

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE REFCO, INC. SECURITIES LITIGATION : No. 05 CV 8626 (JSR)

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AMENDED STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement, dated March 29, 2010 and amended on May 3, 2010 (the “Stipulation”), is made and entered into, through their counsel, between Lead Plaintiffs RH Capital Associates LLC and Pacific Investment Management Company LLC, on behalf of themselves and the class of persons and entities defined below, and Defendants Ronald L. O’Kelley, Leo R. Breitman, Nathan Gantcher, Thomas H. Lee Equity Fund V, L.P., Thomas H. Lee Parallel Fund V, L.P., Thomas H. Lee Equity (Cayman) Fund V, L.P., Thomas H. Lee Partners, L.P., THL Equity Advisors V, LLC, Thomas H. Lee Investors Limited Partnership, The 1997 Thomas H. Lee Nominee Trust, Thomas H. Lee, David V. Harkins, Scott L. Jaeckel and Scott A. Schoen. Subject to the terms and conditions set forth herein and the Court’s approval pursuant to Rule 23 of the Federal Rules of Civil Procedure, the settlement embodied in this Stipulation is intended by the Settling Parties:

(a) to be in full and final disposition of the Action with respect to the Settling Defendants; and (b) to fully, finally and forever resolve, discharge, dismiss and settle the Released Claims against the Released Persons.¹

¹ All capitalized words or terms, not otherwise defined herein, shall have the meaning as set forth below in Paragraph 1 hereof, entitled “Definitions.”

WHEREAS,

A. Commencing in October 2005, multiple putative class action complaints were filed in this Court, alleging claims arising under the federal securities laws, naming as defendants Refco, certain of Refco's former officers and directors, Refco's auditors, the underwriters for Refco's August 2005 Initial Public Offering of common stock (the "IPO"), and others;

B. By Order dated February 8, 2006, the Court: (i) consolidated these putative class actions under the caption In re Refco, Inc. Securities Litigation, No. 05 CV 8626 (S.D.N.Y.); (ii) appointed RH Capital Associates LLC and Pacific Investment Management LLC as co-lead plaintiffs; and (iii) appointed the law firms of Bernstein Litowitz Berger & Grossmann LLP and Grant & Eisenhofer P.A. as co-lead counsel for the plaintiffs;

C. On April 3, 2006, Lead Plaintiffs filed a Consolidated Amended Class Action Complaint and, on May 5, 2006, a First Amended Consolidated Class Action Complaint. On July 10, 2006, the Settling Defendants moved to dismiss the First Amended Consolidated Class Action Complaint, which Lead Plaintiffs opposed. On April 30, 2007, the Court granted in part and denied in part the Settling Defendants' motions to dismiss the First Amended Consolidated Class Action Complaint;

D. On December 3, 2007, Lead Plaintiffs filed a Second Amended Consolidated Class Action Complaint (the "Complaint"). The Complaint alleges violations of both the Securities Act of 1933 and the Securities Exchange Act of 1934 during the Class Period arising out of the IPO and the offering of Refco Group Ltd., LLC/Refco Finance Inc. 9% Senior Subordinated Notes due 2012;

E. On February 14, 2008, the Settling Defendants filed their answers to the Complaint denying its material allegations as asserted against them and alleging affirmative and other defenses thereto. The parties subsequently participated in an extensive discovery process, coordinated with the other Refco-related actions also pending in this Court, which included the production of millions of pages of emails, memoranda, and other documents by both parties and non-parties as well as approximately 100 depositions;

F. Following arms'-length negotiations -- including a face-to-face meeting between a representative of RH Capital Associates LLC and two individual defendants affiliated with the THL Entities, a mediation session and extensive discussions between counsel for the Settling Parties -- Lead Plaintiffs and the Settling Defendants entered a Memorandum of Understanding on January 19, 2010 ("MOU") providing for the resolution of this Action as between them, subject to Court approval. Following further negotiations, the Settling Parties have agreed to enter into this Stipulation;

G. The Settling Parties agree that the Settlement Amount paid and the other terms of the Settlement set forth herein were negotiated at arms' length, in good faith and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel;

H. Lead Plaintiffs' Counsel state that they have undertaken an extensive factual investigation and legal analysis as to the claims against the Settling Defendants in the Action and the Settling Defendants' defenses to those claims and have analyzed potential damages that could be recovered from the Settling Defendants if the Settlement Class were to prevail. In the course of their investigation, Lead Plaintiffs' Counsel have reviewed hundreds of thousands of pages of documents, including emails and other internal records produced by the Settling Defendants and the THL Funds' advisors in connection with the initial August

2004 investment in Refco and the work leading up to the IPO. In addition, Lead Plaintiffs' Counsel participated in the depositions of, among others, each of the individual defendants who are parties to this Stipulation. While Lead Plaintiffs' Counsel believe that the claims asserted in the Action are meritorious and that the Settlement Class ultimately would prevail at trial, they have concluded, based on their investigation and recognizing the risks they face in connection with the Settling Defendants' due diligence and related defenses as well as the delay and expense of further proceedings, that the terms and conditions of the Settlement provided for in this Stipulation are fair, reasonable, adequate and in the best interests of the Settlement Class. Lead Plaintiffs' Counsel accordingly have recommended the Settlement to Lead Plaintiffs and the Settlement Class Members; and

I. Each and all of the Settling Defendants continue to deny any and all allegations of wrongdoing, fault, liability or damages to Lead Plaintiffs and/or the Settlement Class and believe that they acted at all times properly, in good faith and in a manner consistent with their legal duties and obligations. Although the Settling Defendants believe that the claims in the Action are without merit and that they would ultimately prevail either at summary judgment or at trial, they nevertheless recognize the uncertainty and the risk of the outcome of any litigation, especially complex securities litigation, and the difficulties and substantial burdens, expense and length of time necessary to defend this proceeding, which is already more than four years old, through the conclusion of expert discovery, summary judgment motions, a possible trial, possible post-trial motions and possible appeals. To eliminate the burden and expense of further litigation, Settling Defendants wish to settle and resolve the Action on the terms and conditions stated in this Stipulation and to put these

claims to rest finally and forever without in any way acknowledging any wrongdoing, fault, liability or damages to Lead Plaintiffs and/or the Settlement Class.

