

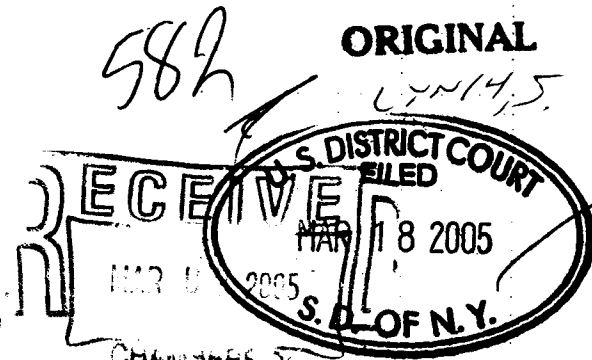
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE GLOBAL CROSSING LTD.
SECURITIES LITIGATION

x

: Case No. 02-20091 (GEL)

x



**FINDINGS AND ORDER PRELIMINARILY
CERTIFYING A CLASS FOR PARTIAL SETTLEMENT PURPOSES
AND PRELIMINARILY APPROVING PROPOSED SETTLEMENT**

Since February 2002, over 50 putative class actions alleging securities law violations have been filed against, among others, current and former officers, directors and employees of Global Crossing Ltd., and at least seven putative class actions were filed against Salomon Smith Barney Inc. and related entities, on behalf of putative classes of holders of Global Crossing securities.

The Judicial Panel on Multidistrict Litigation centralized all of these actions before this Court for coordinated or consolidated pretrial proceedings. In a December 13, 2002 order, the Court (i) consolidated the actions alleging securities law violations (the "Action"), (ii) appointed the Public Employees' Retirement System of Ohio and the State Teachers' Retirement System of Ohio as lead plaintiff in the Action ("Lead Plaintiffs"), and (iii) appointed Grant & Eisenhofer, P.A. as lead counsel in the Action ("Lead Counsel").

In a May 29, 2003 order, the Court consolidated into the Action five putative class actions alleging securities law violations against, among others, current and former officers, directors and employees of Asia Global Crossing Ltd., a former majority-owned subsidiary of Global Crossing Ltd. On March 22, 2004, Lead Plaintiffs filed the Second Amended Consolidated Class Action Complaint in the Action. The defendants in the Action include Citigroup, Inc., Citigroup Global Markets Inc. (formerly Salomon Smith Barney Inc.); Citigroup

M I C R O F I L M
MAR 21 2005 **-9 00AM**

Global Markets Holdings Inc. (formerly Salomon Smith Barney Holdings Inc.), Jack B. Grubman, Michael Carpenter, Kevin McCaffrey, and Christine Gochuico (collectively, the “Settling Defendants”).

Presented to the Court for preliminary approval is the second partial settlement of the Action. The terms of the settlement are set out in a Stipulation of Settlement (the “Settlement Agreement”) that was executed by the Settling Parties on March 1, 2005. Approval of this settlement – reached after 20 months of arm’s-length and protracted negotiations, including mediated negotiations before a retired United States District Court judge – would result in dismissal with prejudice of the Action as to the Settling Defendants.¹ The Settlement Agreement is contingent on, among other things, the completion of additional discovery² and the continued belief of Lead Plaintiffs following the completion of that discovery that the Settlement Agreement is fair, reasonable and adequate.

On March 8, 2005, the Court preliminarily considered the settlement to determine whether, among other things, preliminarily to certify a class in the Actions for settlement purposes and whether the settlement is sufficient to warrant the issuance of notice to members of the settlement class. Upon reviewing the Settlement Agreement and the matter having come before the Court at the March 8, 2005 hearing, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

¹ Capitalized terms not otherwise defined in this Order shall have the same meaning as ascribed to them in the Settlement Agreement.

² As previously noted by the Court, Lead Plaintiffs have already conducted extensive discovery in this Action. This discovery included pre-filing interviews, the review of publicly available internal Global Crossing documents and the review approximately 270,000 pages of documents and 80,000 e-mails (with their associated attachments. Plaintiffs have subsequently received and reviewed documents from certain of the financial institution defendants and Arthur Andersen LLP.

