

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE CAREER EDUCATION)	No. 03 C 8884
CORPORATION SECURITIES)	Honorable Joan Humphrey Lefkow
LITIGATION)	

STIPULATION AND AGREEMENT OF SETTLEMENT OF CLASS ACTION

Subject to the approval of the Court, the Court-appointed Lead Plaintiff¹ Thomas Schroder and named plaintiffs Nicholas J. Margaritas, Gordon W. MacKinney and Vivian Oh (“Plaintiffs”) (on behalf of themselves and the Settlement Class Members), on the one hand, and the Defendants on the other hand, by and through their undersigned attorneys, hereby enter into the following Stipulation and Agreement of Settlement of Class Action (the “Settlement Agreement”), dated as of November 5, 2007, and subject to the approval of the Court (the “Settlement”).

WHEREAS:

A. Beginning on December 9, 2003, six class actions alleging violations of federal securities laws- *Taubenfeld v. Career Ed. Corp., et al.*, 03-CV-08884; *Stellato v. Career Ed. Corp., et al.*, 03-CV-08939; *Katz v. Career Ed. Corp., et al.*, 03-CV-09157; *Morris, et al v. Career Ed. Corp., et al.*, 04-CV-00305; *Woo v. Career Ed. Corp., et al.*, 04-CV-00339; *Schild v. Career Ed. Corp., et al.*, 04-CV-00906, were filed in this Court and were subsequently consolidated by Order dated March 19, 2004 under the caption above, and are hereinafter referred to as the “Action”;

B. That same day, by Order, this Court appointed Thomas Schroder as Lead Plaintiff and approved Lead Plaintiff’s choice of counsel, the firm now known as Labaton Sucharow LLP;

¹ All capitalized terms not otherwise defined carry the meaning set forth in Section 1 below.

C. The Consolidated Amended Complaint dated June 17, 2004 was dismissed by Order of this Court on February 11, 2005 with leave to replead;

D. The Second Consolidated Amended Complaint dated April 1, 2005 was dismissed by Order of this Court on March 28, 2006 with leave to replead;

E. On May 1, 2006, Plaintiffs filed the Third Consolidated Amended Complaint (the “Complaint”) which generally alleged, among other things, that Defendants issued materially false and misleading statements regarding Career Education Corporation’s (“CEC”) bad debt, student enrollment and job placement statistics during the Class Period – April 22, 2002 through and including February 15, 2005 – in a scheme to artificially inflate the value of CEC securities;

F. The Complaint was dismissed with prejudice by Order of this Court on March 29, 2007.

G. Plaintiffs filed and served a timely notice of appeal with the Seventh Circuit on April 24, 2007.

H. The Defendants have denied, and continue to deny, that any of them have committed or have threatened to commit any violations of law;

I. The Defendants have, however, determined to enter into this settlement on the terms and conditions set forth herein to halt the substantial expense and distraction that continues to be attendant to the litigation, as well as to eliminate uncertainty and risks from continued litigation;

J. The Lead Plaintiff asserts that all claims being advanced in this case were brought in good faith and that the Settlement reflects the merits of those claims;

K. The Lead Plaintiff agreed to settle his claims and those of the Settlement Class upon the terms and conditions set forth herein after balancing the benefits that Lead Plaintiff and the Settlement Class will receive from the Settlement against the uncertain outcome, risks, difficulties,

and delays of litigation, in general, and in complex actions such as this Action, in particular, and after concluding that the Settlement is in the best interests of the Settlement Class;

L. Lead Plaintiff's Counsel has conducted an investigation relating to the claims and the underlying events and transactions alleged in the Complaint, has consulted with experts on issues relating to liability and damages and has researched the applicable law with respect to the claims of Plaintiffs and the Settlement Class against the Defendants and the potential defenses thereto;

M. With the assistance of retired United States District Judge Nicholas H. Politan, acting as a mediator, on September 25, 2007, the Settling Parties, through their respective attorneys, and with the approval of their respective clients, agreed in principle to the settlement of the Action;

N. Based upon their investigation and factual and legal analysis of their claims and on the legal posture of the case, Lead Plaintiff's Counsel and Lead Plaintiff have concluded that the terms and conditions of this Stipulation are fair, reasonable and adequate to Lead Plaintiff and the Settlement Class, and in their best interests, and have agreed to settle the claims raised in the Action pursuant to the terms and provisions of this Stipulation, after considering (a) the substantial benefits that Lead Plaintiff and the members of the Settlement Class will receive from settlement of the Action; (b) the attendant risks of litigation, and (c) the desirability of permitting the settlement to be consummated as provided by the terms of this Stipulation.

