

1 Lewis S. Kahn (admitted *pro hac vice*)  
lewis.kahn@ksfcounsel.com  
2 Sarah C. Boone (Bar No. 268813)  
sarah.boone@ksfcounsel.com  
3 KAHN SWICK & FOTI, LLC  
4 206 Covington Street  
Madisonville, LA 70447  
5 Telephone: (504) 455-1400  
6 Fax: (504) 455-1498

7 **Lead Counsel for Lead Plaintiffs and the**  
8 **Class**

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 \_\_\_\_\_ )  
13 )  
14 In re SHORETEL, INC. )  
SECURITIES LITIGATION )

) **Case No.: C-08-00271-CRB**  
)  
) CLASS ACTION  
)  
) **ORDER PRELIMINARILY APPROVING**  
) **SETTLEMENT AND PROVIDING FOR**  
) **NOTICE**  
)  
) **EXHIBIT A**  
) Judge: Hon. Charles R. Breyer

17 )  
18 This Document Relates To:  
19 ALL ACTIONS )  
20 \_\_\_\_\_ )

1 WHEREAS, a class action is pending before the Court entitled *In re ShoreTel, Inc. Securities*  
2 *Litigation*, Civil Action No. C-08-00271-CRB (the “Litigation”);

3 WHEREAS, the Court has received the Stipulation of Settlement dated June 4, 2010 (the  
4 “Stipulation”), which has been entered into by the Court-appointed Lead Plaintiffs Loren Swanson  
5 and Art Landesman and Defendants<sup>1</sup>; and the Court has reviewed the Stipulation and its attached  
6 Exhibits;

7 WHEREAS, the parties having moved, pursuant to Federal Rule of Civil Procedure 23(e), for  
8 an order preliminarily approving the settlement of this Litigation in accordance with the Stipulation  
9 which, together with the Exhibits annexed thereto, sets forth the terms and conditions for a proposed  
10 settlement of the Litigation and for dismissal of the Litigation with prejudice upon the terms and  
11 conditions set forth therein; and the Court having read and considered the Stipulation and the  
12 Exhibits annexed thereto; and

13 WHEREAS, all capitalized terms contained herein shall have the same meanings as set forth  
14 in the Stipulation;

15 NOW, THEREFORE, IT IS HEREBY ORDERED:

16 1. The Court does hereby preliminarily approve the Stipulation and the settlement set  
17 forth therein, subject to further consideration at the Settlement Fairness Hearing described below.

18 2. This action is certified for settlement purposes only as a class action pursuant to Rules  
19 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of a class consisting of all  
20 Persons or entities that purchased the common stock of ShoreTel pursuant or traceable to ShoreTel’s  
21 Initial Public Offering Prospectus and Registration Statement, or on the open market from July 3,  
22 2007 through January 29, 2008, inclusive. Excluded from the Class are the Defendants, the officers  
23 and directors of the Defendants at all relevant times, members of their immediate families and their  
24 legal representatives, heirs, successors or assigns, and any entity in which the Defendants have or  
25

---

26 <sup>1</sup> ShoreTel, John W. Combs, Michael E. Healy, Edwin J. Basart, Mark F. Bregman, Gary J.  
27 Daichendt, Thomas van Overbeek, Kenneth D. Denman, Charles D. Kissner, and Edward F.  
28 Thompson, and J.P. Morgan Securities Inc.

1 had a controlling interest. Also excluded from the Class are those Persons who timely and validly  
2 request exclusion from the Class pursuant to the Notice of Pendency and Proposed Settlement of  
3 Class Action.

4 3. The Court has determined preliminarily and for the purpose of settlement that: (a) the  
5 Class is so numerous that joinder of all members is impracticable; (b) there are questions of law and  
6 fact common to the Class; (c) the claims or defenses of Lead Plaintiffs are typical of the claims or  
7 defenses of the Class; and (d) Lead Plaintiffs will fairly and adequately protect the interests of the  
8 Class. The Court further preliminarily finds that the questions of law or fact common to Class  
9 Members predominate over any questions affecting individual members, including but not limited to  
10 whether ShoreTel's Initial Public Offering Prospectus and Registration Statement was false or  
11 misleading. The Court also preliminarily finds that a class action is superior to other available  
12 methods for the fair and efficient adjudication of this controversy.

13 4. A hearing (the "Settlement Fairness Hearing") shall be held before this Court on  
14 October 15, 2010, at 10:00 a.m., at the United States Courthouse, 450 Golden Gate Ave., Courtroom  
15 8, 19<sup>th</sup> Floor, San Francisco, CA, 94102, to determine whether the proposed settlement of the  
16 Litigation on the terms and conditions provided for in the Stipulation is fair, reasonable, and  
17 adequate to the Class and should be approved by the Court; whether a Judgment as provided in the  
18 Stipulation should be entered herein; whether the proposed Plan of Allocation should be approved;  
19 and to determine the amount of fees and expenses that should be awarded to Lead Counsel. The  
20 Court may adjourn the Settlement Fairness Hearing without further notice to Members of the Class.

