative Officer and Plan Manager of the Ontario Public Service Employees' Union Pension Plan Trust Fund, in Support of Final Approval of Settlement and Award of Attorneys' Fees and Reimbursement of Expenses (the "Gavin Declaration"); the Joint Declaration of David C. Light, Managing Director of Duff & Phelps LLC, and Joseph E. Mullin, Assistant Vice President of WL Ross & Co. LLC in Support of Final Approval of Settlement and Award of Attorneys' Fees and Reimbursement of Expenses (the "Investment Bankers Declaration"); the Declaration of Jane D. Nettesheim in Support of Approval of Proposed Plan of Allocation for Proceeds of Settlement of Nortel I Action (the "Nettesheim Declaration"); and the Affidavit of Neil Zola Regarding the Mailing of the Nortel I Settlement Notice and Proof of Claim Form (the "Zola Affidavit of Mailing"); filed concurrently herewith.

PRELIMINARY STATEMENT

Defendant Nortel was a leading global supplier of networking solutions and services that support the Internet and other public and private data, voice, and video networks using wireless

Canadian Plaintiffs' Counsel, which fees will be payable out of the proceeds of the Nortel I and/or Nortel II Settlements.

⁶ The petition for attorneys' fees and reimbursement of expenses is addressed in the accompanying Memorandum of Law in Support of Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Expenses (the "Fee Memorandum") and in the Compendium of Affidavits or Declarations of Plaintiff Counsel in Support of Lead Plaintiff's Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Expenses (the "Compendium").

and wireline technologies. Defendant Roth was Nortel's Chief Executive Officer ("CEO"), President, and a Director of Nortel; Defendant Chandran was the Chief Operating Officer ("COO") of Nortel; and Defendant Dunn was the Chief Financial Officer ("CFO") of Nortel.

The operative Complaint alleges that, during the Class Period, Defendants knowingly or recklessly issued a series of materially false and misleading statements and engaged in a variety of accounting manipulations in violation of generally accepted accounting principles ("GAAP") that: (i) overstated Nortel's reported third quarter and year-end 2000 revenues and earnings; and (ii) falsely represented and reassured the investing public that, despite a massive contraction and retrenchment of the Internet and telecommunications sectors in the United States, Nortel's strong growth, revenues and earnings trends would continue through 2001 without any significant interruption. Joint Declaration ¶¶ 11 - 26.

The Complaint further alleges that, as a result of the misstatements and omissions, the price of Nortel's common stock traded at artificially inflated prices during the Nortel I Class Period, until after the close of trading on February 15, 2001, when Defendants issued a press release over the *Business Wire*, dramatically lowering the Company's guidance for the first quarter and fiscal year 2001. Following the press release, Nortel's stock price dropped dramatically. The Complaint alleges that Class Members who purchased at the artificially inflated prices suffered damages by reason of Defendants' conduct and that Defendants are liable to the Lead Plaintiff and the Nortel I Class under Section 10(b) of the Securities Exchange Act of 1934 and SEC Rule 10b-5 promulgated thereunder. Joint Declaration ¶ 27.

The history of the litigation proceedings, including Defendants' unsuccessful motion to dismiss the Complaint, Lead Plaintiff's successful motion for Class certification, Lead Plaintiff's successful efforts to obtain document and deposition discovery in the United States and Canada,

including Lead Plaintiff's successful efforts before the Ontario Superior Court and the Ontario Court of Appeal to enforce Letters Rogatory on Deloitte Canada, the review and analysis of almost 2 million pages of discovered documents, and the extended and complicated negotiations with respect to the Settlement, is described at some length in the accompanying Joint Declaration and will not be further repeated here. Joint Declaration ¶¶ 28 - 76.

Prior to entering the Nortel I Settlement, Lead Plaintiff – who was opposed throughout by able and pre-eminent defense counsel (Shearman & Sterling LLP) – had a solid understanding of the risks and critical issues involved in this litigation prior to entering into serious settlement discussions with Defendants. While Lead Plaintiff was confident of the merits of its claims, it recognized that there were serious risks to establishing liability and damages, and that these issues would be vigorously disputed and would be the subject of a “battle of experts” at trial or on a Defendants’ motion for summary judgment. Lead Plaintiff further realized that, even if it prevailed at trial, additional risks lurked in potential post-trial motions and likely appeals. Success at trial, moreover, offered no guarantee of any larger ultimate recovery given Defendants’ limited ability to pay and the competing claims of the Nortel II Class.

The Settlement negotiations were vigorous and protracted, and were complicated by the need to deal with the competing claims of the Nortel II Class and the pendency of actions in Canadian Jurisdictions purporting to cover parts of the Class certified herein. The Settlement negotiations benefited from the guidance of the Honorable Robert W. Sweet of the United States District Court for the Southern District of New York, who acted as a mediator throughout allocation and settlement negotiations.

The proposed Settlement is an extraordinary recovery for the Nortel I Class, representing one of the largest recoveries ever achieved in a securities class action. As described in the

Investment Bankers Declaration, the Nortel I and Nortel II Settlements recover from Nortel a substantial portion of its potential ability to pay. The Settlements also include payment to the Classes of essentially all of the insurance that Nortel had during the Nortel I and Nortel II Class Periods.