NOW THEREFORE, without any concession by Lead Plaintiffs that the Action lacks merit, and without any concession by any of the Settling Defendants of any liability or wrongdoing or the lack of merit of any of their defenses, it is hereby

STIPULATED AND AGREED by and between Lead Plaintiffs (on behalf of themselves and the Settlement Class Members) and the Settling Defendants, through their respective attorneys, that, in consideration of the benefits flowing to all parties hereto, all claims asserted in the Action against the Settling Defendants shall be settled, compromised, released and dismissed with prejudice, and without costs, on the terms and conditions stated below, subject to Court approval following a Settlement Hearing to be held pursuant to Rule 23 of the Federal Rules of Civil Procedure.

1. Definitions

The following terms shall have the following meanings for the purpose of this Stipulation, the exhibits to this Stipulation and the Supplemental Agreement:

1.1 “Action” means In re Refco, Inc. Securities Litigation, No. 05 Civ. 8626 (JSR), pending in the United States District Court for the Southern District of New York.

1.2 “Additional Settlement Amount” means an amount equal to 50% of any amount that the THL Entities actually receive (or which is paid on their behalf to another) after January 19, 2010 from the United States Government (net of the co-investors’ share and prior to any distributions by the THL Entities to any other parties) as additional restitution funds in connection with the criminal proceedings arising from Refco’s bankruptcy brought in the Southern District of New York (the “THL Federal Distributions”), up to a maximum additional payment to the Escrow Account of \$10,000,000.

1.3 “Authorized Claimant” means any Settlement Class Member who submits a timely and valid Proof of Claim Form to the Claims Administrator pursuant to the terms of this Stipulation and the Notice and is not otherwise excluded from the Settlement Class.

1.4 “Cash Settlement Amount” means One Hundred and Thirty Million Dollars (\$130,000,000).

1.5 “Claims Administrator” means The Garden City Group, Inc., the firm to be retained by Lead Plaintiffs’ Counsel, subject to Court approval, which shall process Proof of Claim Forms and administer the Settlement Fund and the distribution of the Net Settlement Fund to Authorized Claimants in accordance with the terms and conditions set forth in this Stipulation, the Class Distribution Order and any other orders of the Court relating thereto.

1.6 “Class Distribution Order” means an order of the Court approving the Claims Administrator’s administrative determinations concerning the acceptance and rejection of the claims submitted in accordance with this Stipulation and approving any fees and expenses not previously applied for, including the fees and expenses of the Claims Administrator, and, if the Effective Date has occurred, directing payment of the Net Settlement Fund to approved Authorized Claimants.

1.7 “Class Period” means the period beginning on July 1, 2004 through and including October 17, 2005.

1.8 “Court” means the United States District Court for the Southern District of New York in which the Action is pending.

1.9 “Defendants” means, collectively, the Settling Defendants and the Non-Settling Defendants.

1.10 “Effective Date” means the date upon which the Settlement contemplated by this Stipulation shall become final and effective as set forth in Section 7 of this Stipulation.

1.11 “Escrow Account” means the interest-bearing account maintained by the Escrow Agent into which the Settlement Amount is to be deposited.

1.12 “Escrow Agent” means The Huntington National Bank, the financial institution designated by Lead Plaintiffs’ Counsel to receive, hold, invest and disburse the Settlement Amount pursuant to the terms of this Stipulation and the Escrow Agreement.

1.13 “Escrow Agreement” means the agreement between Lead Plaintiffs’ Counsel, the Escrow Agent and THLP (but only for the limited purposes set forth in the Escrow Agreement), dated March 26, 2010, with respect to the Escrow Account in a form reasonably acceptable to the Settling Defendants and that can be modified or amended only with the consent of THLP’s Counsel, Weil Gotshal & Manges LLP, to the extent any modifications are made before the Effective Date has occurred.

1.14 “Final Order and Judgment” means the judgment and order of dismissal with prejudice described in Section 4 of this Stipulation to be entered in the Action approving the Settlement and which shall be substantially in the form attached hereto as Exhibit B.

1.15 “Lead Plaintiffs” means RH Capital Associates LLC and Pacific Investment Management Company LLC.

1.16 “Lead Plaintiffs’ Counsel” means, collectively, the law firms of Grant & Eisenhofer P.A. and Bernstein Litowitz Berger & Grossmann LLP.

1.17 “Net Settlement Fund” means the Settlement Fund less (i) Court-awarded attorneys’ fees and expenses; (ii) Notice and Administration Expenses; (iii) any required Taxes; and (iv) any other fees or expenses approved by the Court.