NOW THEREFORE, in consideration of the promises and agreements, covenants, representations, and warranties set forth herein, intending to be legally bound;

IT IS HEREBY STIPULATED AND AGREED, by and among the Settling Parties, that this Action and all Released Claims (as defined in paragraph 1.12 below) are finally and fully settled and compromised and that this Action shall be dismissed with prejudice and without costs subject to approval of the Court pursuant to Rule 23 of the Federal Rules of Civil Procedure, upon and subject to the following terms and conditions:

1. Additional Definitions

The following additional definitions shall apply in this Settlement Agreement:

1.1 “Authorized Claimant” means a Member (or the representative of such Member including, without limitation, agents, administrators, executors, heirs, successors, and assigns) who submits an acceptable Proof of Claim and Release with all required documentation and who is entitled to a distribution from the Net Settlement Fund pursuant to the terms and conditions set forth in this Settlement Agreement and the Plan of Allocation approved by the Court.

1.2 “Defendants” means Career Education Corporation, John M. Larson and Patrick K. Pesch.

1.3 “Individual Defendants” means John M. Larson and Patrick K. Pesch.

1.4 “Lead Plaintiff” means Thomas Schroder.

1.5 “Member” means any person or entity who is a member of the Settlement Class (including beneficial owners of CEC securities purchased on their behalf by others during the Settlement Class Period), and including, without limitation, the Lead Plaintiff and Plaintiffs, but excluding those persons or entities who submit valid and timely requests for exclusion from the Class in accordance with the procedures set forth in the Notice of Pendency and Settlement of Class Action.

1.6 “Net Settlement Fund” means the Settlement Fund less all attorneys’ fees and attorneys’ costs and Plaintiffs’ expenses allowed by the Court together with interest earned thereon, but less applicable taxes, tax preparation expenses and costs of administration.

1.7 “Notice” means the notice to be provided to Members substantially in the form of Exhibit A-1 hereto.

1.8 “Order and Final Judgment” means the Order and Final Judgment approving the Class Action Settlement and Plan of Allocation, which shall be substantially similar in all material respects to that provided in the form of Exhibit B hereto.

1.9 “Plaintiffs” means Thomas Schroder together with Nicholas J. Margaritas, Gordon W. MacKinney and Vivian Oh.

1.10 “Plaintiff’s Lead Counsel” means Labaton Sucharow LLP.

1.11 “Plan of Allocation” means that plan or formula of allocation of the Settlement Fund approved by the Court, which plan or formula shall govern the distribution of the Net Settlement Fund. It is understood and agreed to by the parties hereto that, notwithstanding any other provision of this Settlement Agreement, any proposed Plan of Allocation that is part of the Notice is not a part of this Settlement Agreement or material hereto, being a matter solely internal to the Settlement Class and not affecting Defendants. Any revisions by the Court or on appeal or otherwise relating solely to the Plan of Allocation shall not operate to terminate or cancel this Settlement Agreement or to affect its finality.

1.12 “Released Claims” means any and all claims, liabilities, demands, causes of action, or lawsuits, known or unknown (including Unknown Claims as defined in paragraph 1.21 below), referred to or that could have been asserted in the Action, Complaint, or any of the cases or complaints consolidated into the Action, whether legal, statutory, equitable or of any other type or form, whether under federal or state law, rule or regulation, and whether brought in an individual, representative or any other capacity, that in any way arise out of, or are connected with or are related to, directly or indirectly, any of the facts, allegations, transactions, events, occurrences, acts, disclosures, statements, omissions, failures to act, or matters set forth therein, including but not limited to the purchase, retention or sale of CEC securities (ticker symbol: CECO), whether known or unknown, suspected or unsuspected, contingent or non-contingent, accrued or unaccrued, whether

or not concealed or hidden and for any remedy whether at equity or law, at any time during the Settlement Class Period.

1.13 “Released Parties” means each and all of the Defendants, and each and all of their respective predecessors, successors, parents, subsidiaries, and affiliates, including but not limited to each and all of their respective current and former officers, directors, employees, agents, accountants, auditors, attorneys, consultants, insurers, investment bankers, representatives, heirs, and assigns. The Released Parties who are not Settling Parties are intended as third party beneficiaries of this Settlement Agreement with respect to the release of Released Claims.

