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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEB 29 2000

JAMES H. ALESIA, JUDGE
UNITED STATES DISTRICT COURT

ROBERT I. FALK,

Plaintiff,

v.

THETA GROUP, L.L.C., SCOTT S. BELL and
R. SCOT RUBEL,

Defendants.

CIVIL ACTION NO.
97-C-0565

The Honorable James H. Alesia
Magistrate Judge Keys

STIPULATION AND AGREEMENT OF COMPROMISE AND SETTLEMENT

Plaintiff Robert I. Falk ("Plaintiff"), party to the action referred to in the caption above, individually and on behalf of the class he seeks to represent (as described below) by and through his attorneys, hereby enters into this Stipulation and Agreement of Compromise and Settlement (the "Stipulation" or "Settlement") with defendant R. Scot Rubel ("Rubel" or "Settling Defendant") pursuant to the terms and conditions set forth below and subject to approval of the United States District Court for the Northern District of Illinois (the "Court").

BACKGROUND

1. On January 27, 1997, Plaintiff commenced an action against defendants Theta Group, L.L.C. ("Theta"), Scott S. Bell ("Bell"), and Rubel (collectively, the "Defendants"), alleging violations of Section 12(2) of the Securities Act of 1933, as amended ("Securities Act"), 15 U.S.C. § 771(2), and Section 10(b) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5, promulgated thereunder, and also alleging breach of common law fiduciary duties.

2. Plaintiff asserts that the Defendants deceived purchasers of membership units in Theta, a registered broker-dealer organized under the laws of the State of New Jersey, and

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located in Chicago, Illinois. Specifically, Plaintiff alleges that the Defendants misled Plaintiff, the members of the Class, and the public as to the qualifications of defendant Rubel, the past performance of Theta in the form of false and misleading monthly reports of returns and losses, and by not disclosing payment of fees to Rubel and Bell in excess of those disclosed in the offering memorandum.

3. Plaintiff brings the Action as a class action, seeking to represent all persons and entities who purchased membership interests in Theta from October 1, 1995 to November 26, 1996, and who have suffered damage as a result of the conduct alleged. Plaintiff himself purchased 250 units of Theta at a price of \$1000 per unit on March 29, 1996.

6. On May 19, 1998, a partial settlement was reached with defendant Bell. After appropriate notice and hearing, final approval of the partial settlement was granted by this Court on July 8, 1998.

7. Defendant Rubel was engaged in litigation with the Securities and Exchange Commission until June 24, 1999. Counsel for both parties, in consultation with this Court, kept abreast of the status of the SEC proceedings. Plaintiff's counsel determined that it was in the best interest of the Class to wait until the SEC proceedings were resolved before entering into serious negotiations with defendant Rubel.

8. Once the SEC litigation was resolved on June 24, 1999, settlement discussions between Plaintiff's counsel Much Shelist Freed Denenberg Ament & Rubenstein, P.C. and Wolf Haldenstein Adler Freeman & Herz, LLP, and Rubel's counsel Arnstein & Lehr began in earnest. Plaintiff's counsel reviewed the claims against Rubel, information concerning Rubel's assets, including an affidavit from Rubel with supporting documentation as well as the effect of the recent SEC settlement, and conducted extensive discussions with Rubel's counsel as to Rubel's financial status, culminating in the Settlement Agreement proposed below.

9. Plaintiff and his counsel believe that the claims asserted in the Complaint have significant merit, but in evaluating the proposed Settlement provided for herein, Plaintiff and his

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counsel have carefully considered the significant possibility that a judgment would be extremely difficult to execute, given Rubel's financial status. After reviewing an affidavit and exhibits prepared by Rubel, and following intense discussions with Settling Defendant's Counsel, and a mediation session conducted by Magistrate Judge Keys on May 21, 1999, Plaintiff has concluded that it is unlikely Rubel could pay more than the amount proposed in this Settlement. In addition, Plaintiff's Counsel has considered the expense and possible length of continued proceedings necessary to prosecute the action through trial; the uncertainties of the outcome of this complex action; the fact that resolution, whenever and however determined, of the claims in the Complaint would likely be submitted for appellate review, as a consequence of which it might be many years until there would be a final adjudication of the claims and defenses asserted; and the substantial benefit to the Class provided by the proposed settlement. Based upon these considerations, Plaintiff and his counsel have concluded that the Settlement is fair, reasonable and adequate, and that it is in the best interests of Plaintiff and the proposed Class to settle the action on the terms set forth herein.

10. Settling Defendant in this action, while strongly denying all allegations of wrongdoing, liability or damage to the Class whatsoever, and contending that he acted properly and lawfully at all times, desires to settle and terminate the Plaintiff's claims so as finally to put to rest any and all claims that were or could have been asserted in this action or arising out of the matters set forth in the pleadings, and to avoid the further expense and burdens of continued litigation without in any way acknowledging any fault or liability.

11. As part of the Settlement, and solely for the purpose of effecting the terms and conditions of this Stipulation, Plaintiff and the Settling Defendant will request that the Court certify the Class for settlement purposes as defined below. Further, Plaintiff and the Settling Defendant will also request that Plaintiff Falk be certified as class representative, and that Plaintiff's counsel be appointed counsel to the Settlement Class. It is a condition precedent to this Settlement that the Court certify the Class as defined below.

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NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by Plaintiff, on behalf of himself and the members of the Class he seeks to represent, and defendant R. Scot Rubel, acting through their respective counsel, and subject to final approval of the Court, that this action be compromised, settled and dismissed on the merits and with prejudice, as to defendant Rubel, as a result of which, defendant Rubel being the sole remaining defendant in this action, the action will be terminated, upon and subject to the following terms and conditions:

DEFINITIONS

1. The following terms as used in this Stipulation shall have the following meanings:
 - a. "Action" or "Class Action" means the above-captioned action.
 - b. "Bell" means defendant Scott S. Bell.
 - c. "Claims Administrator" means a paralegal or such person selected by Plaintiff's Counsel to administer and distribute the Settlement Fund in accordance with the terms of this Stipulation, or its successor.
 - d. "Class" or "Settlement Class" shall be defined as all persons and entities who purchased membership interests in Theta from October 1, 1995 to November 26, 1996, and shall exclude defendants, their immediate families, successors and assigns, the officers, directors, subsidiaries and affiliates of Theta, and all defendants' former and present counsel.
 - e. "Class Plaintiff" means plaintiff Robert I. Falk.
 - f. "Complaint" means the complaint filed by plaintiff Robert I. Falk on January 27, 1997 against the Defendants in Civil Action No. 97-C-0565 in this Court.
 - g. "Defendants" means defendants R. Scot Rubel, Scott S. Bell and Theta Group, LLC.
 - h. "Effective Date" means the second business day after the date on which the Court's judgment approving this Stipulation becomes final. As used in this paragraph,