1.18 “Non-Settling Defendants” means any Person, other than the Settling Defendants, who: (a) currently is a named defendant in the Action; and/or (b) was previously a named defendant in the Action but was dismissed for any reason, whether by settlement, judgment or otherwise, including, but not limited to, Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse AG (“BAWAG”).

1.19 “Notice” means the Notice of (i) Proposed Settlement of Class Action with the Audit Committee and THL Defendants, (ii) Hearing on Proposed Settlement, and (iii) Motion for Reimbursement of Litigation Expenses, substantially in the form attached hereto as Exhibit A-1 which shall be sent to Settlement Class Members.

1.20 “Notice and Administration Expenses” means all expenses incurred in connection with the preparation, printing and mailing of the Notice, publishing the Summary Notice, receiving and reviewing claims, applying the Court-approved plan of allocation, corresponding with Settlement Class Members and the fees and costs of the Claims Administrator and the Escrow Agent.

1.21 “Person” means an individual, corporation, limited liability company, professional corporation, limited liability partnership, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof and any business or legal entity as well as each of their spouses, heirs, predecessors, successors, representatives or assignees.

1.22 “Plan of Allocation” means the plan that Lead Plaintiffs’ Counsel will submit to the Court for approval upon notice to the Settlement Class to be utilized for distribution of

the Net Settlement Fund to Authorized Claimants in a manner consistent with the terms of this Stipulation.

1.23 “Preliminary Approval Order” means the proposed order to be entered by the Court preliminarily approving the Settlement and directing notice thereof to the Settlement Class and which shall be substantially in the form attached hereto as Exhibit A.

1.24 “Proof of Claim Form” means the proof of claim form and release to be mailed to Settlement Class Members, as approved by the Court, which Settlement Class Members shall be required to complete and return to the Claims Administrator in order to substantiate their entitlement to a share of the Net Settlement Fund and which shall be substantially in the form attached hereto as Exhibit A-2.

1.25 “Refco” means Refco, Inc. and its predecessors and subsidiaries, including, but not limited to, Refco Group Ltd., LLC, New Refco Group Ltd., LLC, Refco Finance Holdings LLC, Refco Finance Inc. and Refco Capital Markets Ltd.

1.26 “Released Claims” means, collectively, all of the Released Plaintiffs’ Claims and all of the Released Defendants’ Claims.

1.27 “Released Defendants’ Claims” means any and all claims and causes of action of every nature and description, whether such are known or Unknown (as that term is employed and defined in Paragraph 8.4 below), whether arising under federal, state, common or foreign law, that were or could have been asserted by any or all of the Released Defendant Persons against any or all of the Released Plaintiff Persons and that arise out of or relate in any way to the institution, prosecution or settlement of the Action, except for claims relating to the enforcement of the Settlement. Nothing in this Definition is intended to release any of

the claims identified in Paragraph 4.2(c) below that were or may be asserted by any of the Settling Defendants.

1.28 “Released Defendant Persons” means each and all of the following: (a) the Settling Defendants; (b) the Settling Defendants’ respective past and/or present affiliates, subsidiaries, general partners, parents and limited partners (including those who co-invested in Refco alongside the THL Funds in August 2004) (the “Affiliated Releasees”); (c) the past and/or present employees, officers, partners and directors of any of the Settling Defendants or any of the Affiliated Releasees (the “Additional Releasees,” together with the Settling Defendants and the Affiliated Releasees, the “Releasees”); and (d) the Releasees’ past and/or present representatives, agents, managing directors, attorneys, insurers, reinsurers, principals, members, managers, families, stockholders, heirs, executors, trustees, personal representatives, estates, administrators, predecessors, divisions, successors and assigns. Nothing in this definition is intended to release any claims asserted in the Action by Lead Plaintiffs (or any member of the Settlement Class) against any Non-Settling Defendant.

1.29 “Released Persons” means, collectively, the Released Plaintiff Persons and the Released Defendant Persons.

1.30 “Released Plaintiff Persons” means, collectively, Lead Plaintiffs, Lead Plaintiffs’ Counsel, Settlement Class Members, any other counsel any Settlement Class Member retained or employed in this Action (including those prior to the consolidation of the individual cases by Order dated February 8, 2006) and each of their past and/or present employees, officers, partners, directors, managing directors, representatives, affiliates, agents, attorneys, insurers, reinsurers, principals, members, managers, families, stockholders,

heirs, executors, trustees, personal representatives, estates, administrators, predecessors, divisions, successors and assigns.

1.31 “Released Plaintiffs’ Claims” means any and all claims, demands, actions, causes of action, obligations, debts, judgments and liabilities of any kind, nature and description, whether direct or derivative, whether at law or in equity (upon any legal or equitable theory, whether contractual, common law or statutory, whether arising under federal, state, common or foreign law, whether based on allegedly intentional, negligent or reckless conduct, whether asserted as claims, cross-claims, counterclaims or third-party claims in any pleadings, in this Court, in any federal or state court, or in any other court, arbitration proceeding, administrative agency or other forum in the United States or elsewhere), whether such are known or Unknown (as that term is employed and defined in Paragraph 8.4 below), secured or unsecured, contingent or absolute, choate or inchoate, liquidated or unliquidated, perfected or unperfected, that previously existed or that currently exist as of the date of the approval of the Settlement by the Court or that may arise in the future that were or could have been asserted by any or all of the Releasing Plaintiffs against any or all of the Released Defendant Persons that: (a) in any way arise out of, are based upon, relate to or concern the facts, matters, occurrences, allegations, representations, omissions, actions, transactions or conduct alleged, set forth, referred to, involved in or which could have been raised in the Complaint or the Action; and/or (b) in any way arise out of, are based upon, relate to or concern the purchase, acquisition, disposition or sale of, or other transaction in, any and all publicly traded Refco securities, including, Refco Group Ltd., LLC/Refco Finance Inc. 9% Senior Subordinated Notes due 2012 (CUSIP Nos. 75866HAA5 and/or 75866HAC1) and/or Refco common stock (CUSIP No. 75866G109) during the Class

Period, including without limitation, claims that arise out of or relate to any disclosures, Securities and Exchange Commission filings, press releases, registration statements, offering memoranda or other public statements by Refco during the Class Period.

