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6  
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8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 \_\_\_\_\_  
11 PHYNICIE KELLEY, Individually and On Behalf  
of All Others Similarly Situated,

12  
13 Plaintiff,

14 vs.

15 SHORETEL, INC., JOHN W. COMBS, MICHAEL  
E. HEALY, EDWIN J. BASART, GARY J.  
16 DAICHENDT, THOMAS VAN OVERBEEK,  
KENNETH D. DENMAN, CHARLES D.  
17 KISSNER, EDWARD F. THOMPSON, LEHMAN  
BROTHERS, INC., J.P. MORGAN SECURITIES,  
18 INC., and PIPER JAFFRAY & CO.,

19  
20 Defendants.

)  
) **CIVIL ACTION NO.**

)  
) **CLASS ACTION COMPLAINT**

)  
) **JURY TRIAL DEMANDED**

21 Plaintiff, Phynice Kelley ("Plaintiff"), alleges the following based upon the investigation by  
22 Plaintiff's counsel, which included, among other things, a review of the defendants' public  
23 documents, conference calls and announcements made by defendants, United States Securities and  
24 Exchange Commission ("SEC") filings, wire and press releases published by and regarding  
25 ShoreTel, Inc. ("ShoreTel" or the "Company"), securities analysts' reports and advisories about the  
26 Company, and information readily available on the Internet, and Plaintiff believes that substantial  
27 additional evidentiary support will exist for the allegations set forth herein after a reasonable  
28 opportunity for discovery.

1 **NATURE OF THE ACTION AND OVERVIEW**

2 1. This is a federal class action on behalf of purchasers of the common stock of  
3 ShoreTel, who purchased or otherwise acquired ShoreTel common stock pursuant or traceable to the  
4 Company's July 3, 2007 Initial Public Offering (the "IPO" or the "Offering"), seeking to pursue  
5 remedies under the Securities Act of 1933 (the "Securities Act").

6 2. ShoreTel is a provider of unified communications solutions, enabling companies to  
7 integrate all communications--voice, data, messaging--with their business processes. ShoreTel is  
8 headquartered in Sunnyvale, California, and has regional offices in the United Kingdom, Sydney,  
9 Australia and Munich, Germany.

10 3. On July 3, 2007, the Company conducted its IPO. In connection with its IPO, the  
11 Company filed a Registration Statement and Prospectus (collectively referred to as the "Registration  
12 Statement") with the SEC. The IPO was a financial success for the Company, as it raised over \$75  
13 million by selling 7.9 million shares of stock to the public at a price of \$9.50 per share.

14 4. On January 7, 2008, the Company shocked investors when it announced that its  
15 revenue for the second quarter would be in the range of \$29.7 to \$30.7 million, far lower than its  
16 previous expectation of \$32 to \$35 million, and significantly lower than analysts had predicted.

17 5. In response to this news, shares of the Company's stock declined \$7.06 per share, or  
18 54 percent, to close on January 7, 2008 at \$6.02 per share, on unusually heavy trading volume.

19 6. The Complaint alleges that, in connection with the Company's IPO, defendants failed  
20 to disclose or indicate the following: (1) that ShoreTel knew that it would be unable to compete with  
21 other companies offering similar products and services and would therefore be unable to attract a  
22 sufficient amount of new customers to maintain revenue levels and projections; (2) that the  
23 Company knew that demand for its service was waning due to an increase in alternative technology  
24 and that it would be unable to attract a sufficient number of new customers, as most consumers who  
25 desired such voice-integrated services were already customers of ShoreTel or of a competitor; (3)  
26 that the Company had excess inventory due to a decline in new demand for its products; (4) that the  
27 Company had prematurely stuffed its distribution networks, while at the same time, pulling sales  
28 forward into earlier periods; (5) that the Company lacked adequate internal and financial controls;

1 and (6) that, as a result of the foregoing, the Company's Registration Statement was false and  
2 misleading at all relevant times.

3 7. As a result of defendants' wrongful acts and omissions, and the precipitous decline in  
4 the market value of the Company's securities, Plaintiff and other Class Members have suffered  
5 significant losses and damages.

6 **JURISDICTION AND VENUE**

7 8. The claims asserted herein arise under and pursuant to Sections 11, 12(a)(2), and 15  
8 of the Securities Act (15 U.S.C. §§ 77k and 77o).

9 9. This Court has jurisdiction over the subject matter of this action pursuant to Section  
10 22 of the Securities Act (15 U.S.C. § 77v).

11 10. Venue is proper in this Judicial District pursuant to Section 22 of the Securities Act.  
12 Many of the acts and transactions alleged herein, including the preparation and dissemination of  
13 materially false and misleading information, occurred in substantial part in this Judicial District.  
14 Additionally, the Company's principal executive offices are located within this Judicial District.

15 11. In connection with the acts, conduct and other wrongs alleged in this Complaint,  
16 defendants, directly or indirectly, used the means and instrumentalities of interstate commerce,  
17 including but not limited to, the United States mails, interstate telephone communications and the  
18 facilities of the national securities exchange.

19 **PARTIES**

20 12. Plaintiff, Phynice Kelley, as set forth in the accompanying certification, incorporated  
21 by reference herein, purchased ShoreTel common stock at artificially inflated prices during the Class  
22 Period and has been damaged thereby.

23 13. Defendant ShoreTel is a Delaware corporation with its principal executive offices  
24 located at 960 Stewart Drive, Sunnyvale, California.

25 14. Defendant John W. Combs ("Combs") was, at all relevant times, the Company's  
26 President, Chief Executive Officer ("CEO"), Chairman of the Company's Board of Directors, and a  
27 co-founder of ShoreTel.