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"final" means the later of the expiration of the time for the filing or noticing of any appeal from the Court's Judgment approving the Settlement; the date of final affirmance of any appeal, including following the expiration of the time for filing a petition for writ of certiorari and, if certiorari is granted, the date of final affirmance following review or remand pursuant to that grant, including expiration of time to seek rehearing; or the final dismissal of any appeal or proceedings on certiorari.

i. "Escrow Account" means the segregated account maintained pursuant to the Stipulation with the law firm of Much Shelist Freed Denenberg Ament Bell & Rubenstein, P.C. as Escrow Agent and which shall serve as a depository of the Settlement Fund, less such amounts as shall be withdrawn therefrom only pursuant to this Stipulation or Order of the Court, together with such interest which has accrued thereupon.

j. "Escrow Agent" means the law firm of Much Shelist Freed Denenberg Ament Bell & Rubenstein, P.C., counsel for Plaintiff. The Escrow Agent shall be authorized to execute such transactions as are consistent with the terms of this Stipulation and/or orders of this Court. All funds held by the Escrow Agent pursuant to this Stipulation shall be deemed and considered to be in the legal custody of the Court until such time as such funds shall be distributed pursuant to further order(s) of the Court or pursuant to the terms of this Stipulation.

k. "Fairness Hearing" means the hearing or hearings to be scheduled by the Court with respect to the approval of, or objections to, the Settlement of this Action pursuant to this Stipulation and the Class Plaintiff's and Plaintiff's Counsel's application(s) for fees and expenses as provided in the Preliminary Approval Order.

l. "Final Judgment" means the order of the District Court with respect to the approval of the Settlement of this Action in substantially the form annexed hereto as Exhibit C, constituting a final judgment pursuant to Federal Rule of Civil Procedure 54.

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m. "Final Settlement Payment Date" means the date the Settling Defendant finishes paying into the Settlement Fund as provided for in this Stipulation. It is contemplated that Mr. Rubel will deposit one check in the amount of \$12,500 to the segregated Much, Shelist client trust account, identified as "Theta Securities Litigation Settlement Fund 2", as Escrow Agent. See, The Settlement Fund, ¶ 3&4, infra.

n. "Net Loss" means, for each Class member, the amount invested in Theta membership units less whatever amounts the Class member has previously withdrawn from Theta or received as a result of the Securities and Exchange Commission proceedings.

o. "Net Settlement Fund" means the Settlement Fund less proper deductions authorized by the Court including, without limitation, reimbursement of costs of notice, attorneys' fees or other fees, costs and disbursements of Plaintiff and Plaintiff's Counsel and any applicable interest thereon.

p. "Plaintiff's Counsel" means the law firms of Much Shelist Freed Denenberg Ament & Rubenstein, P.C. and Wolf Haldenstein Adler Freeman & Herz LLP.

q. "Plaintiff" means Robert I. Falk.

r. "Preliminary Approval Order" means that Order of the Court, in substantially the form annexed hereto as Exhibit A, which provides for, inter alia: preliminary approval of the Settlement; procedures for notice to the members of the Class of their right to object to and the hearing for approval of the Settlement; and a hearing date for the Court to consider approval of the Settlement.

s. "Released Claims" means all claims, rights, or causes of action, whether known or unknown and whether arising under any state or federal statutory, regulatory or common law or otherwise, based upon or arising out of the allegations or matters in issue in the Complaint filed in this Action or that are related directly or indirectly in any way to the subject matter of the Action (except for compliance with the Settlement), that were or might have

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been asserted by Plaintiff or any member of the Class, either directly or representatively against defendant Rubel.

t. "Rubel" means defendant R. Scot Rubel, also referred to as the "Settling Defendant."

u. "Settlement" shall mean the terms and provisions set forth herein, under and pursuant to which the Plaintiff's and the Class's claims against defendant Rubel will be settled and dismissed, subject to the approval of the Court.

v. "Settlement Fund" means the fund into which the Settling Defendant pays the consideration for the Settlement, plus interest accrued.

w. "Settling Defendant" means R. Scot Rubel.

x. "Settling Defendant's Counsel" means Arnstein & Lehr.

y. "Settlement Notice" means notice of this settlement, in substantially the form annexed hereto as Exhibit B, sent to potential Class members pursuant to Fed. R. Civ. P. 23.

z. "Theta" means Theta Group, L.L.C.

SETTLEMENT CONSIDERATION

2. Settling Defendant's obligations as set forth in this Stipulation shall be in full and final disposition and settlement of all Released Claims against the Settling Defendant as those terms are defined above.

THE SETTLEMENT FUND

3. In full settlement of any and all Released Claims, individual and representative that are, could have been, or might in the future be asserted by Plaintiff or any member of the Class against the Settling Defendant, the Settling Defendant shall pay the sum of \$12,500 (the "Settlement Amount") into the Settlement Fund.

4. Payment of the Settlement Amount shall be made in a single lump-sum payment, due five (5) business days after the Preliminary Approval Order is approved by the

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Court. Payment shall be deposited into an interest-bearing Escrow Account which shall be established and managed by the Escrow Agent. The Settlement Amount plus the interest earned thereon from the date of deposit to the date of distribution shall constitute the Settlement Fund. All interest on the escrowed funds following payment shall be distributed with the disposition of the fund principal as provided herein. The Escrow Agent shall maintain the Settlement Fund in a separate identifiable account in the name "Theta Securities Litigation Settlement Fund 2" for the benefit of the Class (or for the Settling Defendant, if the Settlement is not finally approved), and shall not co-mingle the account with any other funds.

5. The Escrow Agent shall invest the Settlement Fund in (a) United States Treasury bills, Treasury Notes or other instruments insured or guaranteed by the full faith and credit of the United States government; or (b) an interest bearing account with any national bank with assets greater than one billion dollars, provided that the accounts are fully insured by the FDIC. The interest and/or income earned from the investment of the monies in the Settlement Fund or any portion thereof shall be added to the Settlement Fund, and the Escrow Agent shall reinvest, if and when necessary, these additional monies in accordance with the provisions of this paragraph.

6. The Settlement Fund shall only be distributed to the Class upon application to the Court by Plaintiff's Counsel and upon order of the Court.

7. If the Settlement does not receive final approval, or if the Stipulation is not approved, or if approval of the Stipulation is reversed, vacated or modified on appeal, or if this Stipulation is terminated or canceled or fails to become effective for any reason, the Settlement Fund, including all accrued interest, shall be removed from the Theta Securities Litigation Settlement Fund 2 account and returned to the Settling Defendant.