1.14 “Settlement Administrator” means such person or entity that the Court shall appoint based on the recommendation of the Plaintiff’s Lead Counsel to administer the settlement and perform the functions set forth in Section 7 below.

1.15 “Settlement Class” shall consist of all persons or entities who purchased CEC securities (including common stock, options and debt securities) in the open market during the Settlement Class Period. Excluded from the Settlement Class are Defendants; members of Defendants’ immediate families; all individuals who are either current officers and/or directors, or who served as officers and directors at any time during the Settlement Class Period; Defendants’ subsidiaries; any person, firm, trust, corporation, officer, director or other individual or entity in which any Defendant has a controlling interest or any entity which is related to or affiliated with any Defendant; and the legal representatives, agents, affiliates, heirs, successors and assigns of any such excluded persons. Also excluded from the Settlement Class are those Members who validly and timely request exclusion from the Settlement Class in accordance with the procedures set forth in the “Notice of Pendency and Proposed Settlement of Class Action.”

1.16 “Settlement Class Period” means the period commencing on April 22, 2002 and ending on February 15, 2005, inclusive.

1.17 “Settlement Effective Date” means the date upon which the Order and Final Judgment becomes both final and no longer subject to appeal or review (or further appeal or review), whether by unsuccessful conclusion of any possible appeal, lapse of time, or otherwise.

1.18 “Settlement Fund” means the amounts deposited in the Settlement Account pursuant to section 4 of this Settlement Agreement, including any interest earned thereon, as provided for herein.

1.19 “Settlement Hearing” means the hearing to be held by the Court to consider final approval of the Settlement pursuant to Rule 23(e) of the Federal Rules of Civil Procedure.

1.20 “Settling Parties” means the Lead Plaintiff, the Plaintiffs, and the Defendants.

1.21 “Unknown Claims” means any Released Claims which Lead Plaintiff, Plaintiffs and/or any Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Parties which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Parties, or might have affected his, her or its decision not to object to this Settlement. Without admitting that California law is in any way applicable to this Agreement, in whole or in part, with respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Settlement Effective Date, Lead Plaintiff, Plaintiffs and each of the Members shall be deemed to have, and by operation of the Order and Final Judgment shall have, expressly waived the provisions, rights and benefits of California Civil Code §1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

Lead Plaintiff, Plaintiffs and each of the Members shall be deemed to have, and by operation of the Order and Final Judgment shall have, expressly waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law,

which is similar, comparable or equivalent to California Civil Code §1542. The Lead Plaintiff, Plaintiffs or Members may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but the Lead Plaintiff, Plaintiffs and each Member, upon the Settlement Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, 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 which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Lead Plaintiff, Plaintiffs and Members shall be deemed by operation of the Order and Final Judgment to have acknowledged that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

2. Settlement Class

2.1 The Settling Parties agree to the certification of the Settlement Class for purposes of this Settlement only.

2.2 The certification of the Settlement Class shall be binding only with respect to this Settlement Agreement. In the event that this Settlement Agreement is terminated pursuant to its terms, is not approved in all material respects by the Court, or is reversed, vacated, or modified in any material respect by the Court or any other court, the certification of the Settlement Class shall be deemed vacated, the Action shall proceed as though the Settlement Class had never been certified, and no reference to the Settlement Class, or to the Settlement Agreement or any documents related thereto, shall be made by the Settling Parties for any purpose.

3. Releases

3.1 The obligations incurred pursuant to this Settlement Agreement shall be in full and final disposition of the Action and any and all Released Claims as against all Released Parties.

3.2 Upon the Settlement Effective Date, Lead Plaintiff, Plaintiffs and Members of the Settlement Class, on behalf of themselves, their heirs, executors, administrators, successors and assigns, and any person they represent, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally and forever released, relinquished and discharged, and shall forever be enjoined from prosecution of, each and every Released Claim against any and all of the Released Parties, whether or not such Settlement Class Member executes and delivers a Proof of Claim and Release, provided, however, that nothing herein is meant to bar any claim relating to performance or enforcement of this Settlement Agreement or the Settlement.

3.3 Upon the Settlement Effective Date, as defined in paragraph 1.17 hereof, each of the Released Persons shall be deemed to have, and by operation of the Order and Final Judgment shall have, fully, finally, and forever released, relinquished and discharged Lead Plaintiff, the Plaintiffs, Plaintiff's Lead Counsel, Plaintiff's counsel, and each and all of the Members from all claims (including Unknown Claims) arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement or resolution of the Action or the Released Claims, provided, however, that nothing herein is meant to bar any claim relating to performance or enforcement of this Settlement Agreement or the Settlement.

4. The Settlement Payment

4.1 Within ten (10) business days after preliminary approval of the Settlement, CEC will pay or cause to be paid, on behalf of Defendants, the amount of four million, nine hundred thousand dollars (\$4,900,000)(the "Settlement Amount") into an interest bearing account designated by Plaintiff's Lead Counsel (the "Settlement Account"). In no event shall CEC be required to pay more

than the Settlement Amount in connection with the Settlement. Subject to Court approval and oversight, the Settlement Account will be controlled by Labaton Sucharow as Escrow Agent.

4.2 Upon transfer of the Settlement Amount into the Settlement Account as set forth in paragraph 4.1 hereof, the Escrow Agent shall not disburse the Settlement Fund except as provided for in the Settlement Agreement except with prior written agreement of counsel for Defendants and Plaintiff's Lead Counsel.

4.3 Subject to further order and/or directions as may be made by the Court, the Escrow Agent is authorized to execute such transactions on behalf of the Settlement Class Members as are consistent with the terms of the Settlement Agreement.

4.4 All funds held in the Settlement Account shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds are distributed or are returned to the persons paying the same pursuant to this Settlement Agreement and/or further order of the Court.

4.5 Prior to the Settlement Effective Date, disbursements from the Settlement Account may be made only for (i) payment of Settlement Account fees (e.g., bank account fees); (ii) establishment of the "Notice and Administration Fund" described in paragraph 4.7 below; (iii) payment of Tax Expenses described in paragraph 4.9 below; and (iv) payment of attorneys' fees and costs as described in paragraph 9.1 below. Only the disbursements described in (i), (ii) and (iii) may be made without any prior order of or approval from the Court. The balance of the Settlement Account shall be the Net Settlement Fund and shall be distributed to the Authorized Claimants as provided in paragraphs 6.1 and 7.1-7.6 hereof and as set forth in the Plan of Allocation. While the distribution of any portion of the Settlement Fund as payment of attorneys' fees and/or costs can be made as soon as the Court grants preliminary approval of the Settlement, in the event the Settlement is not finally approved, Plaintiff's Lead Counsel shall repay the attorneys' fees and/or costs to the

Company and its directors and officers liability insurance carrier according to their relative contributions, as set forth in written instructions from counsel for Defendants. Lead Plaintiff, Plaintiffs and Members shall look solely to the Net Settlement Fund for settlement and satisfaction of any and all Released Claims.

4.6 The Escrow Agent shall, to the extent practicable, invest the Settlement Fund deposited pursuant to paragraph 4.1 above in discrete and identifiable instruments backed by the full faith and credit of the United States Government, or fully insured by the United States Government or an agency thereof, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then current market rates. Any cash portion of the Settlement Fund not invested in instruments of the type described in the first sentence of this paragraph shall be maintained by the Escrow Agent, and not commingled with any other funds or monies, in a federally insured bank account. Subsequent to payment into the Settlement Account pursuant to paragraph 4.1, neither the Defendants nor the Defendants' directors and officers liability insurance carriers shall bear any risk, except as provided in section 10 below, related to the Settlement Fund, the Net Settlement Fund or the Notice and Administration Fund.

4.7 Within ten (10) days after payment of the Settlement Fund to the Escrow Agent pursuant to paragraph 4.1, the Escrow Agent may establish a "Notice and Administration Fund," and may deposit up to \$200,000 from the Settlement Fund in it. The Notice and Administration Fund may be used by Plaintiff's Lead Counsel only to pay the fees of the Settlement Administrator and to pay the costs and expenses (not including any attorneys', paralegals' or other professionals' fees) reasonably and actually incurred in connection with providing Notice to the Settlement Class, locating Settlement Class Members, soliciting Settlement Class claims, assisting with the filing of claims, administering and distributing the Settlement Fund to Authorized Claimants, processing

Proof of Claim and Release forms and paying escrow fees and costs, if any. The Notice and Administration Fund may also be invested and earn interest as provided for in paragraph 4.6 hereof.

4.8 The parties hereto agree that the Settlement Account is intended to be a “Qualified Settlement Fund” within the meaning of Treasury Regulation § 1.48B-1 and that the Escrow Agent, as administrator of the Qualified Settlement Fund within the meaning of Treasury Regulation §1.468B-2(k)(3), shall be solely responsible for filing tax returns for the Escrow Account and paying from the Escrow Account any Taxes owed with respect to the Escrow Account. Counsel for the Defendants agree to provide promptly to the Escrow Agent the statement described in Treasury Regulation §1.468B-3(e) and to cooperate in providing such other information, signatures, and authorization as may be required. Neither the Defendants nor their counsel nor the Defendants’ directors and officers liability insurance carriers shall have any other liability or responsibility of any sort for filing any tax returns or paying any taxes with respect to the Escrow Account.

4.9 All (i) taxes on the income of the Settlement Account (“Taxes”), and (ii) expenses and costs incurred in connection with the taxation of the Settlement Account (including, without limitation, expenses of tax attorneys and accountants) (collectively, “Tax Expenses”) shall timely be paid by the Escrow Agent out of the Settlement Account.

5. Preliminary Approval and Notice Order

5.1 As soon as practicable after execution of this Settlement Agreement, the parties to this Settlement Agreement shall move the Court for preliminary approval of the Settlement. Counsel for the Settling Parties shall apply to the Court for an order substantially in the form annexed as Exhibit A hereto.

6. Requirement of Proof of Claim and Release

6.1 Every Member entitled to participate in the Settlement shall be required to provide a Proof of Claim and Release in accordance with the terms and conditions of, and including such

supporting documentation as required by, the form of Proof of Claim and Release annexed hereto as Exhibit A-2.

7. Settlement Administration

7.1 The Settlement Administrator shall administer the Settlement subject to the supervision of Plaintiff's Lead Counsel and the Court as circumstances may require.

7.2 Upon the Settlement Effective Date and thereafter and following such time as the Settlement Administrator may require to complete the processing of the Proofs of Claim, and in accordance with the terms of the Settlement Agreement, the Plan of Allocation, or such further approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net Settlement Fund shall be distributed to Authorized Claimants, subject to and in accordance with the following:

(a) Each Member who wishes to participate in the Net Settlement Fund must, within ninety (90) days after the initial mailing of the Notice, or as extended by Plaintiff's Lead Counsel, or at such other time as may be set by the Court, submit a properly completed Proof of Claim and Release to the Settlement Administrator that is supported by such documents and other information as are called for in the Proof of Claim and Release.

(i) A Proof of Claim and Release will be deemed submitted (A) when posted, if it is mailed by first-class, registered, or certified mail, postage prepaid, addressed in accordance with the instruction given thereon, and actually received by the Settlement Administrator specified in the Proof of Claim and Release, or (B), if otherwise submitted, when it is actually received by the Settlement Administrator at the designated address;

(ii) The Proof of Claim and Release shall provide that, by submitting a Proof of Claim and Release, the Member expressly releases all Released Claims, as set forth in paragraph 3.2 above; consents to the jurisdiction of the Court; agrees to be subject to

discovery with respect to the validity and/or amount of his, her, or its claim; consents to summary disposition, by the Court, with respect to the validity and/or amount of his, her, or its claim; and waives trial by jury (to the extent any such right may exist) with respect to the Court's summary disposition with respect to the validity or amount of his, her, or its claim;

(b) Except as otherwise ordered by the Court, all Settlement Class Members who fail to timely submit a Proof of Claim and Release, within the period set forth in paragraph 7.2(a) above, shall be forever barred from receiving any payments pursuant to the Settlement Agreement and the settlement set forth herein, but will in all other respects be subject to and bound by the provisions of the Settlement Agreement, the releases contained herein, and the Order and Final Judgment.

(c) The Net Settlement Fund shall be distributed to the Authorized Claimants substantially in accordance with a Plan of Allocation to be described in the Notice and approved by the Court. However, if there is any balance remaining in the Net Settlement Fund after six (6) months from the date of distribution of the Net Settlement Fund (whether by reason of tax refunds, uncashed checks or otherwise), such balance shall be reallocated to Authorized Claimants in an equitable and economic manner, subject to the approved supervision and direction of the Court provided that the amounts remaining and the amount to be distributed to the Authorized Claimants is sufficiently large to make such additional distribution economically feasible. Amounts less than \$5.00 need not be distributed. The Court will be asked to approve the donation of all amounts remaining thereafter to a charitable organization approved by the Court.

7.3 The Settlement Administrator shall notify Defendants' counsel in writing if and when the aggregate number of shares held by any and all Members who have submitted valid requests for exclusion from the Settlement Class meets or exceed the percentage of shares held by all Members

(who would otherwise be entitled to participate as Members of the Class but who timely and validly request exclusion from the Settlement Class) as set forth in the separate agreement executed by the Settling Parties (the “Supplemental Agreement”). The Settlement Administrator shall, in any event, within ten (10) calendar days following the deadline for Members to request exclusion from the Settlement Class, provide copies of all requests for exclusion to counsel for the Settling Parties.

7.4 No person shall have any claim against Lead Plaintiff or Plaintiff’s Lead Counsel, the Settlement Administrator, any agent designated by Plaintiff’s Lead Counsel, the Defendants or their respective counsel or the Defendants’ directors and officers liability insurance carriers based on investments or distributions made substantially in accordance with this Settlement Agreement and the Settlement contained herein, the Plan of Allocation or further orders of the Court.

7.5 It is understood and agreed by the Settling Parties that the proposed Plan of Allocation including, but not limited to, any adjustments to any Authorized Claimant’s claim set forth therein, is not part of the Settlement Agreement and is to be considered by the Court separately from the Court’s consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in the Settlement Agreement, and any order or proceeding relating to the Plan of Allocation shall not operate to terminate or cancel the Settlement Agreement or affect the finality of the Court’s Final Judgment approving the Settlement Agreement and the Settlement set forth herein, or any other orders entered pursuant to the Settlement Agreement.

7.6 The Defendants, Defendants’ counsel and Defendants’ directors and officers liability insurance carriers shall have no responsibility for, interest in, or liability whatsoever with respect to:

- (a) any act, omission or determination of the Escrow Agent, Settlement Administrator, Plaintiff’s Lead Counsel or designees or agents of Plaintiff’s Lead Counsel, Escrow Agent or Settlement Administrator;

(b) any act, omission or determination of Plaintiff's Lead Counsel or its designees or agents in connection with the administration of the Settlement;

(c) the management, investment, or distribution of the Settlement Fund, the Net Settlement Fund or the Notice and Administration Fund (except as provided in section 10 below);

(d) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund, the Net Settlement Fund or the Notice and Administration Fund (except as provided in section 10 below); or

(e) the Plan of Allocation.

8. Final Approval, Order and Final Judgment

8.1 Upon the approval by the Court of the Settlement terms set forth in this Settlement Agreement, the Settling Parties shall request that the Court enter an Order and Final Judgment, substantially similar to that annexed as Exhibit B hereto:

(a) approving this Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate, directing consummation of the terms and provisions of this Settlement Agreement, and retaining jurisdiction to effectuate the same;

(b) certifying the Settlement Class; and

(c) dismissing with prejudice, releasing, and permanently barring and enjoining the assertion, prosecution, or continuation by Members of any Released Claim, including any Unknown Claim, against each Released Party; provided, however, that the Order and Final Judgment shall not bar any action or claim to enforce the terms of the Settlement as approved by the Court or the Order and Final Judgment.

9. Attorneys' Fees and Disbursements to Plaintiff's Lead Counsel and Plaintiffs

9.1 At any time following the preliminary approval of the Settlement, Plaintiff's Lead Counsel may apply to the Court for an award of attorneys' fees, not to exceed 33 1/3% of the Settlement Fund, as well as interest earned thereon, and for the reimbursement of all expenses (including expert fees and expenses) incurred on behalf of the Settlement Class. Plaintiffs may also apply for reimbursement of their reasonable costs and expenses. Such fees and expenses and interest shall be payable solely out of the Settlement Fund and shall be deducted to the extent approved by the Court from the Settlement Fund prior to or on or after the Settlement Effective Date and prior to the distribution to the Members. Defendants will take no position before the Court with respect to such requests, which they view as a matter internal to the Settlement Class.

9.2 Notwithstanding any other provision of this Settlement Agreement to the contrary, the procedure for and the allowance or disallowance (in whole or in part) by the Court of any application by Plaintiff's Counsel or Plaintiffs for attorneys' fees, costs, and expenses to be paid out of the Settlement Fund are to be considered by the Court separately and apart from its consideration of the fairness, reasonableness, and adequacy of the Settlement, and any order or proceedings relating to the award of fees and expenses, or any appeal of any order relating thereto, shall not operate to terminate or cancel this Settlement Agreement or be deemed material thereto.