1.32 “Releasing Plaintiffs” means each and all of the following: Lead Plaintiffs and every Settlement Class Member (regardless of whether or not any individual Settlement Class Member submits a Proof of Claim Form or seeks or obtains a distribution from the Settlement Fund); each and all of their respective predecessors, successors, representatives, agents, heirs, executors, trustees, personal representatives, estates, administrators, and assigns; and any other person or entity who has the right, ability, standing or capacity to assert, prosecute or maintain any of the Released Plaintiffs’ Claims belonging to a Settlement Class Member to obtain the proceeds of any recovery on those claims but only with respect to those claims.

1.33 “Releasing Persons” means, collectively, the Releasing Plaintiffs and the Settling Defendants.

1.34 “Settlement” means the resolution and settlement of the Action as against the Settling Defendants pursuant to, and in accordance with, the terms and provisions of this Stipulation.

1.35 “Settlement Amount” means the sum of the Cash Settlement Amount and the Additional Settlement Amount.

1.36 “Settlement Class” means all persons and entities who purchased or otherwise acquired Refco Group Ltd., LLC/Refco Finance Inc. 9% Senior Subordinated Notes due 2012 (CUSIP Nos. 75866HAA5 and/or 75866HAC1) and/or common stock of Refco (CUSIP No. 75866G109) during the period July 1, 2004 through and including October 17, 2005, and

who were damaged thereby. Excluded from the Settlement Class are: (a) Refco; (b) the Defendants; (c) any person or entity who was a partner, executive officer, director, controlling person, subsidiary, or affiliate of Refco or of any Defendant during the Class Period; (d) members of the Defendants' immediate families; (e) entities in which Refco or any Defendant has a controlling interest; and (f) the legal representatives, heirs, estates, administrators, predecessors, successors or assigns of any of the foregoing excluded persons and entities; provided however that any Investment Vehicle shall not be deemed an excluded person or entity by definition.² Also excluded from the Settlement Class is any person and/or entity who or which properly excludes himself, herself or itself by filing a valid and timely request for exclusion in accordance with the requirements set forth herein and in the Notice.

1.37 "Settlement Class Member" means any person or entity that falls within the definition of the Settlement Class as defined above in Paragraph 1.36 and who or which is not excluded therefrom.

1.38 "Settlement Fund" means the Settlement Amount (together with all interest earned thereon) to be held in the Escrow Account pursuant to, and in accordance with, the provisions of this Stipulation.

1.39 "Settlement Hearing" means the final hearing to be held by the Court to determine whether the Settlement is fair, reasonable and adequate and in the best interests of

² "Investment Vehicle" means any investment company or pooled investment fund, including but not limited to mutual fund families, exchange-traded funds, fund of funds and hedge funds, in which any Underwriter Defendant or affiliate has or may have a direct or indirect interest or act as an investment advisor, but in which the Underwriter Defendant or affiliate is not a majority owner and does not hold a majority beneficial interest. This definition does not bring into the Settlement Class any of the Underwriter Defendants.

the Settlement Class and should be approved as described in Paragraph 3.1 of this Stipulation.

1.40 “Settling Defendants” means Ronald L. O’Kelley, Leo R. Breitman and Nathan Gantcher (collectively, the “Audit Committee Defendants”); Thomas H. Lee Equity Fund V, L.P., Thomas H. Lee Parallel Fund V, L.P. and Thomas H. Lee Equity (Cayman) Fund V, L.P. (collectively, the “THL Funds”); Thomas H. Lee Partners, L.P., THL Equity Advisors V, LLC, Thomas H. Lee Investors Limited Partnership and The 1997 Thomas H. Lee Nominee Trust and any predecessor or related THL Entities named in any prior version of the Complaint, including, without limitation, THL Refco Acquisition Partners, THL Refco Acquisition Partners II and THL Refco Acquisition Partners III (collectively, with the THL Funds, the “THL Entities”); Thomas H. Lee, David V. Harkins, Scott L. Jaeckel and Scott A. Schoen (collectively, with the THL Entities, the “THL Defendants”).

1.41 “Settling Defendants’ Counsel” means, collectively, the law firms of Weil, Gotshal & Manges LLP and Paul, Weiss, Rifkind, Wharton & Garrison LLP.

1.42 “Settling Parties” means, collectively, the Settling Defendants and the Lead Plaintiffs on behalf of themselves and each of the Settlement Class Members.

1.43 “Summary Notice” means the summary notice of the proposed Settlement to be published in the national edition of Investors’ Business Daily and which shall be substantially in the form attached hereto as Exhibit A-3.

1.44 “Supplemental Agreement” is defined in Paragraph 9.3 of this Stipulation.

1.45 “Taxes” means all taxes on the income earned by the Settlement Fund, and any expenses and costs incurred in connection therewith (including, without limitation, expenses of tax attorneys and accountants).