8. The Escrow Agent may act in reliance upon any instrument or signature believed by him in good faith to be genuine and may assume that any person purporting to give notice or advice, or to make any statement or execute any document in connection with the

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provisions of this Stipulation, has been duly authorized to do so. The Escrow Agent shall not be liable for any action or inaction in carrying out his role as Escrow Agent under this Stipulation, except for his own gross negligence or willful misconduct. Except with respect to claims based upon such gross negligence or willful misconduct that are successfully asserted against the Escrow Agent, the Escrow Agent shall be indemnified and held harmless, solely from the escrowed funds, from and against any and all losses, liabilities, claims, actions, damages, and expenses, including reasonable attorneys' fees and disbursements, arising out of and in connection with this Stipulation. Without limiting the foregoing, the Escrow Agent in no event shall have any liability in connection with his investment or reinvestment in good faith of any funds held hereunder, in accordance with the terms hereof, including without limitation any liability for any delays in the investment or reinvestment of the funds, or any loss of interest or income incident to such delays, or for any losses resulting from any investment due to fluctuations in market values.

9. The payment into the Settlement Fund shall be treated as a Qualified and Designated Settlement Fund under Section 468B of the Internal Revenue Code and the regulations or proposed regulations promulgated thereunder (including, specifically, Treasury Regulation § 1.468B-1-5 and any successor regulations).

10. The Escrow Agent, or his designee, shall be the administrator of the Settlement Fund and shall file all informational and other tax returns necessary to report any income earned by the Settlement Fund, and shall be responsible for taking out of the Settlement Fund, when legally required, any tax payments (including interest and penalties) due on income earned by the Settlement Fund. All taxes (including any interest and penalties) due with respect to the income earned by the Settlement Fund shall be paid from the Settlement Fund, and the Settling Defendant shall have no responsibility therefor.

11. Prior to the final approval of the Settlement, Plaintiff's Counsel are authorized and directed to make disbursements for the costs of distributing the Settlement Notice

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(costs defined as including, but not limited to, the costs of printing, publication and mailing of the Settlement Notice and the costs of reimbursing nominees for their reasonable expenses in identifying and notifying potential class members).

PRELIMINARY APPROVAL

12. By 3/15, 2000, the parties shall jointly move the Court for a Preliminary Approval and Implementation Order in the form attached as Exhibit A:
- a. directing that notice of the pendency of Class Action and of the proposed Settlement and class certification be provided by first class mail to all members of the Class who are identifiable from the records of Defendants in a manner to be approved by the Court. The aforementioned notice shall be substantially in the form annexed hereto as Exhibit B;
 - b. setting the date for a hearing pursuant to Rule 23(e), Fed. R. Civ. P. (the Fairness Hearing) to determine, inter alia, (i) the fairness, reasonableness and adequacy of this Settlement and whether it should be approved by the Court; (ii) whether a class should be certified for settlement purposes; (iii) whether a judgment should be entered dismissing the litigation as to the Settling Defendant with prejudice and without costs; and (iv) the applications by Plaintiff's Counsel for awards of attorneys' fees and reimbursement of expenses;
 - c. providing that any member of either Class who objects to this Settlement, or any part thereof, or the application for attorneys' fees and costs, may appear at the Fairness Hearing to show cause why the Settlement, or any part thereof, or the application for attorneys' fees or costs should not be approved as fair, reasonable and adequate, provided that such Class member files his, her, or its written objections to the Settlement, or any part thereof, or the application for attorneys' fees or costs, with the Clerk of the Court, and serves copies thereof upon counsel of record in the manner designated in the Notice, at least fourteen (14) days prior to the date of the Fairness Hearing or as otherwise ordered by the Court;
 - d. staying all proceedings except those related to the evaluation and implementation of the Settlement until the Court's Final Order;

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e. providing that the Settlement does not constitute an admission of liability or of damages to the Plaintiff and the Class on the part of Settling Defendant, nor of the value of the Released Claims and the amount of damages suffered on the part of Plaintiff and the Class;

f. reserving jurisdiction by the Court over the consummation, implementation and administration of the Settlement;

g. containing such other provisions as may be mutually agreed upon by the parties.

FINAL APPROVAL

13. It is a condition of the Settlement that an Order of Final Judgment in substantially the form of Exhibit C hereto shall be entered by the Court in the Action:

a. approving this Stipulation and the Settlement provided for herein, certifying the Class, and adjudging the terms of the Settlement to be fair, reasonable and adequate as to the named plaintiff and the members of the Class within the meaning of Rule 23, Fed. R. Civ. P.;

b. approving the Plan of Allocation and Plaintiff's counsel's request for fees and reimbursement of expenses;

c. permanently barring and enjoining the named Plaintiff and each member of the Class from asserting, either individually or on behalf of any class, any and all Released Claims against the Settling Defendant after the Final Settlement Payment Date;

d. dismissing the action, as against the Settling Defendant, with prejudice, on the merits and without costs, and discharging and releasing the Settling Defendant from any and all Released Claims after the Final Settlement Payment Date;

e. decreeing that this Stipulation and the Settlement provided for herein are not an admission by the Settling Defendant in the action, or of any wrongdoing, liability or damage whatsoever on the part of the Settling Defendant;

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f. reserving jurisdiction by the Court over the consummation, implementation and administration of the Settlement; and

g. containing such other and further provisions consistent with the terms of this Settlement to which the parties may consent.

SETTLEMENT ADMINISTRATION AND PLAN OF DISTRIBUTION

14. The Claims Administrator shall calculate the Net Loss of each holder of membership units in Theta based on the information provided by Theta and the SEC.

15. Promptly following the determination of the Net Losses suffered by the Class members, Plaintiff's Counsel shall submit to the Court a proposed Order of Distribution together with supporting papers, including the Claims Administrator's report itemizing all payments to Class members recommended for approval.

16. After the Final Settlement Payment Date, the Settlement Fund shall be distributed to the Class members in accordance with the provisions of paragraph 18 hereof, after the payments provided for in paragraph 17 and approved by the Court are distributed.

17. Within thirty (30) days of court approval of this Settlement, Plaintiff's Counsel shall apply to the Court for attorneys' fees and expenses incurred in the prosecution of the Action, to be paid from the Settlement Fund.

18. Each Class member will receive a pro rata share of the Net Settlement Fund determined by the ratio that such Class member's Net Loss on Theta securities purchased during the Class Period bears to the Net Loss of all such Class members.

(a) For purposes of determining whether membership interests of Theta common stock purchased during the Class Period were sold during the Class Period, holdings of Theta securities at the beginning of the Class Period and purchases of Theta securities during that Class Period shall be matched to sales during the Class Period on a first-in, first-out basis.

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(b) No Class member shall be entitled to receive from the Settlement Fund more than the amount of the Class member's Net Loss calculated in accordance with (a) above.