28 15. Defendant Michael E. Healy ("Healy") was, at all relevant times, the Company's

1 Chief Financial Officer ("CFO") and Principal Accounting Officer.

2 16. Defendant Edwin J. Basart ("Basart") was, at all relevant times, the Company's Chief  
3 Technology Officer, a member of the Board of Directors, and a co-founder of Shoretel.

4 17. Defendant Gary J. Daichendt ("Daichendt") was, at all relevant times, a member of  
5 the Company's Board of Directors.

6 18. Defendant Kenneth D. Denman ("Denman") was, at all relevant times, a member of  
7 the Company's Board of Directors.

8 19. Defendant Charles D. Kissner ("Kissner") was, at all relevant times, a member of the  
9 Company's Board of Directors.

10 20. Defendant Thomas Van Overbeek ("Overbeek") was, at all relevant times, a member  
11 of the Company's Board of Directors.

12 21. Defendant Edward F. Thompson ("Thompson") was, at all relevant times, a member  
13 of the Company's Board of Directors.

14 22. Defendants Combs, Healy, Basart, Daichendt, Denman, Kissner, Overbeek and  
15 Thompson are collectively referred to hereinafter as the "Individual Defendants." The Individual  
16 Defendants, because of their positions with the Company, possessed the power and authority to  
17 control the contents of ShoreTel's quarterly reports, press releases, documents, and presentations to  
18 securities analysts, money and portfolio managers and institutional investors, i.e., the market. Each  
19 defendant was provided with copies of the Company's reports and press releases, documents alleged  
20 herein to be misleading prior to or shortly after their issuance and had the ability and opportunity to  
21 prevent their issuance or cause them to be corrected. Because of their positions and access to  
22 material non-public information available to them, each of these defendants knew that the adverse  
23 facts specified herein had not been disclosed to, and were being concealed from, the public, and that  
24 the positive representations which were being made were then materially false and misleading. The  
25 Individual Defendants are liable for the false statements pleaded herein, as those statements were  
26 each "group-published" information, the result of the collective actions of the Individual Defendants.

27 23. Defendants Lehman Brothers, Inc. ("Lehman Bros."), J.P. Morgan Securities, Inc.  
28 ("J.P. Morgan") and Piper Jaffray & Co. ("Piper Jaffray") served as financial advisors and assisted in

1 the preparation of ShoreTel's IPO.

2 24. Defendants Lehman Bros., J.P. Morgan and Piper Jaffray are collectively referred to  
3 hereinafter as the "Underwriter Defendants."

4 **SUBSTANTIVE ALLEGATIONS**

5 **Background**

6 25. ShoreTel is a provider of unified communications solutions, enabling companies to  
7 integrate all communications--voice, data, messaging--with their business processes. ShoreTel is  
8 headquartered in Sunnyvale, California, and has regional offices in the United Kingdom, Sydney,  
9 Australia and Munich, Germany.

10 26. On July 3, 2007, the Company conducted its IPO. In connection with the IPO, the  
11 Company filed a Registration Statement and Prospectus (collectively referred to as the "Registration  
12 Statement") with the SEC. The IPO was a financial success for the Company, as it was able to raise  
13 \$75.05 million by selling shares of stock to the public at a price of \$9.50 per share.

14 27. To announce its IPO, ShoreTel issued a press release entitled "ShoreTel Prices Initial  
15 Public Offering." Therein, the Company, in relevant part, stated:

16 ShoreTel, Inc., a leading provider of enterprise IP telephony  
17 solutions, today announced the pricing of its initial public offering of  
18 7,900,000 shares of its common stock at a price to the public of \$9.50  
19 per share. In addition, ShoreTel® has granted the underwriters a 30-  
20 day option to purchase up to an additional 1,185,000 shares of  
common stock. ShoreTel's common stock will trade on the Nasdaq  
Global Market under the ticker "SHOR".

21 Lehman Brothers Inc. and J.P. Morgan Securities Inc. are acting as  
22 joint book-running managers for the offering, and Piper Jaffray &  
Co., JMP Securities LLC, and Wedbush Morgan Securities Inc. are  
acting as co-managers.

23 The offering is being made only by means of a prospectus, a copy of  
24 which may be obtained from the prospectus department of Lehman  
25 Brothers Inc., c/o Broadridge, 1155 Long Island Avenue, Edgewood,  
26 NY 11717 (fax: 1-631-254-7140, or e-mail at  
27 qiana.smith@broadridge.com) or from J.P. Morgan Securities Inc., 4  
Chase Metrotech Center, CS Level; Brooklyn, New York 11245  
(telephone: 1-866-430-0686).

**Materially False and Misleading  
Statements Made in the Registration Statement**

28. Regarding the Company's financial growth, the Registration Statement, in relevant part, stated:

*We have experienced significant growth in recent periods, with our total revenue growing from \$18.8 million for 2004 to \$61.6 million for 2006. This growth in revenue has largely been driven by increased demand for IP telecommunications systems from new enterprise customers, as well as sales of additional products to our installed enterprise customer base.* Our operating expenses have also increased significantly from \$15.7 million for 2004 to \$30.4 million for 2006. This growth in operating expenses has primarily been driven by our growth in headcount, from 76 employees at June 30, 2004 to 174 employees at June 30, 2006, and to 250 employees at March 31, 2007. We expect to continue to add personnel in all functional areas, including additional sales and support personnel. [Emphasis added.]

