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17 **UNITED STATES DISTRICT COURT**  
18 **NORTHERN DISTRICT OF CALIFORNIA**  
19

20 ROSENBAUM CAPITAL, LLC,  
21  
22 Plaintiff,

23 v.

24 JOHN E. MCNULTY, TIM STEINKOPF and  
25 SECURE COMPUTING CORPORATION,  
26  
27 Defendants.  
28

Case No. 3:07-CV-0392-SC

**[PROPOSED] FINAL JUDGMENT**

Judge: Honorable Samuel Conti

**[PROPOSED] FINAL JUDGMENT**

1  
2 This matter came on for hearing on June 26, 2009, upon the application of the Settling  
3 Parties for final approval of the Settlement set forth in the Stipulation of Settlement (the  
4 "Stipulation") dated as of October 14, 2008 and signed December 31, 2008. Finding that due and  
5 adequate notice has been given to the Settlement Class, and the Court having considered the  
6 Stipulation, all papers filed and all oral and written comments received regarding the proposed  
7 Settlement, and having reviewed the entire record in the Action, and good cause appearing,

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

9 1. The Court, for purposes of this Final Judgment and Order of Dismissal (the "Final  
10 Judgment"), adopts all defined terms as set forth in the Stipulation.

11 2. The Court has jurisdiction over the subject matter of the Action, the Lead Plaintiff,  
12 the other Members of the Settlement Class and the Defendants.

13 3. The Court finds that the distribution of the Notice, Proof of Claim, and publication  
14 of the Summary Notice as provided for in the Preliminary Approval Order constituted the best  
15 notice practicable under the circumstances to apprise all members of the Settlement Class of the  
16 pendency of the Action and their rights in it, the terms of the proposed Settlement of the Action,  
17 and afforded Settlement Class Members with an opportunity to present their objections, if any, to  
18 the Stipulation. The Court finds that the provision of notice to Settlement Class Members fully  
19 met the requirements of Rule 23 of the Federal Rules of Civil Procedure, federal law, due process,  
20 the United States Constitution, and any other applicable law.

21 4. This Court has certified a Settlement Class comprising all persons (except  
22 Defendants, members of the immediate family of any Defendant, any entity in which any  
23 Defendant has a controlling interest, and the legal representatives, heirs, successors or assigns of  
24 any such excluded party) who purchased or otherwise acquired any security of Secure (including  
25 without limitation Secure common stock) during the period from May 4, 2006 through July 11,  
26 2006, inclusive, and who were damaged thereby, excluding those persons who timely and validly  
27 request exclusion from the Settlement Class.

1           5.       With respect to the Settlement Class, this Court finds and concludes that: (a) the  
2 members of the Settlement Class are so numerous that joinder of all Settlement Class members in  
3 the Action is impracticable; (b) there are questions of law and fact common to the Settlement  
4 Class that predominate over any individual questions; (c) the claims of the Lead Plaintiff are  
5 typical of the claims of the Settlement Class; (d) the Lead Plaintiff and its counsel have, at all  
6 times, fairly and adequately represented and protected the interests of the Settlement Class  
7 members; and (e) a class action is superior to other available methods for the fair and efficient  
8 adjudication of the controversy, considering: (i) the interests of the members of the Settlement  
9 Class in individually controlling the prosecution of the separate actions, (ii) the desirability or  
10 undesirability of continuing the litigation of these claims in this particular forum, and (iii) the  
11 difficulties likely to be encountered in the management of the class action.

12           6.       The Court hereby finally approves the Settlement of the above-captioned action, as  
13 set forth in the Stipulation, each of the releases, and other terms, as fair, just, reasonable, and  
14 adequate as to the Settling Parties and to the Settlement Class Members. The Settling Parties are  
15 directed to perform in accordance with the terms set forth in the Stipulation.

16           7.       The Action and all claims contained therein, as well as all of the Released  
17 Claims are dismissed with prejudice as to the Lead Plaintiff and the other Members of the  
18 Settlement Class, and as against the Defendants and other Released Persons. The Settling  
19 Parties are to bear their own costs, except as otherwise provided in the Stipulation. By  
20 operation of this Final Judgment and under the terms of the Stipulation and the releases  
21 therein, it is intended to preclude, and shall preclude, the Lead Plaintiff and all other  
22 Settlement Class Members from filing or pursuing against any of the Released Persons  
23 any Released Claims under federal law or the law of any state.