(c) In the event that the total payments to the Class members calculated in accordance with (a) and (b) above, plus such attorneys' fees and expenses as may be awarded by the Court and any taxes due are less than the total amount of the Settlement Fund, the remainder of the Settlement Fund shall upon order of the Court be paid to Rubel.

19. The Settling Defendant shall have no responsibility for, or liability whatsoever with respect to, the investment or distribution of the Settlement Fund, the Net Settlement Fund, the determination, administration, calculation, payment or non-payment of claims, or any losses incurred in connection therewith.

20. No person shall have any claim against any Released Person, Plaintiff's Counsel, the Claims Administrator or other agent designated by Plaintiff's Counsel based on the distributions made substantially in accordance with this Stipulation and the Settlement contained herein and further orders of the Court.

JURISDICTION OVER CLASS MEMBERS AND CLAIMS

21. Each Class member shall be deemed to have submitted to the jurisdiction of the Court, and each Net Loss will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to that Class member's status as a member of the Class and the amount of the Class member's Net Loss. All proceedings with respect to the Settlement described by this Stipulation and the determination of all controversies relating thereto, including, but not limited to, disputed questions of law and fact with respect to the validity of any payments to Class members, shall be subject to the jurisdiction of the Court.

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RELEASES

22. Plaintiff, all members of the Class, and their heirs, assigns, and successors in interest, shall be deemed to have released and discharged the Settling Defendant, absolutely and forever, from all Released Claims upon receipt of the checks from the Settlement Fund.

23. There is no intent on the part of the Plaintiff or the Settling Defendant that this Settlement will release any parties other than the Plaintiff, the Class and the Settling Defendant, and thus no other parties, whether part of this Action or not, will be released by this Settlement.

AWARD OF ATTORNEYS' FEES AND DISBURSEMENTS

24. Plaintiff's Counsel requests attorney fees in the amount of 30% of the Settlement Fund, a figure far below Plaintiff's Counsel's lodestar in this case, and reimbursement of expenses incurred in this action in the amount of \$5576.24 plus interest accrued. A detailed breakdown of fees and expenses is annexed hereto as Exhibit D. Amounts so awarded shall be payable solely from the Settlement Fund. Settling Defendant has agreed to take no position on all such applications.

25. The procedure for and the allowance or disallowance by the Court of applications by Plaintiff's Counsel for attorneys' fees and expenses to be paid out of the Settlement Fund, 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 the fairness, reasonableness and adequacy of the Settlement set forth in this Stipulation.

26. Any fees and expenses awarded by the Court, including any applicable interest thereon to the date of payment of attorneys' fees and disbursements, shall be paid from the Settlement Fund and wired to an account selected by Plaintiff's Counsel for distribution among Plaintiff's Counsel as determined by Wolf Haldenstein Adler Freeman & Herz LLP. Settling Defendant shall have no obligation to pay any of Plaintiff's Counsel's fees and expenses.

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EFFECT OF TERMINATION

27. In the event that this Stipulation is not approved by the Court or the Settlement set forth in this Stipulation is terminated or fails to become effective in accordance with its terms, or if the Judgment is reversed, vacated or modified, and upon five (5) business days' written notice by Settling Defendant's Counsel to Plaintiff's Counsel, the Settlement Fund (including accrued interest), shall be refunded to the Settling Defendant.

28. In the event that this Stipulation is not approved by the Court or the Settlement set forth in this Stipulation is terminated or fails to become effective in accordance with its terms, or if the Judgment is reversed, vacated or modified, the parties to the Action shall be restored to their respective positions in the action before the signing of the Stipulation; the Preliminary Approval Order shall be vacated; and the parties shall cooperate in seeking appropriate extensions of the schedule for trial and other deadlines in the action so that the parties have the same time to complete their pre-trial and trial preparations as if this Stipulation had not been executed.

CONCLUSIVE EFFECT OF SETTLEMENT

29. Each member of the Class whose payment is not approved by the Court shall be barred from sharing in the distribution of the Net Settlement Fund, but shall otherwise be bound by all of the terms of this Stipulation and Judgment, unless such Class member requested to be excluded from the Class in accordance with the procedures outlined in the Notice.

NO ADMISSION

30. Neither this Stipulation nor the Settlement, nor any negotiations or proceedings hereunder, nor any act performed or document executed pursuant to or in furtherance of this Stipulation or the Settlement: (a) is, or may be deemed to be, or may be used as an admission or concession of, or evidence of, the validity of any Released Claims, or of any wrongdoing or liability of the Settling Defendant or of any damages to the Class; (b) is, or may be deemed to be, or may be used as, an admission or concession of, or evidence of, any fault or

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omission of any Settling Defendant in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal, other than in such proceedings as may be necessary to consummate or enforce this Stipulation, the Settlement or the Final Judgment, except that if the Settlement is approved, Settling Defendant may file and use this Stipulation or the Judgment in any action or proceeding in order to support a defense, claim, or counter-claim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense, claim or counter-claim.

31. This Settlement shall not be deemed to be an admission by Plaintiff or the Class that the claims asserted in the Action are without merit, or that damages suffered by Plaintiff and the Class as alleged in the Action are not greater than the Settlement Amount.

MISCELLANEOUS PROVISIONS

32. Plaintiff's Counsel shall provide Settling Defendant's counsel with copies of all objections to the Settlement and requests for exclusion received from Class members.

33. If 25 or more of the Class members opt out of the settlement, this Stipulation is null and void.

34. The undersigned: (a) acknowledge that it is their intent to consummate this Stipulation, if it is approved by the Court; (b) agree to cooperate to the extent necessary to effectuate and implement all terms and conditions of this Stipulation and to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Stipulation; and (c) represent that this Stipulation is the product of arms' length negotiation.

35. All of the Exhibits to this Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.

36. This Stipulation and the Exhibits hereto may be amended or modified only by a written instrument signed by or on behalf of all of the parties hereto or their successors-in-interest.

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37. This Stipulation and the Exhibits attached hereto constitute the entire agreement among the parties hereto and no representations, warranties or inducements have been made to anyone concerning the Stipulation or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents. Except as otherwise provided herein, each party shall bear its own costs.

38. This Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument, provided, that no party shall be bound hereby until all parties have executed same. The undersigned counsel for the parties shall exchange among themselves original signed counterparts, and a complete set of original executed counterparts of this Stipulation shall be filed with the Court.

39. Without affecting the finality of the Judgment entered in accordance with this Stipulation, the Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Stipulation, and each of the parties hereto submits to the jurisdiction of the Court for purposes of implementing the terms and conditions embodied in this Stipulation.

40. This Stipulation and all of the Exhibits hereto shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of Illinois and the rights and obligations of the parties to this Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive law of the State of Illinois without giving effect to that State's choice of law principles.