29. In reporting the Company's recent financial figures, the Registration Statement, in relevant part, provided data in the following charts:

|   | Year Ended June 30 |          |          | Nine Months Ended<br>March 31 |          |
|---|--------------------|----------|----------|-------------------------------|----------|
|   | 2004               | 2005     | 2006     | 2006                          | 2007     |
| (Dollars in thousands, except per share amounts)  |                    |          |          |                               |          |
| <b>Consolidated statement of operations data:</b> |                    |          |          |                               |          |
| Revenue:  |                    |          |          |                               |          |
| Product   | \$16,587           | \$31,970 | \$55,300 | \$37,972                      | \$61,473 |
| Support and services                              | \$2,241            | \$3,512  | \$6,308  | \$4,552                       | \$7,431  |
| Total revenue                                     | \$18,828           | \$35,482 | \$61,608 | \$42,524                      | \$68,904 |
| Cost of revenue:                                  |                    |          |          |                               |          |
| Product (I)                                       | \$7,725            | \$13,961 | \$21,855 | \$15,723                      | \$21,271 |
| Support and services (I)                          | \$1,660            | \$2,907  | \$5,425  | \$3,942                       | \$4,853  |
| Total cost of revenue                             | \$9,385            | \$16,868 | \$27,280 | \$19,665                      | \$26,124 |
| Gross Profit                                      | \$9,443            | \$18,614 | \$34,328 | \$22,859                      | \$42,780 |

\* \* \*

|  | Year Ended June 30 |      |      | Nine Months Ended<br>March 31 (unaudited) |      |
|--|--------------------|------|------|---|------|
|  | 2004               | 2005 | 2006 | 2006                                      | 2007 |

(Dollars in thousands)

**CASH FLOWS FROM OPERATING ACTIVITIES:**

|   |  |             |            |         |            |         |
|---|--|-------------|------------|---------|------------|---------|
| 1 | Net income (loss)  | \$ (6, 251) | \$ (1,402) | \$4,002 | \$2,332    | \$4,188 |
| 2 | Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities: |             |            |         |            |         |
| 3 | Accounts payable   | \$1,199     | \$1,020    | \$809   | \$ (1,066) | \$3,780 |
|   |  |             | * *        | *       |            |         |
| 4 | Deferred revenue   | \$1,167     | \$2,841    | \$1,505 | \$937      | \$5,398 |
| 5 | Net cash provided by (used in) operating activities  | \$ (5,392)  | \$ (4,957) | \$7,266 | \$4,525    | \$5,039 |

6  
7 30. With regard to the Company's financial monitoring, the Registration Statement, in  
8 relevant part, stated:

9 We monitor a number of key metrics to help forecast growth,  
10 establish budgets, measure the effectiveness of sales and marketing  
11 efforts and measure operational effectiveness.

12 **Initial and repeat sales orders.** *Our goal is to attract a significant*  
13 *number of new enterprise customers and to encourage existing*  
14 *enterprise customers to purchase additional products and support.*  
15 *Many enterprise customers make an initial purchase and deploy*  
16 *additional sites at a later date, and also buy additional products and*  
17 *support as their businesses expand.* As our installed enterprise  
18 customer base has grown we have experienced an increase in revenue  
19 attributable to existing enterprise customers, which currently  
20 represents a significant portion of our total revenue.

21 **Deferred revenue.** Nearly all system sales include the purchase of  
22 post-contractual support contracts with terms of up to five years, and  
23 our renewal rates on these contracts have been high historically. We  
24 recognize support revenue on a ratable basis over the term of the  
25 support contract. Since we receive payment for support in advance of  
26 our recognizing the related revenue, we carry a deferred revenue  
27 balance on our consolidated balance sheet. This deferred revenue  
28 helps provide predictability to our future support and services  
revenue. Accordingly, the level of purchases of post-contractual  
support with our product sales is an important metric for us along  
with the renewal rates for these services. Our deferred revenue  
balance at March 31, 2007 was \$12.0 million, of which \$8.5 million  
is expected to be recognized within one year.

**Gross margin.** Our gross margin for products is primarily affected  
by our ability to reduce hardware costs faster than the decline in  
average overall system prices. We have been able to increase our  
product gross margin by reducing hardware costs and through  
product redesign and volume discount pricing from our suppliers. For  
example, in 2004, we introduced our current family of switches and  
IP phones, which generally improved our gross margin. We have also  
introduced new, lower cost hardware following these introductions,

1 which has continued to improve our product gross margin. In general,  
2 product gross margin on our switches is greater than product gross  
3 margin on our IP phones. As the prices and costs of our hardware  
4 components have decreased over time, our software components,  
5 which have lower costs than our hardware components, have  
6 represented a greater percentage of our overall system sales. We  
7 consider our ability to monitor and manage these factors to be a key  
8 aspect of maintaining product gross margins and increasing our  
9 profitability.

10 Gross margin for support and services is significantly lower than  
11 gross margin for products, and is impacted primarily by personnel  
12 costs and related expenses. The primary goal of our support and  
13 services infrastructure are made with this goal in mind. We expect  
14 that as our installed enterprise customer base grows, we will be able  
15 to improve gross margin for support and services through economies  
16 of scale. However, the timing of additional investments in our support  
17 and services infrastructure could materially affect our cost of support  
18 and services revenue, both in absolute dollars and as a percentage of  
19 support and services revenue and total revenue, in any particular  
20 period.

21 **Operating expense management.** To date, we have managed our  
22 operating expenses so that they have generally increased at a slower  
23 rate than our revenue growth, and we intend to continue to do so in  
24 the future. Our operating expenses are comprised primarily of  
25 compensation and benefits for our employees and, therefore, the  
26 increase in operating expenses has been related to increases in our  
27 headcount. We intend to expand our workforce to support our  
28 anticipated growth, and therefore our ability to forecast revenue is  
critical to managing our operating expenses. [Emphasis added.]