24           8.       Upon the Effective Date, the Lead Plaintiff, the Settlement Class Members and  
25 Lead Plaintiff's Counsel shall be deemed to have, and by operation of this Final Judgment shall  
26 have fully, finally, and forever released, relinquished and discharged the Released Persons from  
27 any and all claims demands, rights, liabilities, suits and causes of action of every nature and  
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1 description whatsoever, known or unknown (including without limitation Unknown Claims),  
2 whether in contract, tort, equity or otherwise, whether or not concealed or hidden, asserted or that  
3 might have been asserted in this or any other forum or proceeding, including, without limitation,  
4 claims for negligence, gross negligence, indemnification, breach of duty of care and/or breach of  
5 duty of loyalty, fraud, misrepresentation, breach of fiduciary duty, negligent misrepresentation,  
6 unfair competition, insider trading, professional negligence, mismanagement, corporate waste,  
7 breach of contract, or violations of any state or federal statutes, rules or regulations (including  
8 without limitation any violation of provisions of the Securities Exchange Act of 1934 or rules or  
9 regulations promulgated thereunder), that are owned, held or possessed by or on behalf of Lead  
10 Plaintiff, the Settlement Class, or any Settlement Class Member against any of the Released  
11 Persons that are based upon or related in any manner whatsoever to (a) the purchase or acquisition  
12 of any securities of Secure (including without limitation Secure common stock) by any Settlement  
13 Class Member during the Settlement Class Period, (b) any disclosure or omission to disclose  
14 information related to Secure securities, or (c) the facts, transactions, events, occurrences, acts,  
15 disclosures, statements, omissions or failures to act that were or could have been alleged in the  
16 Action, or any other forum.

17 (a) The term "Released Persons" means each and all of the Defendants and  
18 their respective Related Parties. "Related Parties" means each and all of any Defendant's past,  
19 present or future directors, officers, employees, partnerships and partners, principals, agents,  
20 controlling stockholders, any entity in which any Defendant and/or any member(s) of that  
21 Defendant's immediate family has or have a controlling interest (directly or indirectly), attorneys,  
22 accountants, auditors, investment banks and investment bankers, underwriters, advisors, personal  
23 or legal representatives, analysts, associates, insurers, co-insurers and reinsurers, predecessors,  
24 successors, parents, subsidiaries, divisions, assigns, joint ventures and joint venturers, spouses,  
25 heirs, executors, administrators, related or affiliated entities, any members of an Individual  
26 Defendant's immediate family, or any trust of which any Defendant is the settlor or which is for  
27 the benefit of any Individual Defendant and/or member(s) of his immediate family.

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1 (b) The term "Unknown Claims" means "Unknown Claims" means all claims,  
2 demands, rights, liabilities, and causes of action of every nature and description which the Lead  
3 Plaintiff or any Settlement Class Member does not know or suspect to exist in his, her or its favor  
4 at the time of the release of the Released Persons and which, if known by him, her or it, might  
5 have affected his, her or its settlement with and release of the Released Persons, or might have  
6 affected his, her or its decision not to object to, or opt out of, the Settlement. With respect to any  
7 and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, the  
8 Lead Plaintiff expressly waive and relinquish, and the Settlement Class Members shall be deemed  
9 to have, and by operation of the Judgment shall have expressly waived and relinquished, to the  
10 fullest extent permitted by law, the provisions, rights, and benefits of § 1542 of the California  
11 Civil Code, which provides:

12 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**  
13 **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS, HER OR**  
14 **ITS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF**  
15 **KNOWN BY HIM, HER OR IT MUST HAVE MATERIALLY AFFECTED**  
16 **HIS, HER OR ITS SETTLEMENT WITH THE DEBTOR.**

17 The Lead Plaintiff expressly waives and the Settlement Class Members shall be deemed to, and  
18 upon the Effective Date and by operation of the Judgment shall, have waived any and all  
19 provisions, rights and benefits conferred by any law of the United States or of any state or  
20 territory of the United States, or principle of common law, which is similar, comparable or  
21 equivalent to § 1542 of the California Civil Code. The Lead Plaintiff and each of the Settlement  
22 Class Members acknowledge that he, she or it may hereafter discover facts in addition to or  
23 different from those that he, she or it now knows or believes to be true with respect to the subject  
24 matter of the Released Claims. Nonetheless, Lead Plaintiff hereby fully, finally and forever  
25 settles and releases, and each Settlement Class Member shall be deemed, upon the Effective Date  
26 and by operation of the Judgment, to have, fully, finally, and forever settled and released, any and  
27 all Released Claims against the Released Persons, known or unknown, suspected or unsuspected,  
28 contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore  
have existed upon any theory of law or equity now existing or coming into existence in the future,  
including, but not limited to, conduct that is negligent, intentional, with or without malice, or a