41. 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 by any party.

42. Plaintiffs' Counsel is expressly authorized by Plaintiff to take all appropriate action required or permitted to be taken by the Class pursuant to this Stipulation to

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effectuate its terms, and is also expressly authorized to enter into any modifications or amendments to this Stipulation on behalf of the Class which they deem appropriate.

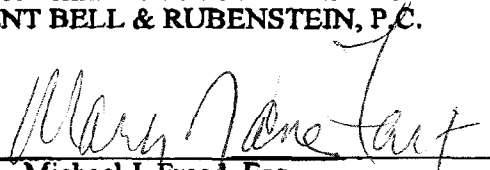
43. This Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto and any corporation, partnership, or other entity into or with which any party hereto may merge, consolidate or reorganize.

Dated: 2/28, 2000

Respectfully submitted,

MUCH SHELIST FREED DENENBERG
AMENT BELL & RUBENSTEIN, P.C.

By:



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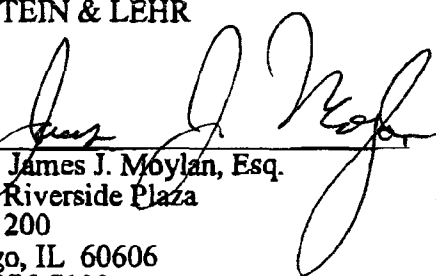
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ROBERT I. FALK,

Plaintiff,

v.

THETA GROUP, L.L.C., SCOTT S. BELL and
R. SCOT RUBEL,

Defendants.

CIVIL ACTION NO.
97-C-0565

The Honorable James H. Alesia
Magistrate Judge Keys

PRELIMINARY APPROVAL AND IMPLEMENTATION ORDER

Upon reviewing the Stipulation and Agreement of Compromise and Settlement Between plaintiff Robert I. Falk ("Plaintiff") and the class of investors in Theta Group, L.L.C. ("Theta") he purports to represent (the "Class") and defendant R. Scot Rubel ("Rubel" or "Settling Defendant") dated _____, 2000, including the exhibits annexed thereto (the "Settlement Agreement"), as executed by the attorneys for Plaintiff and Settling Defendant in the above-captioned action (the "Action"), and upon the Court's familiarity with, and review of all prior proceedings held herein, and it appearing that Plaintiff and Rubel have agreed to a settlement and compromise of the Action as to Plaintiff's claims against Rubel upon the terms set forth in the Settlement Agreement, and that a hearing on the settlement proposed therein is warranted,

It is hereby **ORDERED** that:

1. Notice be given to the Class of the proposed Settlement and motion for class certification, pursuant to the requirements of Rule 23 of the Federal Rules of Civil Procedure and the Settlement Agreement, and for purposes of this settlement only, with respect

to the Released Claims (as that term is defined in the Settlement Agreement), with respect to the following class: All persons and entities who purchased membership interests in Theta Group, L.L.C. ("Theta") from October 1, 1995 to November 26, 1996, and who have suffered damage as a result. Excluded from the Class are defendants, their immediate families, successors and assigns, the officers, directors, subsidiaries and affiliates of Theta, and all defendants' former and present counsel.

2. The proposed Settlement is sufficiently fair, reasonable and adequate to warrant notice of a full hearing on the Settlement to members of the Class. The Court hereby preliminarily approves the Settlement and directs that a hearing be held on _____, 2000, at ___:___ to consider the Motion for Class Certification and the fairness, reasonableness and adequacy of the Settlement to the Class (the "Fairness Hearing"). The Court further directs that Plaintiff's Counsel's application for fees, costs and expenses, including expert's fees and costs, shall be filed no later than _____, and shall be available for inspection in the clerk's office at the above address.

3. The Notice of Motion For Class Certification and Approval of Proposed Settlement and Hearing On Proposed Settlement" (the "Notice") in substantially the form annexed hereto as Exhibit A, shall be mailed by First Class United States Mail by the Claims Administrator on or before _____, 2000, at the direction and under the supervision of Plaintiff's Counsel, to all persons and entities who can be identified as Class Members through reasonable effort from the records of the Settling Defendant, Theta, and the Securities and Exchange Commission, and to counsel for Rubel. Proof of mailing of the Notice shall be filed by Plaintiff's Counsel at or prior to the Fairness Hearing.

4. Notice given in the form and manner directed in paragraph 3 of this Order is hereby found to be due, adequate, and sufficient notice and the best notice practicable

under the circumstances, and shall constitute the notice required by due process and Rule 23 of the Federal Rules of Civil Procedure.

5. All members of the Class who wish to exclude themselves therefrom shall do so by mailing, by first class mail, a timely and valid request for exclusion to Plaintiff's Counsel or the Claims Administrator, at the address set forth in the Notice, postmarked on or before _____, 2000. Any Request for Exclusion shall be deemed to have been made in each and every capacity in which the person requesting the exclusion is acting. Any Class member who does not timely request exclusion shall be included in the Class and shall be bound by any judgment entered pursuant to the terms of the Settlement. If the Settlement is approved, any Class members who do not exercise their right to be excluded from the Class shall be bound by the judgment and releases in this Action as set forth in the Settlement Agreement. Plaintiff's Counsel will notify Settling Defendant's Counsel of any requests for exclusion.

6. Any member of the Class who does not elect to exclude himself, herself or itself from the Class may appear at the Fairness Hearing, in person or by counsel, solely at such Class member's own expense, and be heard in support of or in opposition to the fairness, reasonableness and adequacy of the Settlement Agreement, the Plan of Allocation described in the Notice and/or Plaintiff's Counsel's request for reimbursement of expenses. No Class member will be heard or entitled in any way to contest the approval of the Settlement Agreement, the Plan of Allocation or Plaintiff's Counsel's request for reimbursement of expenses, unless, on or before _____, 2000, such Class member files with the Clerk of the Court, United States District Court, Northern District of Illinois, a notice of intention to appear and a written statement of the basis for his/her objection(s), proof of Class membership (by copy of confirmation slip or otherwise), along with all other papers or briefs he/she wishes the Court to consider, and on or before that date, serves copies of all such papers filed with the Court, in person or by mail, on Fred T. Isquith, Wolf Haldenstein Adler Freeman & Herz LLP, 270 Madison Avenue, New

York, New York 10016; and on Settling Defendant's Counsel James J. Moylan, Arnstein & Lehr, 120 South Riverside Plaza, Suite 1200, Chicago, Ill., 60606. Any member of the Class who fails to object in the manner prescribed herein shall be deemed to have waived, and shall be foreclosed from raising any objections.

7. Plaintiff's Counsel may, at their option, select a Claims Administrator for the Settlement Fund. The Claims Administrator shall be responsible for administering the Settlement pursuant to the procedure set forth in the Settlement Agreement, under the direction of Plaintiff's Counsel. Plaintiff's Counsel is hereby authorized to provide for payment of the reasonable costs of notice and administration from the Settlement Fund as set forth in paragraph 12 of the Settlement Agreement. The Escrow Agent for the Settlement Fund is also hereby authorized to make any quarterly or annual tax payments required with respect to any amounts paid under the terms of the Settlement Agreement and the amounts shall be treated for the purposes of payment of taxes as a "Qualified Settlement Fund" as that term is used in the United States Income Tax Code, pursuant to Treasury Regulation 1.468B-1.

8. Pending the Court's Final Order in this matter, all proceedings in connection with prosecution of this Action as to defendant Rubel are hereby stayed, except those proceedings in connection with effectuating the Settlement Agreement, and all Class members are barred and enjoined from commencing or prosecuting, either directly, representatively, or in any other capacity, any of the "Released Claims," as that term is defined in Settlement Agreement against Rubel.

9. This Order, the Settlement Agreement, and all negotiations, papers, writings, statements and/or proceedings in connection with the settlement shall not in any way be construed or used as or deemed to be evidence of: (a) an admission or concession on the part of Rubel of any liability or wrongdoing of any kind; (b) an admission or concession on the part of Rubel that any and all Class members have suffered any damage; or (c) an admission or

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concession on the part of any and all of the Class members that any of the claims asserted in this Action are without merit or that damages recoverable in this Action do not exceed the Settlement Amount.

10. In the event the Settlement Agreement is not approved by the Court or the approval does not become final pursuant to the terms of the Settlement Agreement, or for any reason the Settlement Agreement is terminated or does not become effective, then the Settlement Agreement shall become null and void and of no further force and effect, and shall not be used or referred to for any purpose whatsoever. In such event, the Settlement Agreement and all negotiations and proceedings relating thereto shall be withdrawn without prejudice as to the rights of any and all parties thereto, who shall be restored to their respective positions prior to the execution of the Settlement Agreement.

11. The Court hereby reserves the right to extend any of the foregoing dates, for good cause shown, and specifically retains the right to adjourn the Fairness Hearing by oral announcement on the original hearing date described above without further written notice to the Class.

Dated: _____, 2000

U.S.D.J.

ATTORNEYS FOR THE PLAINTIFF, ALL AS DESCRIBED BELOW. THIS NOTICE IS GIVEN PURSUANT TO RULE 23 OF THE FEDERAL RULES OF CIVIL PROCEDURE AND THE ORDER OF THE COURT ENTERED _____, 2000.

NOTICE IS HEREBY GIVEN THAT: (a) pursuant to Order of the United States District Court for the Northern District of Illinois dated _____, 2000, Plaintiff seeks to certify this action (the "Action") as a class action on behalf of all purchasers of Theta Group L.L.C. ("Theta") membership units from the period beginning October 1, 1995 to November 26, 1996 (the "Class"); (b) on _____, 2000, Plaintiff and defendant R. Scot Rubel ("Rubel") entered into a Stipulation and Agreement of Compromise and Settlement (the "Settlement") settling this Class action as to claims against defendant Rubel, upon certain terms and conditions; and (c) pursuant to an Order of the Court dated _____, 2000, and pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, a hearing will be held at _____ on _____, 2000 (the "Hearing Date") in Room _____ of the United States Courthouse, 219 South Dearborn Street, Chicago, Illinois, 60604, for the purpose of determining whether the class should be certified and whether the terms of the Settlement are fair, reasonable and adequate and should be approved by the Court, and what amount, if any, should be awarded as Plaintiff's expenses. The Hearing may be adjourned by the Court from time to time without any further notice.

DESCRIPTION OF THE ACTION

1. On December 7, 1996, a federal judge, acting in response to charges brought by the Securities and Exchange Commission, froze the assets of Theta Group, LLC. Over the course of 1997 to the present, the SEC has pursued its own settlement negotiations with defendants and has reached agreements with defendants Bell and Rubel. **As a result, any monies received from Rubel**

under the terms of this Settlement will be in addition to monies recovered by the SEC, and in addition to monies received from Plaintiff's and the SEC's separate settlements with defendant Bell.

2. On January 27, 1997, Plaintiff commenced an action against defendants Scott S. Bell ("Bell"), Theta Group, L.L.C. ("Theta"), and R. Scot Rubel ("Rubel") (collectively, the "Defendants"), alleging violations of Section 12(2) of the Securities Act of 1933, as amended ("Securities Act"), 15 U.S.C. § 771(2), and Section 10(b) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5, promulgated thereunder, and also alleging breach of common law fiduciary duties.

3. Plaintiff asserts that the Defendants deceived purchasers of membership units in Theta, a registered broker-dealer organized under the laws of the State of New Jersey, and located in Chicago, Illinois. Specifically, Plaintiff alleges that the Defendants misled Plaintiff, the members of the Class, and the public as to the qualifications of defendant Rubel, the past performance of Theta in the form of false and misleading monthly reports of returns and losses, and by not disclosing payment of fees to Rubel and Bell in excess of those disclosed in the offering memorandum. In reliance on the allegedly false disclosures, Plaintiff and the Class purchased Theta membership units.

4. Plaintiff brings the Action as a class action, seeking to represent all persons and entities who purchased membership interests in Theta from October 1, 1995 to November 26, 1996, and who have suffered damage as a result of the conduct alleged, excluding defendants, their immediate families, successors and assigns, the officers, directors, subsidiaries and affiliates of

Theta, and all defendants' former and present counsel, (the "Class"). Plaintiff himself purchased 250 units of Theta at a price of \$1000 per unit on March 29, 1996.

5. On May 19, 1998, a partial settlement was reached with defendant Bell. After appropriate notice and hearing, final approval of the partial settlement was granted by this Court on July 8, 1998.

6. Defendant Rubel was engaged in litigation with the Securities and Exchange Commission until June 24, 1999. Counsel for both parties, in consultation with this Court, kept abreast of the status of the SEC proceedings. Plaintiff's counsel determined that it was in the best interest of the Class to wait until the SEC proceedings were resolved before entering into serious negotiations with defendant Rubel.

7. Once the SEC litigation was resolved on June 24, 1999, settlement discussions between Plaintiff's counsel Much Shelist Freed Denenberg Ament & Rubenstein, P.C. and Wolf Haldenstein Adler Freeman & Herz, LLP, and Rubel's counsel Arnstein & Lehr began in earnest. Plaintiff's counsel reviewed the claims against Rubel, information concerning Rubel's assets, including an affidavit from Rubel with supporting documentation as well as the effect of the recent SEC settlement, and conducted extensive discussions with Rubel's counsel as to Rubel's financial status, culminating in the Settlement Agreement proposed below.