21 5. The Court approves, as to form and content, the Notice of Pendency and Proposed  
22 Settlement of Class Action (the "Notice"), the Proof of Claim and Release form (the "Proof of  
23 Claim"), and Summary Notice for publication annexed as Exhibits A-1, A-2, and A-3 hereto, and  
24 finds that the mailing and distribution of the Notice and publishing of the Summary Notice  
25 substantially in the manner and form set forth therein meet the requirements of Federal Rule of Civil  
26 Procedure 23 and due process, and constitute the best notice practicable under the circumstances and  
27 shall constitute due and sufficient notice to all Persons entitled thereto.

1           6. Pursuant to Rule 53(c) of the Federal Rules of Civil Procedure, the Court appoints  
2 The Garden City Group, Inc. (“Claims Administrator”) to supervise and administer the notice  
3 procedure as well as the processing of claims as more fully set forth below:

4           (a) Not later than fourteen (14) days after entry of this order (the “Notice Date”),  
5 Lead Counsel shall cause a copy of the Notice and the Proof of Claim, substantially in the forms  
6 annexed as Exhibits A-1 and A-2 hereto, to be mailed by first class mail to all Class Members who  
7 can be identified with reasonable effort;

8           (b) Lead Counsel shall cause the Summary Notice to be published in *Investor’s*  
9 *Business Daily* and issued electronically over a widely-disseminated media wire service on the  
10 Internet not later than 14 days after the issuance of this Order; and

11           (c) At least thirty-five (35) calendar days prior to the Settlement Fairness  
12 Hearing, Lead Counsel shall cause to be served on Defendants’ counsel and filed with the Court  
13 proof, by affidavit or declaration, of such mailing and publishing.

14           7. Nominees who purchased ShoreTel, Inc. (“ShoreTel”) common stock between July 3,  
15 2007 and January 29, 2008 shall send the Notice and the Proof of Claim to all beneficial owners of  
16 such ShoreTel common stock within ten (10) days after receipt thereof, or send a list of the names  
17 and addresses of such beneficial owners to the Claims Administrator within ten (10) days of receipt  
18 thereof, in which event the Claims Administrator shall promptly mail the Notice and the Proof of  
19 Claim to such beneficial owners. Lead Counsel shall, if requested, reimburse banks, brokerage  
20 houses or other nominees solely for their reasonable out-of-pocket expenses incurred in providing  
21 notice to beneficial owners who are Class Members out of the Class Notice and Administration  
22 Fund, which expenses would not have been incurred except for the sending of such notice, subject to  
23 further order of this Court with respect to any dispute concerning such compensation.

24           8. All Members of the Class shall be bound by all determinations and judgments in the  
25 Litigation concerning the settlement, whether favorable or unfavorable to the Class.

26           9. Class Members who wish to participate in the settlement shall complete and submit  
27 Proof of Claim forms in accordance with the instructions contained therein. Unless the Court orders

1 otherwise, all Proof of Claim forms must be postmarked no later than ninety days (90) after the entry  
2 of this order. Any Class Member who does not timely submit a Proof of Claim within the time  
3 provided for shall be barred from sharing in the distribution of the proceeds of the Net Settlement  
4 Fund, unless otherwise ordered by the Court.

5 10. Any person who desires to request exclusion from the Class shall do so at least  
6 twenty-one (21) calendar days prior to the Settlement Hearing. All persons who submit valid and  
7 timely requests for exclusion in the manner set forth in the Notice shall have no rights under the  
8 Stipulation, shall not share in the distribution of the Net Settlement Fund, and shall not be bound by  
9 the Stipulation or the Judgment entered in the Litigation.

10 11. Any Member of the Class may enter an appearance in the Litigation, at their own  
11 expense, individually or through counsel of their own choice. If they do not enter an appearance,  
12 they will be represented by Lead Counsel.

13 12. Any Member of the Class may appear and show cause, if he, she or it has any reason,  
14 why the proposed settlement of the Litigation should or should not be approved as fair, reasonable,  
15 and adequate, why a judgment should or should not be entered thereon, why the Plan of Allocation  
16 should or should not be approved, or why attorneys' fees and expenses should or should not be  
17 awarded to Lead Counsel. Any Class Member may object in writing to the approval of the terms and  
18 conditions of the proposed settlement, or, if approved, the Judgment to be entered thereon approving  
19 the same, or the order approving the Plan of Allocation, or the attorneys' fees and expenses to be  
20 awarded to Lead Counsel. Objection(s) must be mailed on or before **September 17, 2010**, to: the  
21 Court; Kahn Swick & Foti, LLC; and Fenwick & West, LLP or Bingham McCutchen LLP on behalf  
22 of the Defendants, at the following addresses:

23 **COURT:**

24 Clerk of the Court  
25 United States District Court for the Northern District of California  
26 United States Courthouse  
27 450 Golden Gate Ave  
Courtroom 8  
San Francisco, CA, 94102