31. In describing the Company's internal financial reporting, the Registration Statement,  
in relevant part, stated:

**Internal Control Over Financial Reporting**

In connection with the audit of our financial statements for the six-month period ended December 31, 2006, our independent registered public accounting firm noted in their report to our audit committee that we have material weaknesses and significant deficiencies in our internal control over financial reporting as of December 31, 2006 that could, if not remedied, affect our ability to record, process and report financial data. In their report, our independent registered public accounting firm has noted two specific material weaknesses:

- we do not have a sufficient number of accounting personnel with the relevant technical accounting and financial reporting

1 experience and skills to facilitate the preparation of timely  
2 and accurate consolidated financial statements; and

3 • *we do not have sufficient internal controls related to the*  
4 *identification of all products and services associated with a*  
5 *sales arrangement, including commitments made by our*  
6 *sales and marketing personnel and channel partners to*  
7 *provide specified upgrades, services or additional products*  
8 *to customers in the future, including through product*  
9 *roadmap presentations to customers.*

10 If VSOE of fair value does not exist for commitments to provide  
11 specified upgrades, services or additional products to customers in the  
12 future, as has been the case from time to time in the past, we defer all  
13 revenue from the arrangement until the earlier of the point at which  
14 VSOE of fair value does exist or all such elements from the  
15 arrangement have been delivered.

16 In addition to the material weaknesses noted by our independent  
17 registered public accounting firm, the following two significant  
18 deficiencies in the design or operation of our internal control over  
19 financial reporting were also noted:

20 • we do not accurately maintain data sufficient to readily track  
21 and validate the existence of fixed assets and we have no  
22 formal procedures in place to ensure that fixed assets continue  
23 to be held and used;

24 • we do not have adequate procedures for identifying and  
25 recording period-end accrued expenses and in-transit  
26 inventory.

27 These material weaknesses and significant deficiencies resulted in a  
28 number of audit adjustments to our consolidated financial statements  
for the six-month period ended December 31, 2006 that were noted  
during the course of the audit. In addition, these material weaknesses  
and significant deficiencies contributed to delays in the completion of  
our financial statements. [Emphasis added.]

32. Finally, with regard to the Company's actions to improve perceived control and  
procedure issues, the Registration Statement, in relevant part, stated:

*We are in the process of taking steps intended to remedy these  
material weaknesses and significant deficiencies. Since both  
material weaknesses relate at least in part to inadequate staffing, we  
are addressing them through the hiring of additional personnel. We  
hired a new Chief Financial Officer in May 2007, and we are  
currently seeking to hire a Corporate Controller, a Revenue  
Accounting Manager and other finance and accounting personnel.*

1                    ***Further, we expect that our former Chief Financial Officer, John***  
2                    ***Finegan, will be actively employed as our Vice President of Finance***  
3                    ***for an indefinite period as new staff members are hired and***  
4                    ***integrated.***

4                    To further address the material weakness related to the proper  
5                    accounting for sales arrangements containing future commitments,  
6                    we are implementing additional procedures and training programs for  
7                    all personnel involved in the selling and marketing of our products  
8                    and services and in the preparation of our financial statements. We  
9                    have also analyzed product roadmaps used for sales presentations to  
10                    determine when or if a specified upgrade right has been provided to a  
11                    customer notwithstanding that a contract does not explicitly provide  
12                    for that right. For sales prior to March 31, 2007, we identified a few  
13                    instances in which we created specified upgrade or enhancement  
14                    rights as a result of these roadmap presentations. However, these  
15                    were not significant to our results of operations or financial  
16                    statements. We are continuing to analyze our product roadmap  
17                    presentations used in connection with sales made subsequent to  
18                    March 31, 2007. If it is subsequently determined that these  
19                    presentations resulted in commitments for specified upgrades or  
20                    enhancements, we would be required to defer the recognition of  
21                    revenue attributable to such sales until such commitments had been  
22                    satisfied. [Emphasis added.]

15                    33.     The statements contained in ¶¶ 28 - 32 were materially false and misleading when  
16                    made because defendants failed to disclose or indicate the following: (1) that ShoreTel knew for a  
17                    fact that it would be unable to compete with other companies offering similar products and services  
18                    and would therefore be unable to attract a sufficient amount of new customers to maintain revenue  
19                    levels and projections; (2) that the Company knew for a fact that demand for the service it provides  
20                    was waning due to an increase in alternative technology and that it would be unable to attract  
21                    sufficient numbers of new customers, since most who desired such voice-integrated services were  
22                    already customers of ShoreTel or of a competitor; (3) that the Company had excess inventory due to  
23                    a decline in new demand for its products line; (4) that the Company had prematurely stuffed its  
24                    distribution networks, while at the same time, pulling sales forward into earlier periods; (5) that the  
25                    Company lacked adequate internal and financial controls, and had failed to conform to the minimum  
26                    standards of good Corporate Governance; and (6) that, as a result of the foregoing, the Company's  
27                    Registration Statement was false and misleading at all relevant times.

28                    **Post-IPO Statements**

1           34.    On July 17, 2007, the Company, pursuant to Form 8-K, filed a statement with the  
2 SEC entitled "Approval of Executive Bonus Plan for First Half of Fiscal Year 2008." Therein, the  
3 Company, in relevant part, stated:

