

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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STEVEN BABCOCK, on behalf of the Computer Management Sciences Inc., Employee Stock Ownership Plan Trust, and himself and all others similarly situated,

X

Index No. CV 00 1648

Plaintiff,

v,

Seybert, J.  
Orenstein, M.

COMPUTER ASSOCIATES INTERNATIONAL, INC., JERRY DAVIS, ANTHONY V. WEIGHT, WALTER S. MILLSAPS, IRA ZAR, HALSEY WISE, STEVEN WOGHIN, COMPUTER MANAGEMENT SCIENCES, INC., DONALD C. WHITE and COMPUTER MANAGEMENT SCIENCES, INC. EMPLOYEE STOCK OWNERSHIP PLAN AND TRUST fully and as Nominal Defendant,

**NOTICE OF PROPOSED SETTLEMENT  
OF ERISA CLASS ACTION**

Defendants.

X

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**TO: FORMER EMPLOYEE PARTICIPANTS IN COMPUTER MANAGEMENT SCIENCES, INC. EMPLOYEE STOCK OWNERSHIP PLAN AND TRUST ("CMSI ESOP").**

**PLEASE READ THIS OFFICIAL COURT NOTICE CAREFULLY.  
IT TELLS HOW YOU MAY BE ABLE TO OBTAIN PAYMENT  
FROM A CLASS ACTION SETTLEMENT.**

This notice is being sent to you by Court Order because you appear to be a member of a previously-certified class of Computer Management Sciences Inc. ("CMSI") Employer Stock Ownership Plan and Trust ("CMSI ESOP") participants (the "Class") and may be entitled to money if a proposed class action settlement concerning the CMSI ESOP is approved. You are not being sued; you do not need to retain a lawyer. Read this notice carefully. It contains important information about the settlement and your rights in connection with it, including how you can claim your settlement funds. As described herein, to receive their share of the Settlement Fund, Class Members must remit the enclosed Eligibility Form.

**DESCRIPTION OF THE LITIGATION**

The Plaintiff in this lawsuit worked for Computer Management Sciences Inc. and participated in the CMSI ESOP. His class action complaint seeks recovery against Defendants for alleged violations of the federal pension law called ERISA, 29 U.S.C. §1001, *et seq.*, relating to the operation of the CMSI ESOP. A notice was previously mailed in 2003 that described the pendency of the lawsuit and the claims asserted on behalf of the Class. Briefly, Plaintiff claims, among other things, that Defendants were required to but failed to make available investment options for CMSI ESOP participants after CMSI's 1999 merger with Computer Associates International, Inc. ("CA"). Plaintiff claims that, as a result, plan assets were held in a money market mutual fund. The money market mutual fund allegedly did not earn

as much as other investments likely would have earned between 1999 and 2000, and Plaintiff and other plan participants claim injury as a result.

Defendants vigorously deny they have done anything wrong. Defendants maintain that no participant investment options were required or permitted under the CMSI ESOP document and that the money market fund was a prudent and proper investment for plan assets after CMSI merged with CA. Defendants also claim, among other things, that the case was brought too late, that the Plaintiff has no standing to sue, and that monetary relief is not available in a lawsuit such as this. In addition, Defendants claim that even if Plaintiff won the case on liability, no damages were suffered.

The case has been pending in Federal Court in Central Islip, New York, since 2000. No trial date has been set, nor has the Court ruled on the Defendants' alleged liability or the amount of the Class' alleged damages, if any.

Plaintiff and Class Counsel have actively prosecuted this litigation since its filing. They have conducted wide-ranging factual and legal research and have engaged in extensive motion practice, involving numerous legal briefs and memoranda. Class Counsel have made court appearances and have served document requests and interrogatories to which Defendants have responded. Plaintiffs have retained an expert witness and taken substantial deposition and other discovery of Defendants and their expert witnesses, and non-party witnesses, at various locations. The settlement described in this Notice was reached as a result of a settlement mediation conducted per Court order on November 30, 2007, under the auspices of JAMS, in New York. An earlier mediation was conducted by JAMS in November 2006, but it was not successful.

Plaintiff and his counsel continue to assert that the claims in the lawsuit have merit, while Defendants continue to believe the contrary. To resolve this dispute, the parties have decided to settle the case now, instead of litigating it to conclusion, which could take years and might result in an adverse ruling. In reaching their decision to settle, Plaintiff and Class Counsel have taken into account the expense and length of continued proceedings necessary to prosecute the lawsuit against Defendants, including potential appeals, the risks stemming from the existence of unresolved questions of law and fact, the defenses available to Defendants, and the uncertainties inherent in complex federal pension litigation of this nature. Plaintiff and Class Counsel believe that the settlement, as described below, is fair, reasonable and in the best interests of the Class, and preferable to continued time-consuming litigation with uncertain results.