DEFENDANT'S DENIALS OF WRONGDOINGS

8. Rubel in this Action has denied and continues to deny all allegations of wrongdoing or liability or damage to Plaintiff or the Class whatsoever, and contends that he acted properly and lawfully at all times. Defendant desires to settle and terminate the Action so as to avoid lengthy and time-consuming litigation and the substantial burden, inconvenience and expense

connected therewith, and to finally put to rest any and all claims that were or could have been asserted in this action or arising out of the matters set forth in the pleadings, without in any way acknowledging any fault or liability. The Settlement and all related documents are not to be, and shall not be, construed as an admission by Defendant of any damage to the Class, or any wrongdoing or liability on the part of Rubel, or of any other person.

SUMMARY OF THE PROPOSED SETTLEMENT

9. The following is a summary of the principal terms of the Settlement. Interested persons are referred to the Stipulation of Settlement, which is on file with the Clerk of the Court, for the complete terms of the Settlement. Defendant Rubel has agreed to pay a total of \$12,500 into the Settlement Fund. If Rubel makes payment pursuant to the terms of this Settlement, and otherwise satisfies the terms of this Settlement, a judgment will be entered dismissing the Action with prejudice and releasing Rubel, his successors and assigns, from any liability based on any of the claims arising out of the matters that were or could have been raised in the Action (the "Released Claims").

10. The Settlement Fund may be reduced by such amounts as may be approved by the Court to pay for costs and expenses, including those costs incurred in giving the Notice provided to the Class and in administering the Settlement. Additionally, the Settlement Fund may be reduced by such amounts as may be awarded by the Court as legal fees and expenses to Plaintiff's Counsel, as described below. Settling Defendant shall not be liable for costs of Notice.

DETERMINATION OF THE PARTIES

11. The Defendant in this Action, while continuing to deny all allegations of wrongdoing or liability or damage to Plaintiff and the Class whatsoever, and contending that he

acted lawfully and properly at all times, desires to settle and terminate the Action so as to avoid lengthy and time-consuming litigation and the substantial burden, inconvenience and expense connected therewith, and to finally put to rest any and all claims that were or could have been asserted in this Action or arising out of the matters set forth in the pleadings, without in any way acknowledging any fault or liability.

12. Based on their research and analysis, and after considering the benefits that the Class will receive as a result of the proposed Settlement described herein in light of Rubel's poor financial status, the settlement between Rubel and the SEC, as well as the inherent uncertainties and delays of continued litigation, Plaintiff and his counsel have concluded that the proposed Settlement is fair, reasonable and adequate and in the best interests of the Class.

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF THE RESPECTIVE CLAIMS OR DEFENSES AS TO ISSUES OF LIABILITY OR DAMAGES. THIS NOTICE IS SENT ONLY TO ADVISE YOU OF THE PROPOSED CLASS CERTIFICATION AND SETTLEMENT DESCRIBED HEREIN AND OF CERTAIN RIGHTS YOU MAY HAVE WITH RESPECT THERETO.

THE HEARING

13. The Hearing shall be held at _____ on _____, 2000 (or at any such adjourned date or time as the Court may without further notice direct) in Room _____ of the United States Courthouse at 219 South Dearborn Street, Chicago, Illinois, 60604, (i) to determine whether the class should be certified and whether the proposed Settlement on the terms and conditions provided for in the Settlement is fair, reasonable and adequate and should be approved by the Court, and (ii) to consider the proposed Plan of Allocation and application by the attorneys for Plaintiff and the Class for an award to them of fees and reimbursement of expenses.

14. Any member of the Class may appear at the Hearing and show cause why the Settlement or Plan of Allocation should not be approved, or why expenses should not be awarded; provided, however, that, unless the Court shall otherwise direct, no person shall be heard, and no written objection, memorandum or other paper shall be received or considered by the Court, unless the objector shall file with the Clerk of Court, United States District Court, Northern District of Illinois, no later than _____, 2000, a notice of intention to appear, the name and address of the objector, a written statement of the basis for the objection, proof of class membership (by copy of confirmation slip or otherwise) along with any other documents he/she wishes the Court to consider, and showing due proof of service of the same papers on Counsel for the Class and Counsel for Defendant, at the addresses set forth below:

DEFENDANT'S COUNSEL:

James J. Moylan
Arnstein & Lehr
120 South Riverside Plaza
Suite 1200
Chicago, IL 60606
Telephone: (312) 876-7100

Attorneys for Defendant
R. Scot Rubel

PLAINTIFF'S COUNSEL:

Mary Jane Fait
Much Shelist Freed Denenberg Ament &
Rubenstein, P.C..
200 N. LaSalle Street, Suite 2100
Chicago, IL 60601-1095
Telephone: (312) 346-3100

Fred Taylor Isquith
Wolf Haldenstein Adler Freeman & Herz LLP
270 Madison Avenue
New York, New York 10016
Telephone: (212) 545-4600

Attorneys for Plaintiff and the Class

15. Any member of either Class who does not make his or her objection in the manner provided for herein shall be deemed to have waived such objection and will forever be foreclosed from making any objection or other challenge in this Action or any other litigation to the

fairness, reasonableness or adequacy of the proposed Settlement and Plan of Allocation, or to the award of expenses.

16. If you purchased a membership interest in Theta during the Class Period as defined above, and if you are not excluded from the Class as set forth in Paragraph 4 above, then you are a "Class Member." As a Class Member, you will be bound by the terms of the Settlement and the Judgment to be entered by the Court, described below, even if your payment from the Settlement Fund is disallowed in whole or in part.

17. If you do not wish to remain a member of either Class, you must mail a written request for exclusion, which must be postmarked not later than _____, 2000, to: Theta Securities Litigation, Wolf Haldenstein Adler Freeman & Herz LLP, 270 Madison Avenue, New York, NY 10016. You must state the following information: (a) the full name and address of the beneficial owner of the Theta membership interest; (b) the beneficial owner's request to be excluded from either Class; (c) the number of membership interests purchased by the beneficial owner during the Class Period; and (d) the date(s) on which said interests were purchased. If the membership interest(s) was purchased by, or on behalf of, joint beneficial owners, all such owners should sign the request and provide such information. Any request for exclusion made by a representative on behalf of a Class member must state the capacity in which the representative is acting.