1 breach of any duty, law or rule, without regard to the subsequent discovery or existence of such  
2 different or additional facts. Lead Plaintiff and Lead Plaintiff's Counsel acknowledge, on their  
3 personal behalf and on behalf of the Settlement Class, that the foregoing waiver was bargained  
4 for and a key element of the Settlement.

5 9. Upon the Effective Date, each of the Defendants shall be deemed to have and by  
6 operation of this Final Judgment shall have, fully, finally, and forever released, relinquished and  
7 discharged the Settlement Class Members, Lead Plaintiff's Counsel, from all claims (including  
8 Unknown Claims) arising out of, relating to, or in connection with the institution, prosecution,  
9 assertion or resolution of the Action.

10 10. The Court finds that the Action was not brought or defended in bad faith or without  
11 a reasonable basis. Defendants cannot assert any claim under Rule 11 of the Federal Rules of  
12 Civil Procedure or any similar law, rule or regulation, that the Action was brought in bad faith or  
13 without a reasonable basis. Lead Plaintiff and the Settlement Class cannot assert any claim under  
14 Rule 11 of the Federal Rules of Civil Procedure or any similar law, rule or regulation that any  
15 pleading filed, motion made or position taken by Defendants, or their counsel, in the Action was  
16 filed, made or taken in bad faith or without a reasonable basis.

17 11. The Court finds that the amount paid and the other terms of the Settlement were  
18 negotiated at arm's length and in good faith by the Settling Parties, and reflect a Settlement that  
19 was reached voluntarily after consultation with experienced legal counsel and with the aid of an  
20 experienced mediator.

21 12. Only those Settlement Class Members filing valid and timely Proofs of Claim and  
22 Release shall be entitled to participate in the Settlement and receive any distributions from the Net  
23 Settlement Fund. The Proofs of Claim and Release to be executed by the Settlement Class  
24 Members shall expressly release all Released Claims (including Unknown Claims) against the  
25 Released Persons, however, all Settlement Class Members shall be bound by the releases set forth  
26 herein whether or not they submit a valid and timely Proof of Claim.


27 13. Neither the Stipulation nor the Settlement contained therein, nor any act performed  
28 or document executed pursuant to or in furtherance of the Stipulation or the settlement: (i) is or

1 may be deemed to be or may be used as an admission of, or evidence of, the validity of any  
2 Released Claim, or of any wrongdoing or liability of the Defendants or their Related Parties; (ii) is  
3 or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission  
4 of any of the Defendants or their Related Parties in any civil, criminal or administrative  
5 proceeding in any court, administrative agency or other tribunal; or (iii) shall be offered in  
6 evidence by any Settling Party for any purpose except as provided in this paragraph. Released  
7 Persons may file the Stipulation and/or the Final Judgment from this Class Action in any other  
8 action that may be brought against them in order to support a defense or counterclaim based on  
9 principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or  
10 reduction of any theory of claim preclusion or issue preclusion or similar defense or counterclaim.  
11 The Settling Parties, their respective counsel or any other Member of the Settlement Class may  
12 file the Stipulation in any proceeding brought to enforce any of its terms or provisions.

13         14. Any Plan of Allocation submitted by Lead Plaintiff's Counsel or any order entered  
14 regarding Lead Plaintiff's Counsel's Fee and Expense Application shall in no way disturb or affect  
15 this Final Judgment and shall be considered separate from this Final Judgment.

16         15. Without affecting the finality of this Final Judgment in any way, the Court reserves  
17 exclusive and continuing jurisdiction over the Action, the Lead Plaintiff, the Settlement Class and  
18 the Released Persons for the purposes of: (1) supervising the implementation, enforcement,  
19 construction, and interpretation of the Stipulation, the Plan of Allocation, and this Final Judgment;  
20 (2) hearing and determining Lead Plaintiff's Counsel Fee and Expense Application; and  
21 (3) supervising the distribution of the Settlement Fund.

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23 DATED: July 8, 2009

  
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THE HONORABLE SAMUEL CONTI  
UNITED STATES DISTRICT JUDGE

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