1. **Class Findings** – For purposes of the settlement of the Action as to the Settling Defendants (and only for such purposes, and without an adjudication of the merits), the Court preliminarily finds that the requirements of the Federal Rules of Civil Procedure, the United States Constitution, the Rules of the Court and any other applicable law have been met as to the class described in the paragraphs below in that:

- a. The class is ascertainable from records kept by the companies and/or their agents, and from other objective criteria, and the Class Members of each class are so numerous that their joinder before the Court would be impracticable.
- b. The Lead Plaintiffs and the named representative plaintiffs have alleged numerous questions of fact and law purportedly common to the class proposed in the Action.
- c. Based on allegations in the Action that the Settling Defendants engaged in uniform misconduct affecting members of the classes proposed, the Court preliminarily finds that the claims of the Lead Plaintiffs and Securities Plaintiffs in the Action are typical of the claims of the class proposed in the Action.
- d. The Court further finds that the Lead Plaintiffs and Securities Plaintiffs will fairly and adequately protect the interest of the Class they seek to represent in that (i) the interest of Lead Plaintiffs and Securities Plaintiffs and the nature of their alleged claims are consistent with those of the Members of the Class, (ii) there appear to be no conflicts between or among the Lead Plaintiffs, the Securities Plaintiffs and the class proposed

in the Action, (iii) the Lead Plaintiffs and the Securities Plaintiffs have been and appear to be capable of continuing to be active participants in both the prosecution and the settlement of the Action, and (iv) the Lead Plaintiffs, the Securities Plaintiffs, and the Class Members are represented by qualified, reputable counsel who are experienced in preparing and prosecuting large, complicated securities fraud class actions.

- e. The Court preliminarily finds that, for settlement purposes in the Action, questions of law or fact common to members of the Class predominate over any questions affecting only individual members of the Class and that a class-action resolution in the manner proposed by the Settlement Agreement would be superior to other available methods for a fair and efficient adjudication of the Action. In making these preliminary findings, the Court has considered, among other factors, (i) the interest of members of the Class Members in individually controlling the prosecution or defense of separate actions, (ii) the impracticability or inefficiency of prosecuting or defending separate actions, (iii) the extent and nature of any litigation concerning these claims already commenced, and (iv) the desirability of concentrating the litigation of the claims in a particular forum.

2. Preliminary Class Certification for Settlement Purposes in the Action –

Based on the findings set out in paragraph 1 above, the Court preliminarily certifies the following class for settlement purposes only under Fed. R. Civ. P. 23(b)(3) in the Action. Lead Plaintiffs and the Securities Plaintiffs are certified as Class Representatives of the Class. The

Class consists of all persons, entities, or legal beneficiaries or participants in any entities who, during the period from February 1, 1999 through December 8, 2003, inclusive (the "Class Period"), purchased, sold, exchanged, acquired, disposed of, transferred, or made any other Investment Decision involving, Global Crossing Securities. The Class preliminarily certified for settlement purposes in the Action shall *not* include:

- a. such persons or entities who submit valid and timely requests for exclusion from the Class in accordance with the procedures set out in the Settlement Agreement;
- b. such persons or entities who, while represented by counsel, settled an actual or threatened lawsuit or other proceeding with any of the Settling Defendants, and released the Settling Defendants and the Releasees from any further claims concerning their purchase, sale, exchange, acquisition, disposal, transfer or any other Investment Decision involving Global Crossing Securities, or their sale of put options or other derivative instruments on Global Crossing Securities;
- c. such persons or entities who are or were: Defendants in the Action; Family Members of any Defendant; any entity in which Global Crossing, a current or former Defendant or the Settling Defendants has or had a Controlling Interest; the legal representatives, heirs, executors, successors or assigns of any person or entity excluded pursuant to this paragraph 2.c; or any current or former directors or officers of a Defendant in the Action and/or of Global Crossing or of an entity in which Global Crossing or any of the Settling Defendants had a Controlling Interest; *provided however,*

that this exclusion does not apply to any Defendant to the extent it is acting as a Nominee for any Class Member; or

- d. Simpson Thacher & Bartlett and any other party that has settled claims or potential claims involving Global Crossing with the Class.

The Court finds that, for the sole purpose of settlement, and without an adjudication of the merits, the Class is sufficiently well-defined and cohesive.

3. **Preliminary Findings Regarding Proposed Settlement** – The Court preliminarily finds that (i) the proposed settlement resulted from extensive arm’s-length negotiations, (ii) the Settlement Agreement was executed only after Lead Counsel had conducted pre-filing interviews and document review, and extensive pre-settlement document discovery, as described above, (iii) the Settlement Agreement is contingent on certain additional discovery being conducted, including review of additional documents, (iv) subject to Lead Counsel’s and Lead Plaintiffs’ continued belief (following the completion of such additional discovery) that the Settlement Agreement is fair, reasonable and adequate, the settlement evidenced by the Settlement Agreement is sufficiently fair, reasonable and adequate to warrant sending notice of the Action and the proposed settlement to the Class.