4                   On July 11, 2007, the Compensation Committee (the "Committee ")  
5 of the *Board of Directors of ShoreTel, Inc. (the "Company")*  
6 *approved the Executive Bonus Plan for the first six months of fiscal*  
7 *year 2008 (the "Plan"). Individuals who are deemed to be*  
8 *"officers" of the Company for purposes of Section 16 of the*  
9 *Securities Exchange Act of 1934, as amended ("Executive*  
10 *Officers"), including each of the Company's named executive*  
11 *officers, are eligible to receive cash awards following December 31,*  
12 *2007, based upon the attainment of performance objectives*  
13 *established by the Committee for the six-month period, the size of*  
14 *the bonus pool and each participant's performance rating. The*  
15 *performance objectives under the Plan consist of pre-defined ranges*  
16 *of: (i) revenue; (ii) non-GAAP operating profit; and (iii) customer*  
17 *satisfaction, based on scores from the Company's satisfaction*  
18 *surveys. The bonus pool is equal to the product of (a) a percentage*  
19 *determined under the Plan, based on the extent to which all three*  
20 *performance objectives are achieved within the pre-defined ranges*  
21 *established by the Committee, multiplied by (b) a dollar amount*  
22 *equal to 45% times the sum of each participant's base salary six-*  
23 *month period, except for the CEO, a dollar amount equal to 85% of*  
24 *the CEO's base salary for the six-month period. Each participant's*  
25 *performance rating depends on the participant's achievement of pre-*  
26 *defined individual performance goals and objectives established for*  
27 *the participant by the Committee, and may be adjusted by the*  
28 *Committee to reflect his or her achievement relative to the*  
*achievement of other participants.*

29                   *Under the Plan, the bonus target for the Company's Chief*  
30 *Executive Officer is currently 85% of his base salary, and the target*  
31 *bonus is 45% of base salary for other Executive Officers. The*  
32 *maximum cash award any participant may receive under the Plan is*  
33 *225% of that participant's target bonus, although total payments*  
34 *under the Plan cannot exceed the bonus pool. [Emphasis added.]*

35           35.    On August 14, 2007, the Company issued a press release entitled "ShoreTel Reports  
36 Financial Results for Fourth Quarter and Fiscal Year 2007." Therein, the Company, in relevant part,  
37 stated:

38                   *"We are pleased with our fourth quarter and fiscal year financial*  
39 *results," commented John W. Combs, chairman, president and*  
40 *CEO of ShoreTel. "We achieved close to \$100 million in revenue in*  
41 *fiscal 2007 which represents a major milestone in our business. Our*

1 growth resulted from increasing market acceptance of the ShoreTel  
2 IP telephony system, the productivity of our high-quality channel  
3 partners, and our leadership position in overall customer satisfaction.  
4 *We believe our advanced distributed architecture provides  
5 customers with a communications systems that is the easiest to  
6 install, manage and use, while also providing the industry's highest  
7 reliability and a low overall total cost of ownership.*

8 *"The completion of our IPO is expected to build additional brand  
9 awareness that will enable us to compete in more sales  
10 opportunities. We plan to broaden our channel programs to reach  
11 larger customers both domestically and internationally. Our unique  
12 architecture is a major competitive differentiator and a key factor in  
13 driving our compelling win rate.*

14 *"We believe that our progress to date is a positive indicator of the  
15 opportunity ahead. We are optimistic about our outlook for 2008  
16 and are planning for revenue growth of 40-45% over the prior year.  
17 ShoreTel is well-positioned to rapidly grow our top line revenue,  
18 expand our customer base and bring new and exciting products and  
19 services to the fast growing market for unified communications,"  
20 concluded Combs.*

21 \* \* \*

## 22 **Business Outlook**

23 Based on current expectations, management is providing the  
24 following outlook for the quarter ending September 30, 2007:

25 Revenue is expected to be in the range of \$29 to \$31 million.

26 GAAP gross margins are expected to be in the range of 62% to 64%.

27 GAAP operating expenses are expected to be in the range of \$17.5 to  
28 \$18.5 million, including approximately \$1 million in stock based  
compensation expense. [Emphasis added]

36. On October 29, 2007, the Company issued a press released entitled "ShoreTel Reports  
Financial Results For Q1 Fiscal 2008." Therein, the Company, in relevant part, stated:

*"Growing revenue 57% year over year in a market that is growing  
at 18% to 28% confirms to us that we are gaining market share. We  
continue to stay focused on developing leading Pure IP unified  
communications systems and delivering world class customer  
satisfaction to our customers globally," said John W. Combs,  
president and CEO of ShoreTel.*

1 "I am also very pleased to report that we have expanded our  
2 relationship with AT&T by signing a master reseller agreement under  
3 which AT&T will resell ShoreTel's Pure IP unified communications  
4 systems and implementation services. AT&T is one of the world's  
largest resellers of enterprise telephony and we are excited to have  
AT&T as a channel partner," concluded Combs.

5 \* \* \*

### 6 **Business Outlook**

7 Based on current expectations, management is providing the  
8 following outlook for the quarter ending December 31, 2007:

9 Revenue is expected to be in the range of \$32 to \$35 million

10 GAAP gross margins are expected to be in the range of 62% to 64%

11 GAAP operating expenses are expected to be in the range of \$19 to  
12 \$20 million, including approximately \$1.1 million in stock-based  
compensation expense. [Emphasis added.]

13 37. On November 19, 2007, the Company issued a press release entitled "ShoreTel  
14 Announces Secondary Public Offering." Therein, the Company, in relevant part, stated:

15 ShoreTel, Inc., (NASDAQ: SHOR), a leading provider of IP  
16 telecommunications systems, announced today that certain selling  
17 stockholders plan to offer 4.4 million shares of ShoreTel common  
18 stock in an underwritten public offering. The Company will not be  
selling any shares in the offering and will not receive any proceeds  
from the sale of shares by the selling stockholders.

19 38. On November 29, 2007, the Company issued a follow-up press release entitled  
20 "ShoreTel Withdraws Registration Statement on Form S-1." Therein, the Company, in relevant part,  
21 stated:

22 ShoreTel, Inc., (NASDAQ: SHOR), a leading provider of IP  
23 telecommunications systems, announced today that it filed an  
24 application with the Securities and Exchange Commission (SEC) to  
withdraw its Registration Statement on Form S-1, Registration No.  
25 333-147486, initially filed with the SEC on November 19, 2007.