1.46 “Unknown,” for the purposes of the releases, is defined herein in Paragraph 8.4 of this Stipulation.

2. Payment of the Settlement Amount and the Escrow Account

2.1 In full settlement of all claims asserted against them in this Action and in consideration of the releases provided for herein:

(a) the Settling Defendants shall pay, or cause to be paid on their behalf, the Cash Settlement Amount by check or wire transfer into the Escrow Account by the later of (i) four (4) business days after the Preliminary Approval Order is entered by the Court, or (ii) four (4) business days after Lead Plaintiffs’ Counsel provide to Settling Defendants’ Counsel wire transfer, check mailing instructions and such other account information necessary for this payment to be made (Settling Defendants’ Counsel will advise the insurance carriers promptly after the Preliminary Approval Order has been entered); and

(b) the THL Entities will pay the Additional Settlement Amount, which amount shall be paid as follows: the THL Entities will pay to the Escrow Account 100% of all THL Federal Distributions in excess of \$13,750,000 that are received after January 19, 2010 through December 31, 2010, capped at \$10,000,000. If the THL Entities have not paid to the Escrow Account by December 20, 2010, 50% of the THL Federal Distributions received after January 19, 2010 (up to the \$10,000,000 cap), the THL Entities will pay, by December 31, 2010, the difference between (i) 50% of the THL Federal Distributions received after January 19, 2010 through December 20, 2010, and (ii) what has actually been paid to the Escrow Account from the THL Federal Distributions after January 19, 2010 through December 20, 2010, up to the \$10,000,000 cap. If total payments to the Escrow Account as of December 20, 2010 under this subparagraph are less than the \$10,000,000 cap, then, thereafter, the THL Entities will pay to the Escrow Account 50% of any THL Federal

Distributions received after December 20, 2010. In no event shall the total payments to the Escrow Account under this subparagraph exceed the \$10,000,000 cap. The THL Entities agree to use their reasonable best efforts to pursue from the government any restitution funds to which they are entitled; provided, however, that none of the Settling Defendants shall have any liability to the Lead Plaintiffs or Settlement Class Members in connection with this obligation if their reasonable best efforts fail.

2.2 Other than the payment of the Settlement Amount, Settling Defendants shall have no further or other liability or obligation to Lead Plaintiffs, Lead Plaintiffs' Counsel or any Settlement Class Member with respect to the Action, the claims asserted against them therein or the Settled Plaintiffs' Claims, except as may be expressly stated in this Stipulation.

2.3 The Settlement Fund shall be applied as follows and only as follows:

- (a) to pay the Notice and Administration Expenses pursuant to, and in accordance with, the terms and conditions of this Stipulation;
- (b) to pay any attorneys' fees and expenses awarded by the Court pursuant to, and in accordance with, the terms and conditions set forth in Section 6 herein;
- (c) to pay any other fees, costs and expenses approved by the Court;
- (d) to pay the Taxes pursuant to, and in accordance with, the terms and conditions set forth in Paragraph 2.8 herein; and
- (e) to distribute the balance of the Settlement Fund (the "Net Settlement Fund") to Authorized Claimants following the Effective Date pursuant to, and in accordance with, the terms and conditions set forth in this Stipulation and the Class Distribution Order.

2.4 The Settlement Fund and Net Settlement Fund shall remain in the Escrow Account until the Effective Date unless the Stipulation is terminated pursuant to Section 9

herein, the Settlement is not approved and/or the Effective Date otherwise does not occur. After the Effective Date, the Net Settlement Fund shall be distributed to Authorized Claimants by the Claims Administrator pursuant to, and in accordance with, the Class Distribution Order after all claims have been processed and all claimants whose claims have been rejected or disallowed, in whole or in part, have been notified and provided the opportunity to communicate with the Claims Administrator concerning such rejection or disallowance as provided for herein; provided, however, that a distribution may occur pending any appellate court's ruling relating solely to the bar order provisions of the Final Order and Judgment set forth in Paragraphs 4.2 (c) and 4.2(d) herein.

2.5 After the Effective Date, Lead Plaintiffs' Counsel may pay from the Settlement Fund, at the appropriate time and only as expressly permitted herein, all reasonable costs and expenses associated with the administration of the Settlement, including, without limitation, the actual costs of identifying and notifying Settlement Class Members, printing and mailing the Notice, publishing the Summary Notice, reimbursing nominee owners for forwarding the Notice to their beneficial owners, the administration expenses incurred and fees charged by the Claims Administrator and any other Notice and Administration Expenses. Notwithstanding the fact that the Effective Date has not yet occurred, Lead Plaintiffs' Counsel may pay from the Escrow Account the actual costs of Notice and Administration Expenses up to \$250,000 and Taxes without further order of the Court. No other amounts shall be disbursed from the Escrow Fund prior to the Effective Date, except upon written order of the Court following notice to the Settling Defendants' Counsel.

2.6 All funds held by the Escrow Agent shall be deemed and considered 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 returned pursuant to this Stipulation and/or further orders of the Court. Subject to the Court's jurisdiction, the Settlement Fund shall be maintained by the Escrow Agent in a manner consistent with the provisions of this Stipulation and the Escrow Agreement.

2.7 Other than as set forth herein, Settling Defendants and the Released Defendant Persons shall have no responsibility or liability for investing the Settlement Amount, managing or administering the Settlement Fund, establishing or maintaining the Escrow Account, the payment of Taxes, the distribution of the Net Settlement Fund and/or for the administration of the Settlement.