This notice is not an expression of opinion by the Court as to the merits of any claim or defense asserted by the parties. It does not imply that there has been any violation of law, or that any amount will be recovered if the action is not settled. Rather, this notice is sent to inform you about the case and of your rights with regard to the proposed settlement, which will not take effect unless the Court approves it after a hearing described below.

### **THE TERMS OF THE PROPOSED SETTLEMENT**

The following description of the proposed settlement is a summary. For its complete terms, refer to the text of the Agreement, on file with the Court, or available from Strategic Claims Services, 600 N. Jackson Street, Suite 3, Media, PA 19063, (866) 274- 4004; and also available at [www.strategicclaims.net](http://www.strategicclaims.net).

Under the settlement, Defendants will pay a total of \$1,975,000, plus interest from December 15, 2007, to be distributed to former CMSI ESOP participants. Defendants will also pay mailing and other

administrative expenses of implementing this settlement, up to \$50,000, and will pay Plaintiffs share of the fees of the professional mediator used to facilitate the settlement.

In exchange for the Defendants' payments, and as set forth more particularly in the Agreement, Class Members will release the Defendants and certain related persons from all claims or liabilities arising from or related to the claims asserted in the lawsuit, and the lawsuit will be dismissed with prejudice, finally ending this litigation.

The amount of the settlement will provide CMSI ESOP participants with the equivalent of an additional approximately 5% investment return on their CMSI ESOP funds for the March 31, 1999 - March 31, 2000 period, over and above the amount that CMSI ESOP funds earned while invested in the money market fund. Specifically, the settlement provides Class Members with an approximate 10% gross return, as opposed to the 5% actually earned on their money.

Settlement funds will be allocated among Class Members proportionally, according to the relative size of their account balances in the CMSI ESOP. Those with larger account balances will receive more than those with smaller balances. The actual amount Class Members receive will depend on how many Class Members file Eligibility Forms with the Settlement Administrator and become Eligible Class Members as explained below; the more people who file Eligibility Forms, the smaller will be their individual recoveries, and vice versa. There are approximately 800 members of the Class. It is not known how many will file Eligibility Forms, or the sizes of their account balances. The average payment to Eligible Class Members, assuming all become Eligible Class Members, before deductions for Court-approved attorneys' fees, costs, and expenses, will be approximately \$2,468 ( $\$1,975,000 \div 800 = \$2,468$ ). Your gross payment will probably be higher or lower, depending on the size of your account balance in the CMSI ESOP; \$2,468 is an average.

The settlement amount is substantially less than the amount Plaintiff believes the Class might have recovered had the lawsuit been litigated to a successful conclusion, but is substantially more than the Defendants believe the Class could have recovered even if it had prevailed at trial and on appeal.

If the settlement is approved, you will be eligible to receive funds from the settlement, but **only if you become an Eligible Class Member**. To become an Eligible Class Member and receive payment under the settlement, Class Members (meaning you) must submit an Eligibility Form. The Eligibility Form is at the end of this notice. Please read it and submit it as directed if you want money under this Settlement. **You will not receive money if you do not submit the form as directed.**

No Class Member will owe money under the settlement, and no Class Member's previously distributed benefit from the CMSI ESOP will be reduced.

### **ATTORNEYS' FEES, AND EXPENSES AND COSTS OF LITIGATION**

Class Counsel have undertaken this lawsuit on a contingent fee basis. They have not been paid for any of their work on this case. Also, they have advanced all costs and expenses of litigation.

Class Counsel intend to ask the Court for an award of attorneys' fees, costs and expenses of litigation to be paid out of the settlement funds in the total amount of 40% of such funds, or approximately \$800,000 (the precise amount cannot be determined now because the settlement funds are accruing interest and will continue to do so until paid). The requested fee represents a significant discount to counsel's time charges in this case. Valued at their hourly rates, Class Counsel have to date invested in excess of \$1,000,000 in time charges in this case. Class Counsel have also expended substantial unreimbursed funds for costs and expenses, such as experts, depositions, copying and travel. An incentive award of \$10,000 will also be

requested for the Plaintiff to compensate him for his time and effort in bringing this suit. Class Members will not be asked to pay fees, expenses, or the incentive award; these will be paid out of the settlement fund.

**THE SETTLEMENT HEARING AND YOUR RIGHT TO OBJECT**

A Settlement Hearing will be held before the Court at 9:30 a.m. on August 19, 2008, at the United States District Court, Eastern District of New York, Long Island Courthouse, 100 Federal Plaza, Central Islip, NY 11722-4438, in order to determine:

- 1 Whether the proposed settlement is fair, reasonable, in the best interests of the Class, and should be approved by the Court;
- 2 Whether the Order of Final Judgment in the form specified in the Agreement should be entered; and
- 3 Whether Class Counsel's application for attorneys' fees and reimbursement of litigation costs and expenses should be allowed and whether the incentive amount for the Plaintiff will be allowed.

Any Class Member who wishes to oppose or object to the settlement, the requested amount of attorneys' fees, costs and expenses, or the incentive award may do so, but must comply with the rules set forth below. Any Class Member who has complied with these procedures may also appear at the Settlement Hearing and state his/her position orally. Class Members may not object or appear in opposition to the settlement unless they comply with these rules.

Rules for Objections: All objections must be: (a) in writing; (b) filed with the Clerk for the United States District Court for the Eastern District of New York, before the Objection Deadline, which is 5:00 p.m., Eastern Time, on July 28, 2008; (c) received by Defendants' Counsel and Plaintiffs Counsel, before the Objection Deadline; and (d) show the Class Member's name, address and telephone number. In addition, all objections must identify all witnesses, documents, and other evidence of any kind to be presented in support of the objection, as well as the substance of any testimony to be given in support of it. Any Class Member who does not comply with these rules waives the right to object and is foreclosed from subsequently making any objection to the proposed settlement, the application for attorneys' fees, and litigation costs and expenses and the incentive award, and the entry of the Order of Final Judgment. The addresses of Class Counsel and Defendants' Counsel are as follows:

**Class Counsel:**

Charles R. Watkins  
John R Wylie  
Futterman Howard Watkins Wylie & Ashley, Chtd.  
122 South Michigan Avenue, Suite 1850  
Chicago, Illinois 60603  
Phone: (312) 427-3600  
Fax: (312) 427-1850

and

David Harrison, Esq.  
Lowey, Dannenberg, Cohen & Hart, P.C.  
The Gateway, 11<sup>th</sup> Floor  
1 North Lexington Avenue  
White Plains, NY 10601  
Phone: (914) 997-0035  
Fax: (914) 997-0035

**Defendants' Counsel:**

John P. McEntee  
Farrell Fritz, P.C.  
1320 RexCorp Plaza  
Uniondale, NY 11556  
Phone: (516) 227-0700  
Fax: (516) 227-0777

The address of the Clerk of the United States District Court for the Eastern District of New York is:

Clerk of the United States District Court  
Eastern District of New York  
Alfonse D'Amato Long Island Courthouse  
100 Federal Plaza  
Central Islip, NY 11722-4138

**EXAMINATION OF COURT PAPERS AND QUESTIONS/INQUIRIES**

For more information about this litigation, you may review the pleadings, the Agreement and other papers filed in this lawsuit at the Office of the Clerk of the United States District Court, Eastern District of New York, during business hours of each business day. You may also call or write Class Counsel, at their addresses above, with any questions, or visit [www.strategicclaims.net](http://www.strategicclaims.net), where certain information about this case is available

**PLEASE DO NOT WRITE OR TELEPHONE THE JUDGE  
REGARDING THIS NOTICE.**

DATED: JUNE 13, 2008

BY ORDER OF THE COURT

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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STEVEN BABCOCK, on behalf of the Computer Management Sciences Inc., Employee Stock Ownership Plan Trust, and himself and all others similarly situated,

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Defendants.

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**ELIGIBILITY FORM**

This is the form to submit to receive funds from the settlement in the above case.

To obtain funds, complete and sign the form and mail it to Strategic Claims Services, 600 N Jackson Street, Suite 3, Media, PA 19063, postmarked on or before October 10, 2008. You cannot receive funds if you do not complete and mail this form in on time.

Full Name (with middle initial):

Address Line 1:

Address Line 2:

City, State, Zip:

Telephone Number:

Social Security Number:

Please Make Check Payable to:

If you intend to seek rollover treatment, provide all necessary information, *e.g.*, IRA account number, trustee name and address, etc., here


Note: There is no promise, assurance or guarantee these funds are eligible for rollover treatment. The decision whether to seek rollover treatment is yours alone.

Any questions about taxation of settlement funds or rollover eligibility must be directed to your own tax advisor. No one associated with this case can provide any tax advice or assistance of any kind or answer any tax questions.

### **DECEASED CLASS MEMBERS**

The executor, heirs, assigns, personal representative, estate or other successor-in-interest to a deceased Class Member must provide the following information to Strategic Claims Services:

- (a) Evidence that such person is authorized to receive distribution of the deceased Class Member's settlement payment, and the name (and, if applicable, percentage entitlement) of each person entitled to receive distribution.
- (b) Social Security number for each person entitled to receive payment.
- (c) Current mailing address of each person entitled to receive payment.
- (d) Person(s) to whom check(s) should be payable.