26 ***The Company requested to withdraw its Registration Statement due  
27 to the unwillingness of the selling stockholder to sell shares under  
the current capital market conditions.*** [Emphasis added.]

28 39. On December 5, 2007, the Company issued a press release entitled "ShoreTel Named

1 to 2007 Deloitte Technology Fast 500." Therein, the Company, in relevant part, stated:

2 ShoreTel, Inc., (NASDAQ: SHOR), a leading provider of Pure IP  
3 Unified Communications solutions, today announced it has been  
4 named to the Deloitte Technology Fast 500, a ranking of the fastest  
5 growing technology, media, telecommunications and life sciences  
6 companies in North America based on fiscal year revenue growth  
7 over a five-year period from 2002 through 2006. ShoreTel revenues  
8 grew from just over \$7 million in 2002 to more than \$61 million in  
9 2006, an increase of 759 percent. The company was ranked 216 out  
10 of 500 companies.

11 *"ShoreTel is delivering on the promise of unified communications  
12 for the enterprise," said Steve Timmerman, vice president of  
13 marketing at ShoreTel. "Our phenomenal growth is the direct  
14 result of great products, top-notch channel partners, and an  
15 absolute dedication to customer satisfaction."*

16 Two recent announcements demonstrate ShoreTel's continuing  
17 momentum. The company announced ShoreTel 7.5, which extends  
18 unified communications capabilities to mobile phones and increases  
19 support for international locations. The new release features increased  
20 capacity for ShoreTel's voice switches and two new telephones, a  
21 high-contrast color display telephone and an enhanced entry-level  
22 speakerphone. ShoreTel also announced an agreement with Syntellect  
23 Inc. to offer Syntellect's award-winning contact center solution to  
24 ShoreTel resellers globally. The agreement marks a key strategic  
25 move into the high-end contact center market and is a response to the  
26 needs of ShoreTel's growing list of large enterprise customers. In  
27 deployment after deployment, ShoreTel has provided enterprises and  
28 government agencies a very dependable, easy-to-manage, easy-to-  
use, unified communications solution. [Emphasis added.]

#### The Truth Begins to Emerge

21 40. On January 7, 2008, the Company shocked investors when it issued a press release  
22 entitled "ShoreTel Announces Preliminary Fiscal Second Quarter Results." Therein, the Company,  
23 in relevant part, stated:

24 ShoreTel, Inc., (NASDAQ: SHOR), a leading provider of Pure IP  
25 Unified Communications solutions, today announced preliminary  
26 results for the quarter ended December 31, 2007. *The Company  
27 expects revenue to be in the range of \$29.7 to \$30.7 million, lower  
28 than its previous expectation of \$32 to \$35 million.* Gross margin  
percentage is expected to be within the guided range of 62 percent to  
64 percent, and GAAP operating expenses are also expected to be  
within the previously guided range of \$19 million to \$20 million.

1 *"Despite delivering the second highest revenue quarter in the*  
2 *Company's history, we fell short of our expectations. Our*  
3 *preliminary review indicates that sales to existing customers grew*  
4 *during the quarter, however, sales to new customers declined. We*  
5 *are still in the process of analyzing the factors affecting our results*  
6 *for the quarter and will discuss the results further when we hold*  
7 *our regularly scheduled earnings conference call at the end of*  
8 *January," said John W. Combs, president and CEO of ShoreTel.*

9 The Company has not yet completed the preparation of its second  
10 quarter financial statements, including determining the final sales  
11 from our international distributors. Accordingly, the preliminary  
12 results provided in this press release are subject to the risk that upon  
13 completion of the second quarter financial statements there may be  
14 adjustments to the Company's financial information that could  
15 materially affect the preliminary results provided in this press release.  
16 ShoreTel plans to announce its complete results for the second  
17 quarter of fiscal 2008 after the close of markets on January 29, 2008.  
18 [Emphasis added.]

19 41. Upon the release of this news, shares of the Company's stock declined \$7.06 per  
20 share, or 54 percent, to close on January 7, 2008 at \$6.02 per share, on unusually heavy trading  
21 volume.

#### 22 **PLAINTIFF'S CLASS ACTION ALLEGATIONS**

23 42. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil  
24 Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased or otherwise  
25 acquired ShoreTel's common stock pursuant or traceable to the Company's July 3, 2007 IPO, and  
26 who were damaged thereby (the "Class"). Excluded from the Class are defendants, the officers and  
27 directors of the Company, at all relevant times, members of their immediate families and their legal  
28 representatives, heirs, successors or assigns and any entity in which defendants have or had a  
controlling interest.

43. The members of the Class are so numerous that joinder of all members is  
impracticable. Throughout the Class Period, ShoreTel's common stock was actively traded on the  
NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time and can  
only be ascertained through appropriate discovery, Plaintiff believes that there are hundreds or  
thousands of members in the proposed Class. Record owners and other members of the Class may  
be identified from records maintained by ShoreTel or its transfer agent, and may be notified of the

1 pendency of this action by mail, using the form of notice similar to that customarily used in  
2 securities class actions.

3 44. Plaintiff's claims are typical of the claims of the members of the Class as all members  
4 of the Class are similarly affected by defendants' wrongful conduct in violation of federal law that is  
5 complained of herein.

6 45. Plaintiff will fairly and adequately protect the interests of the members of the Class  
7 and has retained counsel competent and experienced in class and securities litigation.

8 46. Common questions of law and fact exist as to all members of the Class and  
9 predominate over any questions solely affecting individual members of the Class. Among the  
10 questions of law and fact common to the Class are:

11 (a) whether the federal securities laws were violated by defendants' acts as  
12 alleged herein;

13 (b) whether statements made by defendants to the investing public during the  
14 Class Period misrepresented material facts about the business, operations and  
15 management of ShoreTel; and

16 (c) to what extent the members of the Class have sustained damages and the  
17 proper measure of damages.

18 47. A class action is superior to all other available methods for the fair and efficient  
19 adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the  
20 damages suffered by individual Class members may be relatively small, the expense and burden of  
21 individual litigation make it impossible for members of the Class to individually redress the wrongs  
22 done to them. There will be no difficulty in the management of this action as a class action.

23 **UNDISCLOSED ADVERSE FACTS**

24 48. The market for ShoreTel's common stock was open, well-developed and efficient at  
25 all relevant times. As a result of these materially false and misleading statements and failures to  
26 disclose, ShoreTel's common stock traded at artificially inflated prices during the Class Period.  
27 Plaintiff and other members of the Class purchased or otherwise acquired ShoreTel's common stock  
28 relying upon the integrity of the market price of ShoreTel's common stock and market information



1  
2 **Applicability of Presumption of Reliance:**  
3 **Fraud On The Market Doctrine**

4 53. At all relevant times, the market for ShoreTel's common stock was an efficient market  
5 for the following reasons, among others:

- 6 (a) ShoreTel stock met the requirements for listing, and was listed and actively  
7 traded on the NASDAQ, a highly efficient and automated market;
- 8 (b) As a regulated issuer, ShoreTel filed periodic public reports with the SEC  
9 and the NASDAQ;
- 10 (c) ShoreTel regularly communicated with public investors via established  
11 market communication mechanisms, including through regular  
12 disseminations of press releases on the national circuits of major newswire  
13 services and through other wide-ranging public disclosures, such as  
14 communications with the financial press and other similar reporting services;  
15 and
- 16 (d) ShoreTel was followed by several securities analysts employed by major  
17 brokerage firms who wrote reports which were distributed to the sales force  
18 and certain customers of their respective brokerage firms. Each of these  
19 reports was publicly available and entered the public marketplace.

20 54. As a result of the foregoing, the market for ShoreTel's common stock promptly  
21 digested current information regarding ShoreTel from all publicly-available sources and reflected  
22 such information in ShoreTel's stock price. Under these circumstances, all purchasers of ShoreTel's  
23 common stock during the Class Period suffered similar injury through their purchase of the  
24 Company's common stock at artificially inflated prices and a presumption of reliance applies.

25 **NO SAFE HARBOR**

26 55. The statutory safe harbor provided for forward-looking statements under certain  
27 circumstances does not apply to any of the allegedly false statements pleaded in this Complaint.  
28 Many of the specific statements pleaded herein were not identified as "forward-looking statements"

1 when made. To the extent there were any forward-looking statements, there were no meaningful  
2 cautionary statements identifying important factors that could cause actual results to differ materially  
3 from those in the purportedly forward-looking statements. Alternatively, to the extent that the  
4 statutory safe harbor does apply to any forward-looking statements pleaded herein, defendants are  
5 liable for those false forward-looking statements, because at the time each of those forward-looking  
6 statements was made, the particular speaker knew that the particular forward-looking statement was  
7 false, and/or the forward-looking statement was authorized and/or approved by an executive officer  
8 of ShoreTel who knew that those statements were false when made.

9  
10 **FIRST CLAIM**  
**Violation of Section 11 of**  
**The Securities Act Against All Defendants**

11 56. Plaintiff repeats and realleges each and every allegation contained above as if fully set  
12 forth herein only to the extent, however, that such allegations do not allege fraud, scienter or the  
13 intent of the defendants to defraud Plaintiff or members of the Class. This count is predicated upon  
14 defendants' strict liability for making false and materially misleading statements in the Registration  
15 Statement.

16 57. This claim is asserted by Plaintiff against all defendants by, and on behalf of, persons  
17 who acquired shares of the Company's common stock pursuant to or traceable to the false  
18 Registration Statement issued in connection with the July 3, 2007 IPO.

19 58. Individual Defendants as signatories of the Registration Statement, as directors and/or  
20 officers of ShoreTel and controlling persons of the issuer, owed to the holders of the stock obtained  
21 through the Registration Statement the duty to make a reasonable and diligent investigation of the  
22 statements contained in the Registration Statement at the time they became effective to ensure that  
23 such statements were true and correct, and that there was no omission of material facts required to be  
24 stated in order to make the statements contained therein not misleading. Defendants knew, or in the  
25 exercise of reasonable care should have known, of the material misstatements and omissions  
26 contained in or omitted from the Registration Statement as set forth herein. As such, defendants are  
27 liable to the Class.

28 59. Underwriter Defendants owed to the holders of the stock obtained through the

1 Registration Statement the duty to make a reasonable and diligent investigation of the statements  
2 contained in the Registration Statement at the time they became effective to ensure that such  
3 statements were true and correct and that there was no omission of material facts required to be  
4 stated in order to make the statements contained therein not misleading. Defendants knew, or in the  
5 exercise of reasonable care should have known, of the material misstatements and omissions  
6 contained in or omitted from the Registration Statement as set forth herein. As such, defendants are  
7 liable to the Class.

8 60. None of the defendants made a reasonable investigation or possessed reasonable  
9 grounds for the belief that the statements contained in the Registration Statement were true or that  
10 there was no omission of material facts necessary to make the statements made therein not  
11 misleading.

12 61. Defendants issued and disseminated, caused to be issued and disseminated, and  
13 participated in the issuance and dissemination of, material misstatements to the investing public  
14 which were contained in the Registration Statement, which misrepresented or failed to disclose, *inter*  
15 *alia*, the facts set forth above. By reason of the conduct herein alleged, each defendant violated  
16 and/or controlled a person who violated Section 11 of the Securities Act.

17 62. As a direct and proximate result of defendants' acts and omissions in violation of the  
18 Securities Act, the market price of ShoreTel's common stock sold in the IPO was artificially inflated,  
19 and Plaintiff and the Class suffered substantial damage in connection with their ownership of  
20 ShoreTel's common stock pursuant to the Registration Statement.

21 63. ShoreTel is the issuer of the stock sold via the Registration Statement. As issuer of  
22 the stock, the Company is strictly liable to Plaintiff and the Class for the material misstatements and  
23 omissions therein.

24 64. At the times they obtained their shares of ShoreTel, Plaintiff and members of the  
25 Class did so without knowledge of the facts concerning the misstatements or omissions alleged  
26 herein.

27 65. This action is brought within one year after discovery of the untrue statements and  
28 omissions in and from the Registration Statement which should have been made through the exercise

1 of reasonable diligence, and within three years of the effective date of the Prospectus.

2 66. By virtue of the foregoing, Plaintiff and the other members of the Class are entitled to  
3 damages under Section 11 as measured by the provisions of Section 11(e), from the defendants and  
4 each of them, jointly and severally.

5 **SECOND CLAIM**  
6 **Violation of Section 12(a)(2) of**  
7 **The Securities Act Against All Defendants**

8 67. Plaintiff repeats and realleges each and every allegation contained above as if fully set  
9 forth herein.

10 68. This Count is brought pursuant to Section 12(a)(2) of the Securities Act on behalf of  
11 the Class, against all defendants.

12 69. Defendants were sellers, offerors, and/or solicitors of purchasers of the shares offered  
13 pursuant to the ShoreTel Offering Registration Statement.

14 70. The ShoreTel IPO Registration Statement contained untrue statements of material  
15 facts, omitted to state other facts necessary to make the statements made not misleading, and  
16 concealed and failed to disclose material facts. The Individual Defendants' actions of solicitation  
17 included participating in the preparation of the false the misleading Registration Statement.

18 71. Defendants owed to the purchasers of ShoreTel's common stock, including Plaintiff  
19 and other members of the Class, the duty to make a reasonable and diligent investigation of the  
20 statements contained in the IPO materials, including the Registration Statement, to ensure that such  
21 statements were true and that there was no omission to state a material fact required to be stated in  
22 order to make the statements contained therein not misleading. Defendants knew of, or in the  
23 exercise of reasonable care should have known of, the misstatements and omissions contained in the  
24 IPO materials as set forth above.

25 72. Plaintiff and other members of the Class purchased or otherwise acquired ShoreTel's  
26 common stock pursuant to and/or traceable to the defective Registration Statement. Plaintiff did not  
27 know, or in the exercise of reasonable diligence could not have known, of the untruths and omissions  
28 contained in the Registration Statement.

73. Plaintiff, individually and representatively, hereby offer to tender to defendants that

1 common stock which Plaintiff and other Class members continue to own, on behalf of all members  
2 of the Class who continue to own such common stock, in return for the consideration paid for that  
3 common stock together with interest thereon. Class members who have sold their ShoreTel common  
4 stock are entitled to rescissory damages.

5 74. By reason of the conduct alleged herein, these defendants violated, and/or controlled  
6 a person who violated Section 12(a)(2) of the Securities Act. Accordingly, Plaintiff and members of  
7 the Class who hold ShoreTel common stock purchased in the IPO have the right to rescind and  
8 recover the consideration paid for their ShoreTel common stock, and hereby elect to rescind and  
9 tender their ShoreTel common stock to the defendants sued herein. Plaintiff and Class members  
10 who have sold their ShoreTel common stock are entitled to rescissory damages.

11 75. This action is brought within three years from the time that the common stock upon  
12 which this Count is brought was sold to the public, and within one year from the time when Plaintiff  
13 discovered or reasonably could have discovered the facts upon which this Count is based.

14 **THIRD CLAIM**  
15 **Violation of Section 15 of The Securities Act**  
16 **Against the Individual Defendants**

17 76. Plaintiff repeats and realleges each and every allegation contained above, excluding  
18 all allegations above that contain facts necessary to prove any elements not required to state a  
19 Section 15 claim, including without limitation, scienter.

20 77. This count is asserted against Individual Defendants and is based upon Section 15 of  
21 the Securities Act.

22 78. Individual Defendants, by virtue of their offices, directorship and specific acts were,  
23 at the time of the wrongs alleged herein and as set forth herein, controlling persons of ShoreTel  
24 within the meaning of Section 15 of the Securities Act. The Individual Defendants had the power  
25 and influence and exercised the same to cause ShoreTel to engage in the acts described herein.

26 79. Individual Defendants' position made them privy to and provided them with actual  
27 knowledge of the material facts concealed from Plaintiff and the Class.

28 80. By virtue of the conduct alleged herein, the Individual Defendants are liable for the  
aforesaid wrongful conduct and are liable to Plaintiff and the Class for damages suffered.

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**WHEREFORE**, Plaintiff prays for relief and judgment, as follows:

- (a) Determining that this action is a proper class action under Rule 23 of the Federal Rules of Civil Procedure;
- (b) Awarding compensatory damages in favor of Plaintiff and the other Class members against all defendants, jointly and severally, for all damages sustained as a result of defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;
- (c) Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and
- (d) Such other and further relief as the Court may deem just and proper.

**JURY TRIAL DEMANDED**

Plaintiff hereby demands a trial by jury.

Dated: January 29, 2008

SCHIFFRIN BARROWAY TOPAZ & KESSLER, LLP

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