28 ORDER PRELIMINARILY APPROVING  
SETTLEMENT AND PROVIDING FOR NOTICE

CASE NO. C-08-00271-CRB

1 **FOR LEAD PLAINTIFFS:**

2 LEWIS S. KAHN  
3 KAHN SWICK & FOTI, LLC  
4 206 Covington Street  
5 Madisonville, Louisiana 70447

6 **FOR DEFENDANTS:**

7 SUSAN S. MUCK  
8 FENWICK & WEST, LLP  
9 555 California Street, 12<sup>th</sup> Floor  
10 San Francisco, CA 94104

11 *Counsel for Defendants ShoreTel, Inc.; John W. Combs; Michael E. Healy; Edwin J. Basart; Mark*  
12 *F. Bregman; Gary J. Daichendt; Thomas Van Overbeek; Kenneth D. Denman; Charles D. Kissner;*  
13 *and Edward F. Thompson*

14 -or-

15 CHARLENE S. SHIMADA  
16 BINGHAM McCUTCHEN LLP  
17 Three Embarcadero Center  
18 San Francisco, CA 94111

19 *Counsel for Defendant J.P. Morgan Securities Inc.*

20 13. Any Member of the Class who does not make his, her, or its written objection in the  
21 manner provided and/or appear in person or through a representative at the Settlement Fairness  
22 Hearing shall be deemed to have waived such objection and shall forever be foreclosed from making  
23 any objection to the fairness or adequacy of the proposed settlement as set forth in the Stipulation, to  
24 the Plan of Allocation, or to the award of attorneys' fees and expenses to Lead Counsel, unless  
25 otherwise ordered by the Court.

26 14. All funds held by the Escrow Agent shall be deemed and considered to be in *custodia*  
27 *legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such  
28 funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

15 15. All papers in support of the settlement, the Plan of Allocation, and the application by  
16 Lead Counsel for attorneys' fees or reimbursement of expenses shall be filed and served thirty-five  
17

1 (35) calendar days before the Settlement Fairness Hearing. All papers in response to Class Members'  
2 objections to the Settlement shall be filed and served fourteen (14) calendar days before the  
3 Settlement Fairness Hearing.

4 16. Neither the Defendants nor their Related Parties shall have any responsibility for or  
5 liability with respect to the Plan of Allocation or any application for attorneys' fees or  
6 reimbursement of expenses submitted by Lead Counsel, and such matters will be considered  
7 separately from the fairness, reasonableness and adequacy of the settlement.

8 17. At or after the Settlement Fairness Hearing, the Court shall determine whether the  
9 Plan of Allocation proposed by Lead Counsel, and any application for attorneys' fees or  
10 reimbursement of expenses, shall be approved.

11 18. All reasonable expenses incurred in identifying and notifying Class Members, as well  
12 as administering the Settlement Fund, shall be paid as set forth in the Stipulation. In the event the  
13 settlement is not approved by the Court, or otherwise fails to become effective, neither the Lead  
14 Plaintiffs nor Lead Counsel shall have any obligation to repay any amounts actually and properly  
15 disbursed from the Class Notice and Administration Fund.

16 19. At or after the Settlement Fairness Hearing, Lead Counsel shall move for  
17 reimbursement to Lead Plaintiffs for time, costs, and expenses incurred and directly related to  
18 representation of the Class, in an amount up to \$3,000 per Lead Plaintiff, plus any interest on such  
19 expenses at the same rate and for the same periods as earned by the Settlement Fund, as may be  
20 awarded by the Court.

21 20. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations  
22 or proceedings connected with it, shall be construed as an admission or concession by Defendants or  
23 their Related Parties of the truth of any of the allegations in the Litigation, or of any liability, fault,  
24 or wrongdoing of any kind and shall not be construed as, or deemed to be evidence of or an  
25 admission or concession that, Lead Plaintiffs or any Class Members have suffered any damages,  
26 harm, or loss.

27 21. In the event that the settlement does not become Final in accordance with the terms of

1 the Stipulation or the Effective Date does not occur, this Order shall be rendered null and void to the  
2 extent provided by and in accordance with the Stipulation and shall be vacated and, in such event, all  
3 orders entered and releases delivered in connection herewith shall be null and void to the extent  
4 provided by and in accordance with the Stipulation.

5 22. The Court reserves the right to continue the Settlement Fairness Hearing without  
6 further notice to the Members of the Class, and retains jurisdiction to consider all further  
7 applications arising out of or connected with the proposed settlement. Should the Court continue the  
8 Settlement Fairness Hearing, such a continuance will be reflected in the Court's calendar and  
9 accessible via the Court's website. Also, Lead Counsel shall publish, over the same widely-  
10 disseminated news wire as used to publish the Summary Notice, a press release informing Class  
11 members of the change. The Court may approve the settlement, with such modifications as may be  
12 agreed to by the Settling Parties, if appropriate, without further notice to the Class.

13 23. Pending the Settlement Fairness Hearing, all Members of the Class are enjoined from  
14 initiating or prosecuting any actions or claims against any Defendant or Related Party that are within  
15 the scope of the Releases provided for by the Stipulation.

16  
17  
18 DATED: July 2, 2010



---

THE HONORABLE CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE