

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

	X	
IN RE VAN DER MOOLEN HOLDING N.V.	:	Civil Action No. 1:03-CV-8284 (RWS)
SECURITIES LITIGATION	:	
	:	
	:	
	X	

**NOTICE OF PENDENCY OF CLASS ACTION,  
HEARING ON PROPOSED SETTLEMENT, PLAN  
OF ALLOCATION AND ATTORNEYS' FEES AND EXPENSES**

*TO: ALL PERSONS OR ENTITIES WHO PURCHASED OR OTHERWISE ACQUIRED VAN DER MOOLEN HOLDING N.V. ("VAN DER MOOLEN" OR "HOLDING") AMERICAN DEPOSITORY RECEIPTS ("ADRs") FROM OCTOBER 18, 2001 TO OCTOBER 15, 2003, INCLUSIVE (THE "CLASS PERIOD") (THE "SETTLEMENT CLASS").*

**YOU MAY BE ELIGIBLE TO PARTICIPATE IN A CLASS ACTION SETTLEMENT. YOUR LEGAL RIGHTS ARE AFFECTED WHETHER OR NOT YOU ACT. READ THIS NOTICE CAREFULLY.**

**SUMMARY OF SETTLEMENT AND RELATED MATTERS**

**CLAIMS DEADLINE:** CLAIMANTS MUST SUBMIT PROOFS OF CLAIM AND RELEASES ON THE FORM ACCOMPANYING THIS NOTICE, SO THAT THEY ARE RECEIVED NO LATER THAN FEBRUARY 20, 2007.

**EXCLUSION DEADLINE:** CLAIMANTS MUST SUBMIT REQUESTS FOR EXCLUSION FROM THE SETTLEMENT CLASS SO THAT THEY ARE RECEIVED NO LATER THAN NOVEMBER 20, 2006.

**SECURITIES BROKERS AND OTHER NOMINEES:** PLEASE SEE INSTRUCTIONS BELOW.

The Hon. Robert W. Sweet, United States District Judge for the Southern District of New York (the "Court"), authorized that this Notice be sent to you. All terms are defined in the Stipulation of Settlement ("Stipulation") on file with the Court. This is not a solicitation.

The Court will hold a Final Settlement Hearing at 12:00 p.m. on December 6, 2006, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Room 1920, New York, NY 10007-1312 (the "Final Settlement Hearing"), to decide whether to approve: 1) certification of the Settlement Class; 2) the Settlement as fair, reasonable, and adequate to the Settlement Class; 3) the Plan of Allocation as reasonable; and 4) the application by Co-Lead Counsel for attorneys' fees and reimbursement of their out-of-pocket expenses (the "Attorneys' Fee and Expense Request") incurred in litigating this class action (the "Action"), as fair and reasonable.

**Class Recovery:** The Settlement provides for a cash fund of Eight Million Dollars (\$8,000,000) to be distributed to Persons who purchased or otherwise acquired Van der Moolen ADRs (with certain exceptions) during the Class Period and suffered damages. If you are a Settlement Class Member, you may also receive a distribution in the Settlement for damages from your purchases and/or acquisitions, if any, of Van der Moolen common stock during the Class Period. The Settlement represents an average recovery of at least \$1.14 per share (based upon approximately 7,000,000 outstanding ADR shares and the Van der Moolen common shares acquired during the Class Period by ADR holders) and about one-third of the Settlement Class' estimated damages. This average recovery is an estimate and is calculated before deduction of any Court approved fees and expenses, including attorneys' fees and expenses. The actual recovery will depend on: (1) the number of claims filed; (2) when Settlement Class Members purchased, acquired, sold or held their ADRs (and to the extent they also hold common shares, when those were purchased, acquired, sold or held) during the Class Period as further described in the Plan of Allocation, below; (3) administrative costs, including the costs of Notice; and (4) the amount awarded by the Court for attorneys' fees, costs and expenses. Distributions to Settlement Class Members will be made based on the Plan of Allocation set forth in this Notice. See Response to Question 7 below for a more detailed explanation.

**Potential Outcome of the Action:** The Parties do not agree on the average amount of damages per ADR (or common shares where applicable) that would be recoverable if Plaintiffs had prevailed on each claim against Defendants. The issues on which the Parties disagree include: 1) whether the Defendants are liable for disseminating allegedly fraudulent statements and statements omitting material fact; and 2) whether Plaintiffs could eventually prove that the Settlement Class' losses were due to violations of the federal securities laws.

**Statement of Attorneys’ Fees and Expenses Sought:** Co-Lead Counsel will apply to the Court for an award of attorneys’ fees from the Gross Settlement Fund not to exceed thirty-three percent (33%), and reimbursement of their out-of-pocket expenses of no greater than \$180,000, or an average of \$0.40 per ADR. Plaintiffs’ Counsel have litigated the Action on a contingent fee basis, and have advanced the expenses of litigation with the expectation that if they were successful in recovering money for the Settlement Class, they would receive fees and be reimbursed for their out-of pocket expenses from the Gross Settlement Fund, as is customary in this type of litigation.

*Your legal rights are affected whether or not you act. Please read below.*

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIM FORM</b>	The only way to receive a payment.
<b>EXCLUDE YOURSELF</b>	Get no payment. This is the only option that allows you to bring your own suit against Van der Moolen, Van der Moolen Specialists USA (“VDMS”), the Individual Defendants (defined in Response to Question 2) or the Released Parties (defined in Response to Question 10), regarding the claims being released in the Action.
<b>OBJECT</b>	Write to the Court about why you believe the Settlement, the Plan of Allocation and/or the Attorneys’ Fee and Expense Request is not fair, reasonable or adequate.
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the Settlement, the Plan of Allocation and/or the Attorneys’ Fee and Expense Request.
<b>DO NOTHING</b>	You will receive no payment, but will release the Released Parties and lose your right to file your own lawsuit or participate in any other lawsuit against the Released Parties concerning the Released Claims (defined in Response to Question 10).

- These rights and options – **and the deadlines to exercise them** – are explained in this Notice.
- Further information regarding this Settlement may be obtained by contacting Co-Lead Counsel: David Kessler or Kay E. Sickles, Schiffrin & Barroway, LLP, 280 King of Prussia Rd., Radnor, PA 19087, Telephone: (610) 667-7706, and Lynda J. Grant or Michael S. Marks, Labaton Sucharow & Rudoff LLP, 100 Park Avenue, New York, NY 10017, Telephone: (212) 907-0857, or the Claims Administrator, Strategic Claims Services, 2710 Concord Road, Suite 5, Aston, PA 19014, Telephone (866) 274-4004.

### **WHAT THIS NOTICE CONTAINS**

<b>BASIC INFORMATION</b> . . . . .	<b>PAGE</b>
1. Why did I receive this Notice package? . . . . .	.3
2. What is this lawsuit about? . . . . .	.3
3. Why is this Action a class action? . . . . .	.3
4. How do I know if I am part of the Settlement Class and are there exceptions to the Settlement Class? . . . . .	.3
5. I am still not sure whether I am included. . . . .	.4
6. What does the Settlement provide? . . . . .	.4
7. How much will my payment be? How does the Plan of Allocation work? . . . . .	.4
8. How can I receive a payment? . . . . .	.7
9. When will I receive my payment? . . . . .	.7
10. What am I giving up to receive a payment? . . . . .	.7
11. How do I exclude myself from the Settlement? . . . . .	.8
12. If I do not exclude myself, can I sue the Defendants or the other Released Parties later for the claims that I am releasing in this Settlement? . . . . .	.8
13. If I exclude myself, can I obtain a payment from this Settlement? . . . . .	.8
14. Do I have a lawyer in this case? . . . . .	.9
15. How do the attorneys get paid? . . . . .	.9
16. How do I notify the Court that I have objections to the Settlement, the Plan of Allocation and/or the Attorneys’ Fee and Expense Request? . . . . .	.9

17. What is the difference between objecting to the Settlement and requesting exclusion from the Settlement Class? .....	10
18. When and where will the Court decide whether to approve the Settlement? .....	10
19. Must I attend the Final Settlement Hearing and may I speak at the Final Settlement Hearing? .....	10
20. What if I do nothing? .....	10

## OBTAINING MORE INFORMATION

### 1. Why did I receive this Notice package?

You or someone in your family may have purchased or otherwise acquired Van der Moolen ADRs on the New York Stock Exchange from October 18, 2001 to October 15, 2003, inclusive. If the description above applies to you or someone in your family, you have a right to know about the proposed Settlement of this Action, and about your options.

### 2. What is this lawsuit about?

This is a proposed federal securities class action, arising from the NYSE and SEC investigations of the trading practices of several specialist firms, including VDMS. The Amended Consolidated Class Action Complaint (the “Amended Complaint”) asserts claims pursuant to Sections 10(b) and 20(a) of the Exchange Act for securities fraud against Holdings; Friedrich M.J. Böttcher, Holding’s Chief Executive Officer and Chairman of its Management Board (the “Board”); Frank F. Dorjee, Holding’s Chief Financial Officer (“CFO”) and a Holding’s Board member; James P. Cleaver, Jr., a member of the Holding’s Board and Chairman of the VDMS Management Committee; and Casper F. Rondeltap, VDMS’s spokesperson; and a member of both the VDMS Management Committee and Holding’s Board. The Amended Complaint also asserts Section 10(b) claims against VDMS, Holding’s United States subsidiary.

Specifically, the Amended Complaint alleges that during the Class Period, Defendants made purportedly misleading statements falling into two categories: 1) risk disclosures regarding the Company’s compliance with NYSE rules, and 2) its financial results, especially its revenue. The Amended Complaint further alleges that Holding’s financial statements throughout the Class Period violated SEC regulations and Generally Accepted Accounting Principles. Finally, the Amended Complaint alleges that at the end of the Class Period, the NYSE revealed that it was bringing disciplinary action against certain of VDMS’s specialists, and the price of Van der Moolen’s ADRs and common stock plummeted. The proposed Settlement was reached after extensive negotiations, including a mediation before the Hon. Nicholas Politan.

### 3. Why is this Action a class action?

In a class action, one or more people called class representatives (“Class Representatives”), in this case, Co-Lead Plaintiffs, sue on behalf of people who have similar claims. These people and/or entities are referred to collectively as a Settlement Class, or individually as Settlement Class Members. One court resolves the issues for all Settlement Class members other than with regard to damages, except for those who exclude themselves from the Settlement Class. The Claims Administrator will calculate individual damages, as further described below.

### 4. How do I know if I am part of the Settlement Class and are there exceptions to being included in the Settlement Class?

The Settlement Class consists of *all persons or entities who purchased or otherwise acquired Van der Moolen ADRs from October 18, 2001 to October 15, 2003, inclusive.*

There are certain exclusions. You are not a Settlement Class member if you are a Released Party as defined in paragraph 10, below.

Also excluded from the Settlement Class are any potential Settlement Class members who exclude themselves by filing a timely request for exclusion in accordance with the requirements set forth in this Notice, as described in Question 11 below.

You are not a Settlement Class Member if you purchased and/or acquired only Van der Moolen common shares during the Class Period.

If one of your mutual funds purchased or owns Van der Moolen ADRs, that does not make you a Settlement Class member. You are a Settlement Class member only if you directly purchased or otherwise acquired Van

der Moolen ADRs during the Class Period. Contact your broker: 1) to see if you purchased Van der Moolen ADRs during the Class Period; and 2) to make sure that your broker sends you a copy of the Notice in a timely manner, if your stock is held in your brokerage house's name.

#### **5. I am still not sure whether I am included.**

If you are still not sure whether you are included, you can ask for help. You can call 1-866-274-4004, visit [www.strategicclaims.net](http://www.strategicclaims.net) for more information, or fill out and return the Proof of Claim and Release form described in Question 8 to see if you qualify.

#### **6. What does the Settlement provide?**

The Defendants have agreed to create an \$8,000,000 all-cash fund, which will accrue interest upon funding. The balance of this fund, after deduction of Court-awarded attorneys' fees and expenses and Settlement administration costs, including the costs of this Notice and taxes, will be allocated among all Settlement Class members who send in valid Proof of Claim and Release forms, in accordance with the Plan of Allocation below.

#### **7. How much will my payment be? How does the Plan of Allocation Work?**

If you are entitled to a payment, your "Recognized Claim" or the *pro rata* amount of the Net Settlement Fund payable to you, will be determined by the Claims Administrator according to the below Plan of Allocation, after the deadline for submission of Proof of Claim and Release forms has passed. The Recognized Claim formula is not intended to be a formalized study or an estimate of the amount a Settlement Class member would have recovered after trial, nor is it an estimate of the amount that will be paid to Authorized Claimants pursuant to the Settlement.

- A. In developing the Plan of Allocation, Co-Lead Counsel considered the following with respect to Van der Moolen ADRs:
1. The \$1.00 per share decline in the price of Van der Moolen ADRs between April 17, 2003 and April 21, 2003, following the disclosure by the NYSE, that it had begun an investigation of several NYSE specialist firms for illegal trading practices, the disclosure by the *Wall Street Journal* that Van der Moolen was one of the specialist firms being investigated by the NYSE, and a disclosure by *Bloomberg* news that the SEC had also begun an investigation into trading practices of specialist firms;
  2. The \$0.62 per share decline in Van der Moolen ADRs on September 22, 2003, upon a disclosure by the *Wall Street Journal* that the SEC had intensified its inquiry into Van der Moolen's trading practices; and
  3. The \$1.56 per share decline in Van der Moolen ADRs on October 16, 2003, following a disclosure by the NYSE that it was planning to bring disciplinary action against several specialist firms, including VDMS.

The total value of the three price declines stated above is \$3.18.

If you submit a timely and valid Proof of Claim and Release form, your Recognized Claim for Van der Moolen ADRs will be calculated as follows under the Plan of Allocation:

1. For shares of Van der Moolen ADRs purchased or acquired between the opening of trading on October 18, 2001 and the close of trading on April 17, 2003, and:
  - a. Retained at the close of trading on October 15, 2003, the Recognized Claim shall be based upon the lesser of:
    - (1) \$3.18 per share; or
    - (2) the difference between the purchase price per share and \$8.14, if such difference is a positive number.
  - b. Sold at a loss between the opening of trading on October 18, 2001 and the close of trading on April 17, 2003, the Recognized Claim shall be 10% of the difference between the purchase price per share and the sales price per share for each share sold.
  - c. Sold between the opening of trading on April 21, 2003 and the close of trading on September 21, 2003, the Recognized Claim shall be the lesser of:
    - (1) \$1.00 per share; or
    - (2) the difference between the purchase price per share and the sales price per share for each share sold, if such difference is a positive number.

- d. Sold between the opening of trading on September 22, 2003 and the close of trading on October 15, 2003, the Recognized Claim shall be the lesser of:
  - (1) \$1.62 per share; or
  - (2) the difference between the purchase price per share and the sales price per share for each share sold, if such difference is a positive number.
2. For shares of Van der Moolen ADRs purchased or acquired between the opening of trading on April 21, 2003 and the close of trading on September 21, 2003, and:
  - a. Retained at the close of trading on October 15, 2003, the Recognized Claim shall be based upon the lesser of:
    - (1) \$2.18 per share; or
    - (2) the difference between the purchase price per share and \$8.14, if such difference is a positive number.
  - b. Sold at a loss between the opening of trading on April 21, 2003 and the close of trading on September 21, 2003, the Recognized Claim shall be 10% of the difference between the purchase price per share and the sales price per share for each share sold.
  - c. Sold between the opening of trading on September 22, 2003 and the close of trading on October 15, 2003, the Recognized Claim shall be the lesser of:
    - (1) \$.62 per share; or
    - (2) the difference between the purchase price per share and the sales price per share for each share sold, if such difference is a positive number.
3. For shares of Van der Moolen ADRs purchased or acquired between the opening of trading on September 22, 2003 and the close of trading on October 15, 2003, and:
  - a. Retained at the close of trading on October 15, 2003, the Recognized Claim shall be the lesser of:
    - (1) \$1.56 per share; or
    - (2) the difference between the purchase price per share and \$8.14, if such difference is a positive number.
  - b. Sold at a loss prior to the opening of trading October 16, 2003, the Recognized Claim shall be 10% of the difference between the purchase price per share and the sales price per share for each share sold.
- B. In developing the Plan of Allocation, Co-Lead Counsel also considered that certain Settlement Class Members purchased and/or acquired Van der Moolen common stock as well as Van der Moolen ADRs during the Class Period. With respect to the Recognized Claim calculation for shares of Van der Moolen common stock purchased by Settlement Class Members during the Class Period, Co-Lead Counsel considered the following price effects, reflected in Euros on the common stock by the disclosures set forth above:
  1. The €1.93 per share drop in the price of Van der Moolen common stock between April 17, 2003 and April 22, 2003, following the disclosures referenced above;
  2. The €0.82 per share drop in Van der Moolen common stock on September 23, 2003, upon the disclosure referenced above;
  3. The €1.45 per share drop in Van der Moolen common stock on October 16, 2003, following the disclosure referenced above.

The total value of the three price drops stated above is €4.20.

The Recognized Claim calculation for shares of Van der Moolen common stock purchased by Settlement Class Members during the Class Period are discounted to reflect the difficulties of prevailing on these claims.

1. For shares of Van der Moolen common stock purchased or acquired between the opening of trading on October 18, 2001 and the close of trading on April 17, 2003, and:
  - a. Retained at the close of trading on October 15, 2003, the Recognized Claim shall be the lesser of:
    - (1) €0.21 per share; or
    - (2) 5% of the difference between the purchase price per share and €6.71, if such difference is a positive number.
  - b. Sold between the opening of trading on October 18, 2001 and the close of trading on April 17, 2003, the Recognized Claim shall be zero.
  - c. Sold between the opening of trading on April 22, 2003 and the close of trading on September 22, 2003, the Recognized Claim shall be the lesser of:
    - (1) €0.10 per share; or
    - (2) 5% of the difference between the purchase price per share and the sales price per share, for each share sold, if such difference is a positive number.
  - d. Sold between the opening of trading on September 23, 2003 and the close of trading on October 15, 2003, the Recognized Claim shall be the lesser of:
    - (1) €0.14 per share; or
    - (2) 5% of the difference between the purchase price per share and the sales price per share for each share sold, if such difference is a positive number.
2. For shares of Van der Moolen common stock purchased or acquired between the opening of trading on April 22, 2003 and the close of trading on September 22, 2003, and:
  - a. Retained at the close of trading on October 15, 2003, the Recognized Claim shall be the lesser of:
    - (1) €0.11 per share; or
    - (2) 5% of the difference between the purchase price per share and €6.71, if such difference is a positive number.
  - b. Sold between the opening of trading on April 22, 2003 and the close of trading on September 22, 2003, the Recognized Claim shall be zero.
  - c. Sold between the opening of trading on September 23, 2003 and the close of trading on October 15, 2003, the Recognized Claim shall be the lesser of:
    - (1) €0.04 per share; or
    - (2) 5% of the difference between the purchase price per share and the sales price per share for each share sold, if such difference is a positive number.
3. For shares of Van der Moolen common stock purchased or acquired between the opening of trading on September 23, 2003 and the close of trading on October 15, 2003, and:
  - a. Retained at the close of trading on October 15, 2003, the Recognized Claim shall be the lesser of:
    - (1) €0.07 per share; or
    - (2) 5% of the difference between the purchase price per share and €6.71, if such difference is a positive number.
  - b. Sold at a loss prior to the opening of trading October 16, 2003, the Recognized Claim shall be zero.

Each Authorized Claimant shall be paid the percentage that each Authorized Claimant's Recognized Claim bears to the total of the Recognized Claims of all Authorized Claimants. The Court has reserved jurisdiction to allow, disallow or adjust the claim of any Settlement Class member on equitable grounds. Each Authorized Claimant is deemed to have submitted to the jurisdiction of the Court with respect to the Authorized Claimant's claim, and the claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to that Claimant's status as a Settlement Class Member and the validity and amount of that Authorized Claimant's claim. No discovery shall be allowed on the merits of the Action, or the Settlement of the Action.

The date of purchase, acquisition or sale is the “contract” or “trade” date and not the “settlement” date. All profits will be subtracted from all losses to determine the net Recognized Claim of each Settlement Class member. Under no circumstances will a Recognized Claim exceed the out-of-pocket loss, not including commissions, taxes or other fees. Therefore, you need to list all purchases, acquisitions, and sales of Van der Moolen ADRs during the Class Period. If you also purchased or acquired Van der Moolen common stock during the Class Period, you must also list all purchases, acquisitions, and sales of Van der Moolen common stock during the Class Period. Brokerage commissions and transfer taxes paid by you in connection with your purchase and sale of Van der Moolen ADRs, and Van der Moolen common stock, if applicable, should not be included in the “total purchase price” and net of the “total proceeds.” The covering purchase of a short sale will be excluded.

Calculation of the Recognized Claim for each ADR and share of common stock purchased, acquired and/or sold will be based on the First-In-First-Out (“FIFO”) methodology, based on the actual purchase amounts and sale proceeds. The application of FIFO means the following: For Settlement Class Members who made multiple purchases, acquisitions or sales of Van der Moolen ADRs and Van der Moolen common stock, if applicable, during the Class Period, the earliest sale of ADRs and common stock shall be matched first against those ADRs or shares held on the first day of the Class Period, October 18, 2001, and then matched chronologically thereafter against each purchase or acquisition of Van der Moolen ADRs and common stock made during the Class Period. Purchases, acquisitions and sales of ADRs will be matched against purchases, acquisitions and sales of ADRs, and purchases, acquisitions and sales of shares of common stock will be matched against purchases, acquisitions and sales of shares of common stock.

Additionally, the Plan of Allocation distributes a limited portion of the Net Settlement Fund to Settlement Class Members who sold their Van der Moolen ADRs at a loss prior to the April 17, 2003 disclosure. It also provides a limited distribution to investors who purchased or acquired Van der Moolen ADRs during the Class Period, and sold their ADRs during the Class Period and between disclosures. Aggregate Recognized Claims allocated to such Settlement Class members shall not exceed 5% of the Net Settlement Fund.

No distribution will be made on a claim where the potential distribution amount is less than \$10.00 in cash. Payment pursuant to the Plan of Allocation is conclusive against all Settlement Class members. All Settlement Class members whose claims are not approved by the Court will be barred from participating in distributions from the Net Settlement Fund, but otherwise shall be bound by all of the terms of the Settlement, including the terms of the Final Order and Judgment to be entered in the Action, and will be barred from bringing any Released Claims against any of the Released Parties (as those terms are defined herein and in the Stipulation, which is available on the Internet at [www.strategicclaims.net](http://www.strategicclaims.net), or through the mail).

## **8. How can I receive a payment?**

To qualify for payment, you must submit a Proof of Claim and Release form. A Proof of Claim and Release form is enclosed with this Notice. You also may obtain a Proof of Claim and Release form on the Internet at [www.strategicclaims.net](http://www.strategicclaims.net). Read the instructions carefully, fill out the form, include all the documents the form asks for, sign it, and mail it postmarked no later than February 20, 2007.

## **9. When will I receive my payment?**

The Court will hold a Final Settlement Hearing on December 6, 2006, to decide whether to approve the Settlement, the Plan of Allocation, and the Attorneys’ Fee and Expense Request. Even if the Court approves the Settlement, it could take many more months before the Net Settlement Fund is distributed to the Settlement Class members. One reason that it may take many months is that delays could be caused by the filing of appeals, and only after such appeals are resolved, can the Claims Administrator first commence processing all of the Proofs of Claim and Release forms. The processing is complicated and could take several additional months.

## **10. What am I giving up to receive a payment?**

Unless you exclude yourself (and forego a distribution), you are in the Settlement Class and are eligible to receive a distribution. If the Settlement is approved and you are eligible to receive a payment, you will release all “Released Claims” (as defined below) against the “Released Parties” (as defined below).

“Released Claims” means any and all claims, debts, demands, rights or causes of action or liabilities, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, whether class, derivative or individual in nature, including both known claims and Unknown

Claims (as defined below), (i) that have been asserted in this Action by Settlement Class Members, or (ii) that could have been asserted by Settlement Class Members against any of the Released Parties which arise out of, are based upon, or relate to the allegations, transactions, facts, matters, or occurrences, representations, or omissions involved, set forth, or referred to in the Amended Complaint, during the Class Period.

“Unknown Claims” means any claims which any Co-Lead Plaintiff or Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Parties, and any Settled Defendants’ Claim which any Defendant or Released Party does not know or suspect to exist in his, her or its favor with regard to the purchase, acquisition, or sale of Van der Moolen ADRs and Van der Moolen common stock. With respect to any and all Released Claims and Settled Defendants’ Claims, the Parties stipulate and agree that upon the Settlement Effective Date, the Co-Lead Plaintiffs and the Defendants shall expressly, and each Settlement Class Member and Released Party 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 Cal. Civ. Code § 1542, which provides: “A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

“Released Parties” means any and all of the Defendants; their subsidiaries, parents, successors, and predecessors; their officers, directors, agents, accountants or auditors, advisors, employees, partners, insurers, and attorneys; any individual, partnership, corporation, limited liability entity, trust, joint venture, unincorporated organization; or other entity which is related to or affiliated with any of the Defendants; and the legal representatives, heirs, successors in interest or assigns of any such person(s).

If you remain a member of the Settlement Class, all Court orders will apply to you and legally bind you.

#### 11. How do I exclude myself from the Settlement?

If you do not want a payment from the Settlement, and you want to retain your right to bring your own suit against any one of the Defendants or any of the Released Parties for any one of the Released Claims, you must file a written request for exclusion from the Settlement Class.

To do this, send a letter, by first class mail or overnight carrier, stating that you “Request Exclusion from the Settlement Class in *In re Van Der Moolen Holding N.V. Securities Litigation*, Civ. A. No. 1:03-CV-8284 (RWS) (S.D.N.Y.)” Include your name, address, telephone number, information demonstrating your purchase(s), acquisition(s) and sale(s) of Van der Moolen ADRs during the Class Period, including the number of ADRs and the dates of each purchase, acquisition and sale. Sign your letter. You cannot exclude yourself on the telephone or by e-mail. Then mail your “Request for Exclusion” so that it is postmarked no later than **November 20, 2006** to:

*Van der Moolen ADR Litigation Exclusions*  
Claims Administrator  
Strategic Claims Services  
P.O. Box 2463  
2710 Concord Road  
Suite 5  
Aston, PA 19014

If you request to be excluded from the Settlement Class, you will **NOT** receive a distribution, and you cannot object to the Settlement. If you exclude yourself, you will not be legally bound by anything that happens in this lawsuit or Settlement, and you will retain the right to sue Van der Moolen, VDMS and the Released Parties in the future for the Released Claims.

#### 12. If I do not exclude myself, can I sue the Defendants or the other Released Parties later for the claims that I am releasing in this Settlement?

No.

#### 13. If I exclude myself, can I obtain a payment from this Settlement?

No. If you exclude yourself, do not send in a claim form asking for any money.



**14. Do I have a lawyer in this case?**

The Court ordered that the following counsel and their law firms represent you and the other Settlement Class Members: David Kessler or Kay E. Sickles, Schiffrin & Barroway, LLP, 280 King of Prussia Rd., Radnor, PA 19087, Telephone: 610-667-7706, and Lynda J. Grant or Michael S. Marks, Labaton Sucharow & Rudoff LLP, Telephone: 212-907-0857. These lawyers are called Co-Lead Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

**15. How do the Attorneys get paid?**

Until this point, Co-Lead Counsel have litigated this Action on a wholly contingent basis, that is, without getting paid, and advancing the costs of litigation. Since their efforts have resulted in a significant benefit to the Settlement Class, at the Final Settlement Hearing, Co-Lead Counsel will apply to the Court for an award of Attorneys’ Fees from the Gross Settlement Fund in an amount not greater than thirty-three percent (33%) of the Gross Settlement Fund and for reimbursement of their out-of-pocket expenses incurred and paid during their prosecution of the Action up to a maximum amount of \$180,000, plus interest on such amounts at the same rate as earned by the Net Settlement Fund. Co-Lead Counsel, without further notice to the Settlement Class, may subsequently apply to the Court for fees and expenses incurred in connection with administering and distributing the Net Settlement Fund to the Settlement Class Members and any proceedings after the Final Settlement Hearing.

**16. How do I notify the Court that I have objections to the Settlement, the Plan of Allocation and/or the Attorneys’ Fee and Expense Request?**

If you are a Settlement Class Member, you can object to the Settlement if you believe and have grounds for asserting that it is not fair, reasonable or adequate to the Settlement Class. You may also object to the Plan of Allocation and/or the Attorneys’ Fee and Expense Request if you have grounds for asserting that they are not reasonable. To object to the Settlement, the Plan of Allocation, and/or the Attorneys’ Fee and Expense Request, you must send a letter to the persons listed below stating: (1) that you are a Settlement Class Member in the *Van der Moolen ADR Litigation*; (2) that you object to the Settlement, the Plan of Allocation and/or the Attorneys’ Fee and Expense Request; and (3) the grounds for your objection. In your objection, you must include your name, address, telephone number, and signature. You must also include information concerning your purchase(s), acquisition(s) and sale(s) of Van der Moolen ADRs during the Class Period, including the number of ADRs you own, and the dates of each purchase, acquisition and sale. Mail the objection so that it is postmarked no later than **November 20, 2006**, to:

<b>COURT</b>	<b>CO-LEAD COUNSEL</b>	<b>CO-LEAD COUNSEL</b>
Clerk of the Court  United States District Court for the Southern District of New York Daniel Patrick Moynihan United States Courthouse 500 Pearl Street, Rm. 1920 New York, NY 10007-1312	David Kessler, Esq. Kay E. Sickles, Esq.  Schiffrin & Barroway, LLP 280 King of Prussia Rd. Radnor, PA 19087	Lynda J. Grant, Esq. Michael S. Marks, Esq.  Labaton Sucharow & Rudoff LLP 100 Park Avenue New York, NY 10017

<b>DEFENSE COUNSEL</b>	<b>DEFENSE COUNSEL</b>
Katherine L. Pringle, Esq. Friedman Kaplan Seiler & Adelman LLP 1633 Broadway New York, NY 10019	Robert J. Giuffra, Jr., Esq. Sullivan & Cromwell LLP 125 Broad Street New York, NY 10004

**17. What is the difference between objecting to the Settlement and requesting exclusion from the Settlement Class?**

Objecting is simply telling the Court that you have grounds for believing that the Settlement, the Plan of Allocation and/or the Attorneys' Fee and Expense Request is unfair. You can object only if you stay in the Settlement Class. By excluding yourself, you will not be part of the Settlement Class, and will forego any right to object, because the Settlement no longer affects you.

**18. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Settlement Hearing at 12:00 p.m. on December 6, 2006, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Room 1920, New York, NY 10007-1312. At the Final Settlement Hearing, the Court will consider whether to approve: 1) the Settlement as fair, reasonable, and adequate to the Settlement Class; 2) the Plan of Allocation as reasonable; 3) certification of the Settlement Class; and 4) the application by Co-Lead Counsel for attorneys' fees and reimbursement of their out-of-pocket expenses. If there are written objections, the Court will consider them. The Court will also listen to Settlement Class Members who have asked to personally appear in writing by **November 20, 2006**.

**19. Must I attend the Final Settlement Hearing and may I speak at the Final Settlement Hearing?**

You are not required to attend the Final Settlement Hearing.

However, if you wish to speak at the Final Settlement Hearing, you may ask the Court for permission to appear by including with your objection, described in Question 16 above, the statement, "I hereby give notice that I intend to appear at the Final Settlement Hearing in *Van der Moolen ADR Litigation*." Be sure to include your name, address and telephone number; identify the date(s), price(s), and number of Van der Moolen ADRs purchased, acquired and sold during the Class Period; and sign the letter. Your Notice of Intention to Appear must be postmarked no later than November 20, 2006, and be sent to the Clerk of the Court, Co-Lead Counsel, and Defense Counsel, at the addresses shown in the answer to Question 16. You cannot speak at the hearing if you exclude yourself from the Settlement Class.

**20. What if I do nothing?**

If you do nothing, you will not receive any money from this Settlement. Unless you exclude yourself, however, you will be forever barred from starting a lawsuit against the Released Parties for the Released Claims.

**SPECIAL NOTICE TO BROKERS**

If you hold any Van der Moolen ADRs or common stock (if purchased by an ADR holder) purchased during the Class Period as nominee for a beneficial owner, within seven (7) days after you receive this Notice, you must either: (1) provide a list of names and addresses of such beneficial owners to the Claims Administrator, **preferably on computer-generated mailing labels, or electronically in MS Word or WordPerfect files (label size Avery 5162), or in an MS Excel data table, setting forth (a) title/registration, (b) street address, (c) city/state/zip;** or (2) send a copy of this Notice and the Proof of Claim and Release form by first class mail to all such beneficial owners, providing written confirmation to the Claims Administrator of having done so. If you choose to mail the Notice and Proof of Claim and Release yourself, you may obtain (without cost to you) as many additional copies of these documents as you will need to complete the mailing by contacting the Claims Administrator at:

*Van der Moolen ADR Litigation*  
Claims Administrator  
Strategic Claims Services  
P.O. Box 2463  
2710 Concord Road  
Suite 5  
Aston, PA 19014  
[www.strategicclaims.net](http://www.strategicclaims.net)

## OBTAINING MORE INFORMATION

This Notice summarizes the proposed Settlement. More details are contained in the Stipulation of Settlement. You can obtain a copy of the Stipulation by visiting [www.strategicclaims.net](http://www.strategicclaims.net). If you have questions regarding how to obtain copies of documents related to this Settlement, completing your Proof of Claim and Release Form, correspondence you have received from the Claims Administrator, or the calculation of your Recognized Claim, you may contact the administrator for the distribution of Settlement Fund **toll free at 1-866-274-4004** or write *Van der Moolen ADR Litigation*, c/o Strategic Claims Services, P.O. Box 2463, 2710 Concord Road, Suite 5, Aston, PA 19014, Telephone 866-274-4004.

## DO NOT CONTACT THE COURT

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

IN RE VAN DER MOOLEN HOLDING N.V. SECURITIES LITIGATION	X : : : X	Civil Action No. 1:03-CV-8284 (RWS)
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**PROOF OF CLAIM AND RELEASE**

**I. GENERAL INSTRUCTIONS**

1. To recover as a member of the Settlement Class based on your claims in the action entitled *In re Van Der Moolen Holding N.V. Securities Litigation*, Civ. A. No. 1:03-CV-8284 (RWS) (S.D.N.Y.) (the "Action"), you must complete and sign this Proof of Claim and Release on page 6 hereof, and timely submit the requested documentation. If you fail to file or properly complete the Proof of Claim and Release, your claim may be rejected and you may be precluded from obtaining any recovery from the Net Settlement Fund created in connection with the proposed Settlement of the Action.

2. Submission of this Proof of Claim and Release form, however, does not assure that you will share in the proceeds of the Settlement. The Claims Administrator will review your Proof of Claim and Release form to determine if you are entitled to a distribution.

3. YOU MUST MAIL YOUR COMPLETED AND SIGNED PROOF OF CLAIM AND RELEASE FORM, WITH APPROPRIATE DOCUMENTATION, POSTMARKED ON OR BEFORE FEBRUARY 20, 2007, ADDRESSED AS FOLLOWS:

*Van Der Moolen ADR Litigation*  
Claims Administrator  
Strategic Claims Services  
P.O. Box 2463  
2710 Concord Road, Suite 5  
Aston, PA 19014

If you are NOT a member of the Settlement Class, as defined in the Notice of Pendency (the "Notice"), DO NOT submit a Proof of Claim and Release form.

4. If you are a Settlement Class Member, you are bound by the terms of any judgment entered in the Action, WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM AND RELEASE FORM.

**II. DEFINITIONS**

1. "Defendants" means Van der Moolen Holding N.V. ("Holding" or "Van der Moolen"), Van der Moolen Specialists USA, LLC ("VDMS"), Friedrich M. J. Böttcher, Frank F. Dorjee, James P. Cleaver, Jr. and Casper F. Rondelap.

2. "Released Parties" means each and all of the Defendants and parties related to them as defined in the Stipulation.

**III. CLAIMANT IDENTIFICATION**

1. If you purchased or acquired Van der Moolen American Depository Receipts ("ADRs"), and the certificate(s) are in your name, you are the beneficial owner as well as the record owner of the ADR. If, however, the certificate(s) are registered in the name of a third party, such as a nominee or brokerage firm, you are only the beneficial owner of the shares, and the nominee or brokerage firm is the record holder.

2. THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL OWNER, OR LEGAL REPRESENTATIVE OF SUCH OWNER, OF THE VAN DER MOOLEN ADRs UPON WHICH THESE CLAIMS ARE BASED. Use Part I of this form, entitled Claimant Identification, to identify yourself as the owner of the Van der Moolen ADR that forms the basis of this claim.

3. All joint owners of ADRs must sign this claim. Executors, administrators, guardians, conservators and trustees must complete and sign this claim on behalf of Persons represented by them and proof of their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or taxpayer identification) number and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

#### **IV. CLAIM FORM**

1. Use Parts II and III of this form, entitled Schedule of Transactions, to supply all required details of your transaction(s) in Van der Moolen ADRs on the New York Stock Exchange and, where applicable, shares of Van der Moolen common stock, traded on the Euronext Exchange (hereinafter "Euronext shares"). If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.

2. On the schedules, provide all of the requested information with respect to **all** of your purchases and/or acquisitions and **all** of your sales of Van der Moolen ADRs and Van der Moolen Euronext shares from October 18, 2001 to October 15, 2003, inclusive, whether or not such transactions resulted in a profit or a loss. Failure to report all such transactions may result in the rejection of your claim.

3. List each transaction separately and in chronological order, by trade or exchange date, beginning with the earliest. You must accurately provide the month, day and year of each transaction you list.

4. Broker confirmations or other documentation of your transactions in Van der Moolen ADRs and Euronext shares should be attached to your claim. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim.

5. The above requests are designed to provide the minimum amount of information necessary to process the most simple claims. The Claims Administrator may request additional information as required to efficiently and reliably calculate your losses. In some exceptional cases where the Claims Administrator cannot perform the calculation accurately or at a reasonable cost to the Settlement Class with the information provided, the Claims Administrator may condition acceptance of the claim upon the production of additional information and/or the hiring of an accounting expert at the Claimant's cost.



B. Please state the number of Van der Moolen ADRs held at close of trading on October 15, 2003: \_\_\_\_\_.

If you require additional space, attach extra schedules in the same format as above. Sign and print your name on each additional page.

**PART III: SCHEDULE OF TRANSACTIONS IN VAN DER MOOLEN EURONEXT SHARES**

A. Please state the number of Van der Moolen Euronext shares held at the close of trading on October 17, 2001: \_\_\_\_\_.

B. Below, please list all transactions in Van der Moolen Euronext shares from October 18, 2001 to October 15, 2003, inclusive.

	Trade Date(s) (List Chronologically) (Month / Day / Year)	Number of Shares Purchased/Acquired	Purchase Price Per Share	Total Purchase Price (Excluding Commissions, Taxes, and Fees)
1.	□□ - □□ - □□	□□□□□□□□	\$ □□□□ . □□□□□□	\$ □□□□□□□□ . □□□□
2.	□□ - □□ - □□	□□□□□□□□	\$ □□□□ . □□□□□□	\$ □□□□□□□□ . □□□□
3.	□□ - □□ - □□	□□□□□□□□	\$ □□□□ . □□□□□□	\$ □□□□□□□□ . □□□□
4.	□□ - □□ - □□	□□□□□□□□	\$ □□□□ . □□□□□□	\$ □□□□□□□□ . □□□□
5.	□□ - □□ - □□	□□□□□□□□	\$ □□□□ . □□□□□□	\$ □□□□□□□□ . □□□□

	Trade Date(s) (List Chronologically) (Month / Day / Year)	Number of Shares Sold	Sale Price Per Share	Total Sale Price (Excluding Commissions, Taxes, and Fees)
1.	□□ - □□ - □□	□□□□□□□□	\$ □□□□ . □□□□□□	\$ □□□□□□□□ . □□□□
2.	□□ - □□ - □□	□□□□□□□□	\$ □□□□ . □□□□□□	\$ □□□□□□□□ . □□□□
3.	□□ - □□ - □□	□□□□□□□□	\$ □□□□ . □□□□□□	\$ □□□□□□□□ . □□□□
4.	□□ - □□ - □□	□□□□□□□□	\$ □□□□ . □□□□□□	\$ □□□□□□□□ . □□□□
5.	□□ - □□ - □□	□□□□□□□□	\$ □□□□ . □□□□□□	\$ □□□□□□□□ . □□□□

C. Please state the number of Van der Moolen Euronext shares held at close of trading on October 15, 2003: \_\_\_\_\_.

If you require additional space, attach extra schedules in the same format as above. Sign and print your name on each additional page.

**YOU MUST READ AND SIGN THE RELEASE ON PAGE 6.**

**IV. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS**

I (We) submit this Proof of Claim and Release form under the terms of the Stipulation of Settlement dated as of October 3, 2006 (“Stipulation”) described in the Notice. I (We) also submit to the jurisdiction of the United States District Court for the Southern District of New York, with respect to my (our) claim as a Settlement Class Member (as defined in the Notice) and for purposes of enforcing the release set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in this Action. I (We) agree to furnish additional information to Co-Lead Counsel to support this claim if required to do so. I (We) have not submitted any other claim covering the same purchases, acquisitions or sales of Van der Moolen ADRs during the Class Period and know of no other Person who has done so on my (our) behalf.

**V. RELEASE**

1. I (We) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally and forever settle, release, relinquish and discharge, all of the Released Claims (as defined below and in the Stipulation) against each and all of the Defendants and each and all of their Related Parties, as defined in the Stipulation.

2. “Released Claims” means any and all claims, debts, demands, rights or causes of action or liabilities, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, whether class, derivative or individual in nature, including both known claims and Unknown Claims (as



defined below), (i) that have been asserted in this Action by the Settlement Class Members or (ii) that could have been asserted by the Settlement Class Members against any of the Released Parties which arise out of, are based upon, or relate to the allegations, transactions, facts, matters, or occurrences, representations, or omissions involved, set forth, or referred to in the Amended Complaint, during the Class Period.

3. "Unknown Claims" means any claims which any Co-Lead Plaintiff or Settlement Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of the Released Parties, and any Settled Defendants' Claim which any Defendant or Released Party does not know or suspect to exist in his, her, or its favor with regard to the purchase, acquisition or sale of Van der Moolen ADRs and Van der Moolen common stock. With respect to any and all Released Claims and Settled Defendants' Claims, the Parties stipulate and agree that upon the Settlement Effective Date, the Co-Lead Plaintiffs and the Defendants shall expressly, and each Settlement Class Member and Released Party 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 Cal. Civ. Code § 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Co-Lead Plaintiffs and Defendants acknowledge, and the Settlement Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims and Settled Defendants' Claims was separately bargained for and was a key element of the Settlement.

4. This release shall be of no force or effect unless and until the Court approves the Settlement and it becomes effective on the Settlement Effective Date.

5. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.

6. I (We) hereby warrant and represent that I (we) have included information about all of my (our) transactions in Van der Moolen ADRs and Euronext shares from October 18, 2001 to October 15, 2003, inclusive, and the number of Van der Moolen ADRs and Euronext shares I (we) held at the close of trading on October 15, 2003.

**SUBSTITUTE FORM W-9**

**Request for Taxpayer Identification Number ("TIN") and Certification**

**PART I**

NAME: \_\_\_\_\_

Check appropriate box:

- Individual/Sole Proprietor       Pension Plan       Corporation       Partnership
- Trust       IRA       Other (Specify) \_\_\_\_\_

Enter TIN on appropriate line.

- For individuals, this is your Social Security Number ("SSN").
- For sole proprietors, you must show your individual name, but you may also enter your business or "doing business as" name. You may enter either your SSN or your Employer Identification Number ("EIN").
- For other entities, it is your EIN.

Social Security Number: -- or Employer Identification Number: -

**PART II**

For Payees Exempt from Backup Withholding

If you are exempt from backup withholding, enter your correct TIN in Part I and write "exempt" on the following line: \_\_\_\_\_

**PART III**

Certification

UNDER THE PENALTY OF PERJURY, I (WE) CERTIFY THAT:

1. The number shown on this form is my correct TIN; and
2. I (we) certify that I am (we are) NOT subject to backup withholding under the provisions of Section 3406 (a)(1)(C) of the Internal Revenue Code because: (a) I am (we are) exempt from backup withholding; or (b) I (we) have not been notified by the Internal Revenue Service that I am (we are) subject to backup withholding as a result of a failure to report all interest or dividends; or (c) the Internal Revenue Service has notified me (us) that I am (we are) no longer subject to backup withholding.

NOTE: If you have been notified by the Internal Revenue Service that you are subject to backup withholding, you must cross out Item 2 above.

SEE ENCLOSED FORM W-9 INSTRUCTIONS

The Internal Revenue Service does not require your consent to any provision of this document other than the certification required to avoid backup withholding.

I (We) declare under penalty of perjury under the laws of the United States of America that the foregoing information supplied by the undersigned is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_,  
(Month/Year)

in \_\_\_\_\_, \_\_\_\_\_.  
(City) (State/Country)

\_\_\_\_\_  
(Sign your name here)

\_\_\_\_\_  
(Type or print your name here)

\_\_\_\_\_  
(Capacity of person(s) signing, e.g.,  
Beneficial Owner, Executor or  
Administrator)

**ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT  
AMOUNT OF TIME. THANK YOU FOR YOUR PATIENCE.**

**REMINDER CHECKLIST**

1. Please sign the Certification Section of the Proof of Claim and Release form.
2. If this claim is made on behalf of joint claimants, then both must sign.
3. Please remember to attach supporting documents.
4. DO NOT SEND ORIGINALS OF ANY SUPPORTING DOCUMENTS.
5. Keep a copy of your Proof of Claim and Release form and all documentation submitted for your records.
6. If you desire an acknowledgment of receipt of your claim form, please send it Certified Mail, Return Receipt Requested.
7. If you move, please send us your new address.
8. Do not use highlighter on the Proof of Claim and Release form or supporting documentation.

THIS PROOF OF CLAIM MUST BE POSTMARKED NO LATER THAN  
FEBRUARY 20, 2007 AND MUST BE MAILED TO

*Van Der Moolen ADR Litigation*  
Claims Administrator  
Strategic Claims Services  
P.O. Box 2463  
2710 Concord Road, Suite 5  
Aston, PA 19014

*Van Der Moolen ADR Litigation*  
Claims Administrator  
Strategic Claims Services  
P.O. Box 2463  
2710 Concord Road, Suite 5  
Aston, PA 19014

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