10. Contingencies, Effect of Disapproval or Termination of Settlement

10.1 This Settlement Agreement and the Settlement set forth herein shall terminate and be cancelled ten (10) days after any of the following events set forth in this paragraph 10.1, unless the Settling Parties mutually agree in writing before that time to proceed. For purposes of this Settlement Agreement and this paragraph, no order of the Court, or modification or reversal on appeal of any order of the Court, solely concerning the Plan of Allocation, the administration of the Settlement or the persons performing such administrative functions, or the amount, advancement or

award of any fees or expenses awarded by the Court to Plaintiff's Lead Counsel or to Plaintiffs shall constitute grounds for cancellation or termination of the Settlement Agreement.

(a) Defendants act to terminate the Settlement Agreement pursuant to paragraph 10.2 hereof;

(b) CEC has not timely made or caused to be made the transfer of funds required by paragraph 4;

(c) The Court declines to provide preliminary approval of this Settlement Agreement and the Settlement set forth herein, or declines to enter or materially modifies the form of order preliminarily approving the Settlement attached hereto as Exhibit A;

(d) The Court declines to provide final approval of the Settlement set forth herein, or declines to enter or materially modifies the form of the Order and Final Judgment, attached hereto as Exhibit B;

(e) The Court's Order and Final Judgment is vacated, reversed or modified in any material respect on any appeal or other review or in a collateral proceeding occurring prior to the Settlement Effective Date; or

(f) The Settlement Effective Date does not occur for some other reason.

10.2 Defendants shall have the option to terminate the Settlement Agreement in the event that the aggregate number of shares held by any and all Members who have submitted valid requests in accordance with the procedures set forth in the Notice for exclusion from the Settlement Class meets or exceed the percentage of shares held by all Members who would otherwise be entitled to participate as Members of the Class but who timely and validly request exclusion from the Settlement Class as set forth in the Supplemental Agreement.

10.3 If for any reason this Settlement Agreement is terminated or fails to become effective, then, in such event:

(a) Within ten (10) business days after written notification of Defendants' election to terminate the Settlement pursuant to this section 10 is sent by counsel for Defendants to the Escrow Agent, the Settlement Fund (including accrued interest), plus any amount then remaining in the Notice and Administration Fund (including accrued interest) less reasonable expenses and costs which have either been properly disbursed pursuant to paragraphs 4.7- 4.9 herein, or are chargeable to the Notice and Administration Fund, shall be refunded by the Escrow Agent to the Company and its directors and officers liability insurance carrier according to their relative contributions as set forth in written instructions from counsel for Defendants.

(b) The Settling Parties shall be deemed to have reverted to their respective status in the Action as of September 25, 2007, which shall then resume proceedings in the United States District Court for the Northern District of Illinois, that Court having retained jurisdiction over the Settlement and related matters and in the United States Court of Appeals and, except as otherwise expressly provided in this Settlement Agreement, the Settling Parties shall proceed in all respects as if this Settlement Agreement and any related orders had not been entered.

(c) In addition to this paragraph 10.3 and its provisions, paragraphs 4.8, 7.6, 11.1, 12.10, 12.11 and 12.12 shall survive any termination of this Settlement Agreement.

11. No Admission of Wrongdoing

11.1 Defendants have denied, and continue to deny, that any of them have committed or have threatened to commit any violations of law. This Settlement Agreement, and any of its terms, any agreement or order relating thereto, and any payment or consideration provided for herein, is not and shall not be construed as an admission by any of the Defendants or other Released Parties of any fault, wrongdoing, or liability whatsoever, or an admission by the Lead Plaintiff or Lead Plaintiff's Counsel of any lack of merit of their claims against the Defendants. This Settlement Agreement, and any of its terms, and any agreement or order relating thereto, shall not be deemed to be, or offered by

any Settling Party to be received in evidence in any civil, criminal, administrative, or other proceeding, or utilized in any manner whatsoever as, a presumption, a concession, or an admission of any fault, wrongdoing, or liability whatsoever on the part of any Defendant or other Released Parties; provided, however, that nothing contained in this paragraph shall prevent this Settlement Agreement (or any agreement or order relating thereto) from being used, offered, or received in evidence in any proceeding to approve, enforce, or otherwise effectuate the Settlement (or any agreement or order relating thereto) or the Order and Final Judgment, or in which the reasonableness, fairness, or good faith of Defendants in participating in the Settlement (or any agreement or order relating thereto) is in issue, or to enforce or effectuate provisions of this Settlement, the Order and Final Judgment, or the Proofs of Claim and Release as to the Defendants, Released Parties, Lead Plaintiffs, Plaintiffs or the Members. This Settlement Agreement may, however, be filed and used in other proceedings, where relevant, to demonstrate the fact of its existence and of this Settlement, including but not limited to any Defendant filing the Settlement Agreement and/or the Order and Final Judgment in any other action that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

12. Miscellaneous

12.1 All counsel who execute this Settlement Agreement represent and warrant that they have authority to do so on behalf of their respective clients.