2.8 The following provisions shall govern the administration of the Escrow Account:

(a) the Escrow Agent shall maintain the Settlement Fund in a segregated escrow account not available to creditors of the Escrow Agent or with respect to residual amounts of less than \$100,000 in an account as set forth in subparagraph (b) below and shall not disburse any amounts therefrom except as authorized by this Stipulation and/or any orders of the Court;

(b) the Escrow Agent shall invest the amount deposited in the Escrow Account in United States Treasury Bills or, if approved by each of the Lead Plaintiffs and Lead Plaintiffs' Counsel, in money market funds with one or more of the fifty (50) largest banking institutions in the United States. The Escrow Agent shall collect and reinvest all interest accrued thereon. Any interest that accrues on the amount held in escrow will become

part of the Settlement Fund. Any residual cash balances of less than \$100,000 may be invested, without further approval from Lead Plaintiffs and Lead Plaintiffs' Counsel, in an interest bearing account insured by the FDIC or money market mutual funds comprised exclusively of investments secured by the full faith and credit of the United States Government or fully insured by the United States Government;

(c) all payments for Notice and Administration Expenses, Taxes, and any attorneys' fees and expenses awarded by the Court shall be paid, only at the appropriate time and as permitted herein and/or by Order of the Court, from the Settlement Fund and not by Lead Plaintiffs, Lead Plaintiffs' Counsel, Settlement Class Members, Settling Defendants, the Released Defendant Persons or Settling Defendants' Counsel. There shall be no liability on the part of Lead Plaintiffs, Lead Plaintiffs' Counsel, Settlement Class Members, Settling Defendants, the Released Defendant Persons or Settling Defendants' Counsel for any such fees, costs or expenses;

(d) Lead Plaintiffs intend to structure the Escrow Account so that it will qualify as a "qualified settlement fund" within the meaning of Section 468B of the Internal Revenue Code and the Regulations promulgated thereunder, including Treasury Regulation § 1.468B-1 and Lead Plaintiffs' Counsel shall act as administrators of the Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3). Lead Plaintiffs' Counsel, as administrators of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall timely make such elections as are necessary or advisable to carry out this subparagraph, including the relation-back election (as defined in Treasury Regulation § 1.468B-1(j)) to cause the Qualified Settlement Fund to come into existence at the earliest permitted date. Counsel for the Settling Defendants agree to provide promptly to

the Lead Plaintiffs' Counsel the required statement described in Treasury Regulation § 1.468B-3(e);

(e) all Taxes shall be paid out of the Settlement Fund. Lead Plaintiffs' Counsel, as administrators of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be responsible for timely filing tax returns and any relevant tax filings and documentation relating thereto for the Settlement Fund and timely paying from the Settlement Fund any Taxes owed with respect to the Settlement Fund. Notwithstanding anything in this Stipulation to the contrary, the Claims Administrator is to withhold from distribution to Settlement Class Members any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes, and any amounts required to be withheld under Treasury Regulation § 1.468B-2(1)(2); and

(f) any tax returns prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with the previous subparagraph, and in all events shall reflect that all Taxes (including any interest or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein. Settling Defendants (and the Released Defendant Persons) shall have no liability or responsibility for any Taxes. The Settling Defendants (and the Released Defendant Persons) shall notify Plaintiffs' Lead Counsel promptly if they receive any notice of any claim for Taxes relating to the Settlement Fund.

3. Preliminary Court Approval, Conditional Class Certification And Notice To Class Members

3.1 As soon as practicable following execution of this Stipulation, Lead Plaintiffs shall apply to the Court for approval of the Preliminary Approval Order (which shall be substantially in the form attached as Exhibit A to this Stipulation), requesting inter alia:

(a) preliminary approval of the Settlement set forth in this Stipulation; (b) approval for the mailing of the Notice and publication of the Summary Notice that, inter alia, set forth the procedures by which Settlement Class Members may object to the Settlement, seek exclusion therefrom or file a Proof of Claim Form to obtain a distribution from the Net Settlement Fund; (c) setting a date for the Settlement Hearing, to be held after the Notice is mailed and the Summary Notice is published, to consider whether to approve the Settlement and whether the Order and Final Judgment (substantially in the form of Exhibit B attached hereto) should be entered into, inter alia, dismissing the Action with prejudice as against the Settling Defendants and containing the releases and liability protections set forth herein. Counsel for the Settling Defendants shall not oppose the application, provided it is otherwise consistent with the terms of this Stipulation, and shall cooperate in good faith with the Lead Plaintiffs in connection therewith.

3.2 If the Preliminary Approval Order is granted by the Court, Lead Plaintiffs' Counsel will cause the Claims Administrator, on a schedule to be set by the Court, to mail the Notice to those members of the Settlement Class whose addresses may be identified through reasonable effort. Lead Plaintiffs' Counsel will publish the Summary Notice on one occasion in the national edition of Investors' Business Daily within ten (10) days of the mailing of the Notice or in such other form or manner as may be ordered by the Court.

3.3 Solely for purposes of the Settlement and without prejudice to their right to challenge class certification if the Stipulation is terminated, the Effective Date does not occur or the Settlement is not approved by the Court, the Settling Defendants hereby stipulate to: (a) certification of the Action as a class action, pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure; (b) the appointment of Lead Plaintiffs as representatives of

the Settlement Class; and (c) the appointment of Lead Plaintiffs' Counsel as class counsel pursuant to Rule 23(g) of the Federal Rules of Civil Procedure. If the Stipulation is terminated, the Settlement is not approved by the Court or the Effective Date does not occur, the conditional certification of the Action as a class action shall be vacated and the Action shall proceed as if the Settlement Class had never been certified.