4. **Fairness Hearing** – The Court will conduct a hearing (the “Fairness Hearing”) on June 30, 2005 at 10:00 a.m. to determine, among other things:

- a. whether the Action should be finally certified as a class action for settlement purposes;
- b. whether the proposed partial settlement of the Action should be approved as fair, reasonable and adequate;

- c. whether the Action should be dismissed with prejudice pursuant to the terms of the settlement;
- d. whether the notice, summary notice and notice methodology implemented pursuant to the Settlement Agreement (i) constituted the best practicable notice, (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action, their right to object to the proposed settlement, their right to appear at the Fairness Hearing and their right to exclude themselves from the proposed settlement, (iii) were reasonable and constituted due, adequate and sufficient notice to all persons entitled to notice and (iv) met all applicable requirements of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Rules of the Court, the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), 15 U.S.C. § 78u-4 et seq., and any other applicable law;
- e. whether Lead Counsel, Lead Plaintiffs and Securities Plaintiffs adequately represented the Class for purposes of entering into and implementing the Settlement Agreement;
- f. whether Class Members (and their heirs, executors and administrators, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b) and assigns) should, subject to certain exclusions set out in the Settlement Agreement, be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, participating in (as class members or otherwise), or receiving any benefits or other relief from, any

other lawsuit, arbitration or other proceeding or order in any jurisdiction that is based upon, arises out of or relates to any Released Claims (as that term is defined in the Settlement Agreement), including, but not limited to, any claim that is based upon, arises out of or relates to the Action or the transactions and occurrences referred to in the Complaint;

- g. whether all persons or entities should, subject to certain exclusions set out in the Settlement Agreement, be permanently barred and enjoined from organizing any Class Members for purposes of pursuing as a purported class action (including by seeking to amend a pending complaint to include class allegations, or by seeking class certification in a pending action) any lawsuit that is based upon, arises out of or relates to any Released Claims (as that term is defined in the Settlement Agreement), including, but not limited to, any claim that is based upon, arises out of or relates to the Action or the transactions and occurrences referred to in the Complaint;
- h. whether, subject to certain exclusions set out in the Settlement Agreement, a contribution bar should be entered in accordance with 15 U.S.C. § 78u-4(f)(7)(A);
- i. whether, subject to certain exclusions set out in the Settlement Agreement, a complete bar should be entered that (i) permanently bars, enjoins and restrains all persons or entities from commencing, prosecuting or asserting any claim against any Releasee arising under state, federal or common law, however styled, whether for indemnification or contribution or

otherwise denominated, including, without limitation, claims for breach of contract and for misrepresentation, where the claim is based upon, arises out of, or relates to any Released Claim, including, but not limited to, any claim that is based upon, arises out of or relates to the Action, or the transactions and occurrences referred to in the Complaint, whether such claims are legal or equitable, known or unknown, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, including, without limitation, any claim in which any person or entity seeks to recover from any of the Releasees (x) any amounts such person or entity has or may become liable to pay to any of the Class Members and/or (y) any costs, expenses, or attorneys' fees from defending any claim by any of the Class Members, and (if) permanently bars, enjoins and restrains all Releasees from commencing, prosecuting or asserting any claim against any person or entity (including any other Releasee) arising under state, federal, or common law, however styled, whether for indemnification or contribution, or otherwise denominated, including, without limitation, claims for breach of contract and for misrepresentation, where the claim is based upon, arises out of, or relates to any Released Claim, including, but not limited to, any claim that is based upon, arises out of or relates to the Action, or the transactions and occurrences referred to in the Complaint, whether such claims are legal or equitable, known or unknown, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, including, without limitation, any claim in which any Releasee seeks to recover from

any person or entity, including another Releasee, (x) any amounts any such Releasee has or may become liable to pay to any of the Class Members and/or (y) any costs, expenses, or attorneys' fees from defending any claim by any of the Class Members; and

- j. whether the applications for attorneys' fees and expenses filed by Lead Counsel should be approved.

5. **Notice to Class Members – Lead Plaintiffs** (or their designee) shall cause notice to be provided regarding the Settlement Agreement substantially in the form of the Notice for purposes of mailing attached hereto as Exhibit A and substantially in the form of the Summary Notice for purposes of publication attached as Exhibit B as set forth in the Settlement Agreement. The form of Proof of Claim the Class Members will be required to use to participate in this settlement shall be substantially in the form of that attached as Exhibit C. The Plan of Allocation for distribution of the settlement proceeds to Authorized Claimants shall be substantially in the form of that attached as Exhibit D. Non-material changes to the form of Notice, Summary Notice, Proof of Claim and Plan of Allocation may be made without further approval of the Court. The Settling Parties must consent to any changes to the Notice, Summary Notice and Proof of Claim, even if those changes are not material.

- a. By no later than 90 days before the Fairness Hearing, cause a notice to be mailed by first-class mail, postage prepaid, to the last known address of the following persons and entities who can be identified by reasonable effort: (i) each person or entity within the class definitions for each of the Actions and (ii) in cases of pending litigation, arbitration or other proceeding of any other Claim against any Releasee relating to any of the

Released Claims, to all legal counsel known by Lead Counsel or Citigroup Defendants' Counsel to represent a Class Member. The notice shall comply with Fed. R. Civ. P. 23 in all respects.

- b. By no later than 90 days before the Fairness Hearing, cause the notice to be published on the websites of Lead Counsel and the Administrator.
- c. By no later than 90 days before the Fairness Hearing, cause a summary notice to be published on at least one occasion in the newspapers identified in the Settlement Agreement.
- d. Before the Fairness Hearing, as provided for in the Settlement Agreement, the Settling Parties and/or the Administrator shall file with the Court a proof of (i) mailing of the notice, (ii) publication of the notice on Lead Counsel's and the Administrator's websites and (iii) publication of the summary notice.

6. **Retention of Administrator** – The Court authorizes Lead Counsel to retain The Garden City Group, Inc. as Administrator to help implement the terms of the proposed settlement, and authorizes such Administrator to assist Lead Counsel and Citigroup Defendants' Counsel in (i) mailing or arranging for mailing of the notice to Class Members, (ii) arranging for publication of the summary notice, (iii) publishing the notice on the Administrator's website; (iv) answering written inquiries from Class Members and/or forwarding such inquiries to Lead Counsel or its designee(s), (v) providing additional copies of the notice, upon request, to Nominees or Class Members; (vi) receiving and maintaining on behalf of the Court any requests for exclusion received from potential Class Members; (vii) receiving and processing Proof of Claim from Class Members; (viii) mailing or causing to be mailed to Authorized Claimants their

distribution under the Plan of Allocation; and (ix) otherwise assisting Lead Counsel with administration and implementation of the Settlement Agreement.

7. **Exclusion from the Class** – Any potential Class Member who wishes to be excluded from the Class must mail by first-class mail or otherwise deliver a written request for exclusion to the Administrator, care of the address provided in the Notice, such that it is postmarked or delivered no later than 30 days before the date of the Fairness Hearing. The request for exclusion shall include the following information: (i) name, (ii) address, (iii) telephone number, (iv) number and type of Global Crossing Securities purchased, sold, exchanged, acquired or retained, (v) prices paid or value at receipt and (vi) the date of each transaction. If the proposed settlement is approved, any potential Class Member who does not file a timely written request for exclusion from the Class and his, her or its heirs, executors and administrators, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b) and assigns) shall be bound by the Release and by all proceedings, orders and judgments in the Action, even if he, she or it has pending, or subsequently initiates, any litigation, arbitration or other proceeding, or has any Claim, against any or all of the Releasees relating to any of the Released Claims. A list of the persons and entities who have validly and timely requested exclusion from the Class shall be provided by the Settling Parties to the Court at or before the Fairness Hearing.

8. **Objections** – Any Class Member who has not filed a timely and valid request for exclusion from the Class who wishes to object to the fairness, reasonableness or adequacy of this Settlement Agreement, to the Plan of Allocation, to any term(s) of this Settlement Agreement, or to the proposed Attorneys' Fees and Expenses Award, must both effect service on Lead Counsel and Citigroup Defendants' Counsel and file with the Court a statement of his, her or its

objection(s), as well as (i) which part of this Settlement Agreement the Class Member objects to and (ii) the specific reason(s), if any, for each such objection made by the Class Member, including any legal support the Class Member wishes to bring to the Court's attention and any evidence the Class Member wishes to introduce in support of such objection. The Class Member must provide the statement to each of the following:

Clerk of the Court
United States District Court
for the Southern District of New York
40 Centre Street New York, NY 10007
Re: Case No. 02 Civ. 910 (GEL)