12.2 The Settling Parties and all signatories to this Settlement Agreement agree to undertake and to use their best efforts, including all steps contemplated by this Settlement Agreement, and any other steps and efforts that may become necessary by order of the Court or otherwise, to effectuate this Settlement Agreement and the Settlement contemplated hereunder.

12.3 This Settlement Agreement (including exhibits hereto, agreements referenced herein, and documents executed pursuant to the foregoing) contains the entire agreement among the Settling Parties with respect to the subject matter hereof and supersedes any prior written or oral agreements, representations, warranties, or statements. No representation, warranty, or inducement has been made to any party hereto concerning this Settlement Agreement other than the representations, warranties, and covenants expressly contained herein. This Settlement Agreement may not be altered, modified or amended, or any of its provisions waived, unless by a writing, executed by counsel for all the Settling Parties hereto.

12.4 This Settlement Agreement may be executed in counterparts, all of which shall be considered the same as if a single document shall have been executed, and shall become effective when such counterparts have been signed by each of the Settling Parties and delivered to each of the other Settling Parties.

12.5 After prior notice to the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of this Settlement Agreement, as contemplated in the attached exhibits, incorporated herein by reference.

12.6 The failure of any Settling Party to enforce at any time any provision of this Settlement Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Settlement Agreement or any part hereof or the right of any Settling Party thereafter to enforce each and every such provision. No waiver of any breach of this Settlement Agreement shall be held to constitute a waiver of any other breach.

12.7 The Court shall retain jurisdiction with respect to the enforcement of the terms of this Settlement Agreement and the Settlement embodied herein.

12.8 The section headings used throughout this Settlement Agreement are for convenience only and shall not affect the interpretation or construction of this Settlement Agreement.

12.9 In the event that the Court or any other court is called upon to interpret this Settlement Agreement, no one party or group of parties shall be deemed to have drafted this Settlement Agreement.

12.10 Nothing in this Settlement Agreement, Settlement, or the negotiations or proceedings relating to the foregoing is intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, the accountants' privilege, the attorney-client privilege, the joint defense privilege, or work product immunity.

12.11 This Settlement Agreement and the Settlement contemplated hereby shall be governed by, and construed in accordance with, the law of the State of Illinois, without regard to Illinois' conflict of law rules.

12.12 This Settlement Agreement and the Settlement contemplated hereby shall be binding upon, and inure to the benefit of, the successors, assigns and heirs of the Settling Parties.

12.13 Any written notice required pursuant to or in connection with this Settlement Agreement shall be addressed to the parties' counsel as follows:

For Lead Plaintiff:

Joseph Sternberg
Louis Gottlieb
Christopher J. Keller
LABATON SUCHAROW LLP
140 Broadway
New York, NY 10005
Telephone: (212) 907-0700
Facsimile: (212) 818-0477

For Defendants:

David H. Kistenbroker
Mary Ellen Hennessy
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Counsel for CEC and John M. Larson

Daniel E. Reidy
Lee Ann Russo
JONES DAY
77 West Wacker Drive
Suite 3500
Chicago, Illinois 60601
Telephone: (312) 782-3939
Facsimile: (312) 782-8585

Counsel for Patrick K. Pesch

IN WITNESS WHEREOF, the Parties hereto have caused the Settlement Agreement to be executed by their duly authorized attorneys dated as of November ____, 2007.

Joseph Sternberg
Louis Gottlieb
Christopher J. Keller
LABATON SUCHAROW LLP
140 Broadway
New York, New York 10005
Telephone: (212) 907-0700
Facsimile: (212) 883-7056

Counsel for Lead Plaintiff Thomas Schroder

DATED: November ____, 2007

David H. Kistenbroker
Mary Ellen Hennessy
Karl R. Barnickol
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Telephone: (312) 902-5200
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Counsel for CEC and John M. Larson

DATED: November ____, 2007

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77 West Wacker Drive
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Telephone: (312) 782-3939
Facsimile: (312) 782-8585

Counsel for Patrick K. Pesch

DATED: November ____, 2007