Accordingly, for all of the reasons set forth below and in the accompanying documents referenced above, Lead Plaintiff respectfully submits that the Nortel I Settlement warrants final approval.

ARGUMENT

I. THE COURT SHOULD ENTER AN ORDER GRANTING FINAL APPROVAL TO THE PROPOSED NORTEL I SETTLEMENT

The terms of the proposed Nortel I Settlement were negotiated at arm's-length by experienced Lead Counsel with the active participation of the Lead Plaintiff, which is a sophisticated investor with a large claim, and with the guidance of Senior District Court Judge Robert W. Sweet, who acted as a mediator. The terms of the Settlement itself reflect a superior result in the face of significant challenges and litigation risks and the limited ability of the Defendants to pay. As such, the settlement is fair, reasonable and adequate, and should be approved by the Court.

A. The Proposed Settlement is Fair, Reasonable and Adequate

In determining whether to grant final approval to a class action settlement, the Court must decide whether a proposed settlement, taken as a whole, is fair, reasonable and adequate.

D'Amato v. Deutsche Bank, 236 F.3d 78, 85 (2d Cir. 2001) (citing *Joel A. v. Giuliani*, 218 F.3d 132, 138 (2d Cir. 2000)); *In re Ivan F. Boesky Sec. Litig.*, 948 F.2d 1358, 1368 (2d Cir. 1991); *Maley v. Del Global Techs. Corp.*, 186 F. Supp. 2d 358, 360 (S.D.N.Y. 2002) *see also Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 116 (2d Cir.), *cert denied*, 125 S. Ct. 2277 (2005).

In making its fairness determination, the Court compares “the terms of the compromise with the likely rewards of litigation.” *In re Warner Commc’ns Sec. Litig.*, 618 F. Supp. 735, 740 (S.D.N.Y. 1985), *aff’d*, 798 F.2d 35 (2d Cir. 1986); *see also Detroit v. Grinnell Corp.*, 495 F.2d 448, 462 (2d Cir. 1974) (“The court is only called upon to consider and weigh the nature of the claim, the possible defenses, the situation of the parties, and the exercise of business judgment in determining whether the proposed settlement is reasonable.”) (citation omitted). The Court must therefore ascertain sufficient facts about the settlement to render “an intelligent and objective opinion” about the likelihood of success if a claim is litigated, while simultaneously taking care to avoid conducting a trial on the settlement’s merits. *See Weinberger v. Kendrick*, 698 F.2d 61, 74 (2d Cir. 1982) (citations omitted); *Grinnell*, 495 F.2d at 462 (“[t]he Court must eschew any rubber stamp approval in favor of an independent evaluation, yet, at the same time, it must stop short of the detailed and thorough investigation that it would undertake if it were actually trying the case”); *In re Paine Webber Ltd. P’ships Litig.*, 171 F.R.D. 104, 124 (S.D.N.Y. 1997) (approval of a settlement is within the Court’s discretion).

Further, courts should be “mindful of the ‘strong judicial policy in favor of settlements, particularly in the class action context.’” *Wal-Mart*, 396 F.3d at 116 (quoting *In re PaineWebber Ltd. P’ships Litig.*, 147 F.3d 132, 138 (2d Cir. 1998)). As the Second Circuit has long recognized, there “are weighty justifications, such as the reduction of litigation and related expenses, for the general policy favoring the settlement of litigation.” *Weinberger*, 698 F.2d at 73 (citation omitted). Pursuant to the PSLRA, moreover, a settlement reached under the supervision of an appropriately selected Lead Plaintiff is entitled to an even greater presumption of reasonableness. As stated in the Senate Committee Report issued in support of the PSLRA, as cited in *Greebel v. FTP Software, Inc.*, 939 F. Supp. 57, 63-64 (D. Mass. 1996) *aff’d*, 194 F.3d

185 (1st Cir. Mass. 1999): “Institutions with large stakes in class actions share much the same interests as the plaintiff class generally; thus, courts could be more confident settlements negotiated under the supervision of institutional plaintiffs were ‘fair and reasonable’....” (citation omitted).

The factors that courts in this Circuit typically consider when evaluating settlements (the “*Grinnell* factors”) include:

1. the complexity, expense and likely duration of the litigation;
2. the reaction of the class to the settlement;
3. the stage of the proceedings and the amount of discovery completed;
4. the risks of establishing liability;
5. the risks of establishing damages;
6. the risks of maintaining the class action through the trial;
7. the ability of the defendants to withstand a greater judgment;
8. the range of reasonableness of the settlement fund in light of the best possible recovery; [and]
9. the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.

Wal-Mart, 396 F.3d at 117 (quoting *Grinnell*, 495 F.2d at 463); *Thompson v. Metro. Life Ins. Co.*, 216 F.R.D. 55, 61 (S.D.N.Y. 2003). As discussed below, when assessed in light of the applicable criteria, the Nortel I Settlement is plainly fair, reasonable and adequate, and should be granted final approval.

1. The Complexity, Expense and Likely Duration of the Litigation

Due to its notorious complexity, securities class action litigation is often resolved by settlement, which circumvents the difficulty and uncertainty inherent in long, costly trials. See, e.g., *Hicks v. Stanley*, No. 01-10071 2005 WL 2757792, at *6 (S.D.N.Y. Oct. 24, 2005); *In re*