Jay W. Eisenhofer, Esq.
Sidney S. Liebesman, Esq.
Grant & Eisenhofer P.A.
1201 North Market Street
Suite 2100
Wilmington, DE 19801

Lead Counsel

Brad S. Karp, Esq.
Richard A. Rosen, Esq.
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019

Citigroup Defendants' Counsel

The objector and his, her or its counsel (if any) must both effect service of his, her or its objection on Lead Counsel and Citigroup Defendants' Counsel and file it with the Court by no later than 30 days before the date of the Fairness Hearing. If a Class Member hires an attorney to represent him, her or it for the purposes of objecting to the settlement pursuant this paragraph, the attorney must both effect service of a notice of appearance on Lead Counsel and Citigroup Defendants' Counsel (at the addresses set out above) and file it with the Court by no later than 10 days before the date of the Fairness Hearing. Any Class Member 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.

9. **Appearance at Fairness Hearing** – Any Class Member who files and serves a timely, written objection in accordance with paragraph 8 above may also appear at the Fairness Hearing either in person or through counsel retained at the Class Member's expense. Class Members or their attorneys intending to appear at the Fairness Hearing must both effect service of a notice of intention to appear setting forth, among other things, the name, address and telephone number of the Class Member (and, if applicable, the name, address and telephone number of the Class Member's attorney) on Lead Counsel and Citigroup Defendants' Counsel (at the addresses set out above) and file it with the Court by no later than 10 days before the date of the Fairness Hearing. Any Class Member 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.

10. **Post-Office Box(es)** – Lead Counsel or its designated agents are directed to assign a post-office box or boxes in the name of the Clerk of the Court to be used for receiving requests for exclusion from Class Members and any other communications from any Class Members. In addition to the Court and the Clerk of the Court, only Lead Counsel, Citigroup Defendants' Counsel and their designated agents shall have access to such post-office box(es).

11. **Preliminary Injunction** – Class Members who have not validly and timely excluded themselves from the Class (and their heirs, executors and administrators, predecessors, successors, affiliates (as defined in 17 C.F.R. Part 210.1-02.b) and assigns) are preliminarily enjoined from filing, commencing, prosecuting, intervening in, participating in as class members

or otherwise, or receiving any benefits or other relief from, any other lawsuit, arbitration or administrative, regulatory or other proceeding or order in any jurisdiction, based on or relating in any way to (i) the claims and causes of action, or the facts and circumstances relating thereto, in the Action and/or (ii) the Released Claims. In addition, all persons are hereby preliminarily enjoined from filing, commencing or prosecuting any other lawsuit as a class action (including by seeking to amend a pending complaint to include class allegations or by seeking class certification in a pending action in any jurisdiction) on behalf of any Class Members, including Class Members who have not timely excluded themselves from the Class, if such other lawsuit is based on or relates in any way to the claims and causes of action, or the facts and circumstances relating thereto, in the Action and/or the Released Claims.


12. **Service of Papers – Citigroup Defendants’ Counsel, Lead Counsel, and any other counsel for Securities Plaintiffs, or the Class, shall promptly furnish each other with copies of any and all objections or written requests for exclusion that come into their possession.**

13. **Termination of Settlement – This Order shall become null and void, and shall be without prejudice to the rights of the Settling Parties, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order, if: (i) the proposed settlement is not finally approved by the Court, or does not become final, pursuant to the terms of the Settlement Agreement; or (ii) the proposed settlement is terminated in accordance with the Settlement Agreement or does not become effective as required by the terms of the Settlement Agreement for any other reason. In such event, the proposed Settlement Agreement shall become null and void and of no further force and effect, and neither the Settlement Agreement or the Court’s orders, including this Order, shall be used or referred to for any purpose whatsoever.**

14. **Use of Order** – This Order shall be of no force or effect if the Settlement Agreement does not become final and shall not be construed or used as an admission, concession or declaration by or against Settling Defendants of any fault, wrongdoing, breach or liability. Nor shall the Order be construed or used as an admission, concession or declaration by or against Lead Plaintiffs, Securities Plaintiffs, or the Class Members that their claims lack merit or that the relief requested in the Complaints is inappropriate, improper or unavailable, or as a waiver by any party of any defenses or claims he, she or it may have.

15. **Continuance of Hearing** – The Court reserves the right to continue the Fairness Hearing without further written notice.

SO ORDERED this 8th day of March 2005.



GERARD E. LYNCH
United States District Judge

r