4. Terms of the Judgment

4.1 If the Settlement contemplated by this Stipulation is approved by the Court, Lead Plaintiffs' Counsel and Settling Defendants' Counsel shall jointly request that the Court enter a Final Order and Judgment which shall be substantially in the form attached hereto as Exhibit B. The proposed Final Order and Judgment shall contain, inter alia, the releases described in Section 8 of this Stipulation.

4.2 **Bar Order.** The proposed Final Order and Judgment shall also contain, inter alia, provisions that:

(a) permanently bar, enjoin and restrain any and all Persons from commencing, prosecuting or asserting against any of the Released Defendant Persons any claim for contribution or indemnity arising out of the Action (or any other claim where the injury to the claiming Person is the claiming Person's actual or threatened liability to the Lead Plaintiffs or any Settlement Class Member arising out of the Action);

(b) permanently bar, enjoin and restrain the Released Defendant Persons from commencing, prosecuting or asserting against any and all Persons (other than a Person whose liability has been extinguished by the Settlement) any claim for contribution or indemnity arising out of the Action (or any other claim where the injury to the Released Defendant Person is the Released Defendant Persons' actual or threatened liability to the Lead Plaintiffs or any Settlement Class Member arising out of the Action);

(c) provide that nothing in subparagraphs (a) and (b) above, the Stipulation or the Final Order and Judgment shall limit, impact or otherwise affect in any respect, the following claims that do not seek recovery for the Settling Defendant's actual or threatened liability to the Lead Plaintiffs or any Settlement Class Member in connection with the Action: (1) the claims asserted, and/or recoveries sought, by the THL Funds in the following actions: (i) Thomas H. Lee Equity Fund V., L.P., et al. v. Philip R. Bennett, et al., 05 Civ. 9608 (JSR) (S.D.N.Y), (ii) Thomas H. Lee Equity Fund V., L.P., et al. v. Mayer Brown Rowe and Maw LLP, 07 Civ. 6767 (JSR) (S.D.N.Y), and (iii) Thomas H. Lee Equity Fund V., L.P., et al. v. Grant Thornton LLP, 07 Civ. 8663 (JSR) (S.D.N.Y); and/or (2) any other claim for any other injury to a Settling Defendant that any of the Settling Defendants have, may have or may assert against any Person relating to Refco other than the Released Plaintiff Persons;

(d) provide that nothing in subparagraphs (a) and (b) above, the Stipulation or the Final Order and Judgment shall limit, impact or otherwise affect in any respect, any claim of any Person against any of the Settling Defendants that does not seek recovery for that Person's actual or threatened liability to the Lead Plaintiffs or any Settlement Class Member in connection with the Action in any of the actions that have been, or might be, brought by a Settling Defendant as identified in subparagraphs (c)(1) and (c)(2) herein; and

(e) provide that nothing in subparagraphs (a) and (b) shall apply to claims that may be asserted by or against any of the Released Defendant Persons in cases of persons or entities who timely and validly opt out of this Settlement and do not revoke their request for exclusion within the applicable time period.

4.3 **Permanent Injunction:** The Final Order and Judgment shall also contain, inter alia, a provision that permanently bars and enjoins: (a) the Releasing Plaintiffs from filing, commencing, prosecuting, intervening in, participating in (as class members or otherwise), or receiving any benefits or other relief from, any other lawsuit, arbitration or other proceeding or order in any jurisdiction that is based upon, arises out of or relates to any of the Released Plaintiffs' Claims against the Released Defendant Persons; and (b) the Released Defendant Persons from filing, commencing, prosecuting, intervening in, participating in (as class members or otherwise), or receiving any benefits or other relief from, any other lawsuit, arbitration or other proceeding or order in any jurisdiction that is based upon, arises out of or relates to the Released Defendants' Claims against the Released Plaintiff Persons. Nothing herein shall prohibit a Settlement Class Member from obtaining a recovery in the Refco Chapter 11 case based on a currently existing claim that exists solely by reason of their status as a creditor and that is not based on the purchase or sale of a Refco security (this sentence shall not be construed as or be deemed to create any new right of recovery or cause of action on behalf of any Person).

4.4 The Final Order and Judgment shall also contain, inter alia, a provision requiring that any final verdict or judgment that may be obtained by or on behalf of the Settlement Class or a Settlement Class Member against a Non-Settling Defendant or Non-Settling Defendants shall be reduced by the greater of: (a) an amount that corresponds to the percentage of responsibility of the Settling Defendants for common damages; or (b) the amount paid by or on behalf of the Settling Defendants to the Settlement Class for common damages.

4.5 The proposed Final Order and Judgment shall also contain, inter alia, a provision as to the Settling Parties' Rule 11 compliance pursuant to Section 21D(c)(1) of the Exchange Act, as amended by the Private Securities Litigation Reform Act ("PSLRA"), 15 U.S.C. § 78u-4(c)(1). For the purpose of the Court's findings and conclusions with respect thereto, the Settling Parties agree that they (and their counsel) have each complied with the requirements of Rule 11 of the Federal Rules of Civil Procedure in connection with the commencement, maintenance, prosecution, defense and/or settlement of the Action and further agree not to assert otherwise in this Action or in any court, forum or proceeding.