EFFECT OF CLASS DETERMINATION

18. Only Class members will be eligible to share in the proceeds of the proposed Settlement referred to below.

19. If you are a member of the Class described above, you may, if you desire, enter an appearance pro se or through counsel of your own choosing, at your own expense. Otherwise, your interests will be represented by Class plaintiff Robert I. Falk and Class plaintiff's counsel Michael Freed and Mary Jane Fait of Much Shelist Freed Denenberg Ament & Rubenstein, P.C., 200 N. LaSalle Street, Suite 2100, Chicago, IL 60601-1095, (312) 346-3100, and Fred Taylor Isquith of Wolf Haldenstein Adler Freeman & Herz LLP, 270 Madison Avenue, New York, New York 10016, (212) 545-4600.

REQUEST FOR ATTORNEYS' FEES AND EXPENSES

20. If the proposed Settlement is approved by the Court, Plaintiffs' counsel intend to apply to the Court for attorneys' fees not to exceed thirty (30) percent of the Settlement Fund, and reimbursement of actual expenses and costs not to exceed \$5,576.24.

ALLOCATION AND DISTRIBUTION OF
THE SETTLEMENT FUND TO THE CLASS

21. If the Court certifies the Class and approves the proposed Settlement, then, after any Court-approved fees and expenses (including for providing notice of the proposed Settlement and for the administration of the Settlement) have been paid, the balance of the Settlement Fund (the "Net Settlement Fund") will be distributed to the Class.

22. The Net Settlement Fund will be distributed to all Class Members who can be identified from the records of Rubel, Theta, and the SEC who have not requested exclusion from the Class and whose payments are allowed in whole or in part, as follows:

(a) Each Class member will receive a pro rata share of the Net Settlement Fund determined by the ratio that the Net Loss of such Class member on Theta membership interests purchased during the Class Period bears to the Net Losses of all Class members. A Class member's Net Loss shall be equal to the amount invested in Theta membership units minus any amount recovered by the Class member in the Securities and Exchange Commission proceedings.

(b) In determining allowable payments to Class members, acquisitions and sales of Theta membership interests shall be deemed to have been made on a first acquired-first sold basis.

(d) No Class member will receive more than his, her or its actual out-of-pocket loss.

EXAMINATION OF PAPERS

23. The above description of the matters involved in the Action and the proposed Settlement is only a summary. You are referred to the pleadings, the Settlement Agreement, and other papers filed in the Action, all of which may be inspected during ordinary business hours at the United States District Court for the Northern District of Illinois, at the Courthouse at the above address in Chicago, Illinois, for a complete description of the terms thereof. If you have any questions concerning the matters dealt with in this Notice, you may contact counsel for the Plaintiff in the Action at the addresses listed in Paragraph 2 on Page 7 of this Notice.

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PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE
DIRECTLY FOR SUCH INFORMATION.

C. In the Preliminary Approval Order, the Court scheduled a hearing for _____, 2000, at __:__ (the "Fairness Hearing"), to determine, inter alia, whether the Settlement Agreement should be approved by the Court as being fair, reasonable and adequate, whether judgment should be entered thereon, whether the Plan of Allocation of the Settlement Fund was fair, reasonable and adequate and to consider the application of plaintiff's counsel for reimbursement of expenses.

D. The Court ordered that the "Notice of Motion for Class Certification and Approval of Proposed Settlement and Hearing on Proposed Settlement" (the "Notice") be mailed by first-class mail to each member of the Class who could be identified from the lists provided by Rubel, Theta, and the Securities and Exchange Commission. The Notice informed interested persons of their right to, among other things, comment on or object to the certification of the class, the Settlement Agreement, the Plan of Allocation of the Settlement Fund and the application of Plaintiffs' Counsel for reimbursement of expenses. The Affidavits filed with the Court on _____, 2000, establish that there has been full compliance with the Court's directives with respect to the Notice.

E. The Fairness Hearing was held on _____, 2000, at which time all interested persons were afforded the opportunity to be heard. The Court has duly considered all of the submissions and arguments presented with respect to the Settlement, the Plan of Allocation of the Settlement Fund and Plaintiff's Counsel's application for reimbursement of expenses.

NOW, THEREFORE, after due deliberation, it is hereby **ORDERED** that:

1. This action shall be certified as a class action for settlement purposes.

2. The partial settlement described in the Settlement Agreement is fair, reasonable and adequate, is in the best interests of the Class, and is approved for consummation in accordance with the terms of the Settlement Agreement.

3. The mailing of the Notice described in paragraph D above constitutes the best notice practicable under the circumstances and is in full compliance with the notice requirements of Rule 23 of the Federal Rules of Civil Procedure and due process.

4. Settling Defendant will deposit \$12,500 into the Settlement Fund within five (5) business days of the date of this Order.

5. Provided Settling Defendant abides by the terms of the Settlement Agreement, Plaintiff and the Class members shall be deemed to have released, relinquished and discharged all Released Claims against Rubel and are permanently barred and enjoined either directly, representatively or in any other capacity, from: (i) instituting or prosecuting any action to the extent such action is based on any of the Released Claims; and (ii) collecting upon any judgment or settlement in connection with, arising out of, or which is in any way related to the allegations of the Complaint relating to Rubel.

6. After the Final Settlement Payment Date, providing Settling Defendant has satisfied the terms of the Settlement Agreement, the Action as against Settling Defendant shall be dismissed, with prejudice, on the merits and without costs, and Rubel, his successors and assigns, are hereby released of and from any and all manner of claims, based on the Released Claims, as that term is defined in the Stipulation, whether currently known or unknown, and whether or not yet asserted in any litigation.

7. Rubel is barred and enjoined, from instituting any suit or action against Plaintiff or any member of the Class, and their respective successors and assigns, for the payment of the Settlement Fund or any portion thereof, or any other costs, expenses, fees

incurred or payments made in connection with or related to the action, except to enforce the terms and provisions of the Settlement Agreement.

8. The Plan of Allocation of the Settlement Fund set forth in the Settlement Agreement is approved.

9. Plaintiff's Counsel's request for attorneys' fees and reimbursement of expenses is granted in the amount of \$_____. Such fees and expenses shall be released to Plaintiff's Counsel, with accrued interest, after the Final Settlement Payment Date, as that term is defined in the Stipulation.

10. The Settlement shall not be construed or be deemed to be evidence of or an admission or a concession on the part of Rubel with respect to any claim or any fault or liability or damages whatsoever, and shall not be admissible in any other court proceeding as evidence of or an admission by Rubel of any fault or liability.

11. The Settlement shall not be construed or be deemed to be evidence of or an admission or a concession on the part of Plaintiff or the Class that any of the claims asserted in this Action are without merit, that damages recoverable in this Action do not exceed the Settlement Amount, or as to the value of the Released Claims as asserted against other defendants.

12. This Court shall retain jurisdiction to enforce the terms of the Settlement Agreement.

13. There being no just reason for delay, this judgment shall be deemed final pursuant to the provisions of Rule 54(b) of the Federal Rules of Civil Procedure.

Dated: _____, 2000

U.S.D.J.