5. Administration Of The Settlement Fund And Distribution Of The Settlement Fund To Authorized Claimants

5.1 Lead Plaintiffs' Counsel are responsible for disseminating Notice of the Settlement and supervising the administration of the Settlement and the distribution of the Net Settlement Fund, subject to the jurisdiction of the Court and in the manner provided for herein. The Claims Administrator shall assist Lead Plaintiffs' Counsel in connection with the administration of the Settlement, including: (i) the printing, labeling and mailing of the Notice and the publication of the Summary Notice; (ii) the administration, processing and determination of claims; (iii) the distribution of the Net Settlement Fund; and (iv) all other appropriate tasks to be performed to effectuate the Settlement as directed by Lead Plaintiffs' Counsel.

5.2 Except for the obligations of the Settling Defendants with respect to the payment of the Settlement Amount set forth in Paragraph 2.1 herein, the Settling Defendants (and the Released Defendant Persons) shall have no liability, obligation or responsibility of any kind with respect to the Settlement Fund, the administration of the Settlement Fund, the administration of the Settlement, the allocation or distribution of the Net Settlement Fund or

the processing, reviewing, challenging or determination of claims made by Settlement Class Members.

5.3 The distribution of the Net Settlement Fund to Settlement Class Members shall be subject to the Plan of Allocation, which Lead Plaintiffs shall propose in their discretion, subject to notice to the Settlement Class Members and approval by the Court. The Settling Defendants shall not object to the Plan of Allocation. The Settling Defendants (and the Released Defendant Persons) will have no responsibility or liability for: (a) the Plan of Allocation, and if approved by the Court, its interpretation or implementation; or (b) the allocation of the Net Settlement Fund.

5.4 The Plan of Allocation is not a necessary term of this Stipulation and it is not a condition of this Stipulation that any particular plan of allocation be approved by the Court. The Court is to consider the Plan of Allocation separate and apart from the Court's consideration of the question of whether the proposed Settlement between Lead Plaintiffs (on behalf of themselves and the Settlement Class) and the Settling Defendants is fair, reasonable and adequate and in the best interests of the Settlement Class. Any orders or proceedings relating to the Plan of Allocation or any appeal therefrom shall not: (a) affect the validity or finality of the proposed Settlement; (b) operate to terminate or cancel the Stipulation; and/or (c) affect or delay either the Effective Date or the finality of the Final Order and Judgment approving the Settlement. Lead Plaintiffs (either on their own behalf or on behalf of the Settlement Class) and Lead Plaintiffs' Counsel may not cancel or terminate the Stipulation or the Settlement based on this Court's or any appellate court's ruling with respect to the Plan of Allocation or any other plan of allocation that may be proposed in the Action.

5.5 Each Settlement Class Member who desires to share in the Net Settlement Fund is a “Claimant” and must submit a fully completed and signed Proof of Claim Form together with the documentation required thereby to the Claims Administrator in the manner, at the address and by the deadline stated on the Proof of Claim Form unless otherwise ordered by the Court. Each Settlement Class Member who submits a valid, timely Proof of Claim Form that is accepted in whole or in part is an “Authorized Claimant.” Each Authorized Claimant that is determined to have a “Recognized Loss” (as that term will be defined in the Plan of Allocation) shall be allocated a pro rata share of the Net Settlement Fund based on the amount of his, her or its “Recognized Loss” in accordance with the Court-approved plan of allocation if the Claim is accepted for payment by the Court.

5.6 For purposes of determining the extent, if any, to which a Settlement Class Member shall be entitled to be treated as an Authorized Claimant, the following conditions shall apply:

(a) each Settlement Class Member shall be required to submit a Proof of Claim Form signed under penalty of perjury and supported by such documents as are designated therein, including proof of the Claimant’s loss or such other documents or proof as Lead Plaintiffs’ Counsel at their discretion may deem acceptable subject to the approval of the Court;

(b) all Proof of Claim Forms must be submitted by the date specified thereon unless such period is extended by the Court. Any Settlement Class Member who fails to do so will not be entitled to receive any of the proceeds of the Settlement Fund (unless, by order of the Court, a later submitted Proof of Claim Form by such Settlement Class Member is approved), but shall in all other respects be bound by the terms of this

Stipulation and the Final Order and Judgment. A Proof of Claim Form shall be deemed to have been submitted when posted, if received with a postmark indicated on the envelope and if mailed first-class postage prepaid and addressed in accordance with the instructions thereon, provided that it is received before the motion for the Class Distribution Order is filed. In all other cases, the Proof of Claim Form shall be deemed to have been submitted when actually received by the Claims Administrator;

(c) each Proof of Claim Form shall be submitted to and reviewed by the Claims Administrator who shall determine in accordance with this Stipulation and under the supervision of Lead Plaintiffs' Counsel the extent, if any, to which each claim shall be allowed subject to review by the Court pursuant to subparagraph 5.6(e) below;

(d) a Proof of Claim Form that does not meet the submission requirements may be rejected. Prior to rejection of a Proof of Claim Form, the Claims Administrator shall communicate with the Claimant in order to afford the Claimant the opportunity to remedy any curable deficiencies contained therein. The Claims Administrator under Lead Plaintiffs' Counsel's supervision shall notify in a timely fashion and in writing all Claimants whose Proof of Claim Forms they propose to reject in whole or in part, setting forth the reasons therefor and indicating that the Claimant whose claim is to be rejected in whole or in part has the right to judicial review by the Court if such Claimant so desires and if such Claimant complies with the requirements of subparagraph 5.6(e) below; and

(e) if any Claimant who is notified by the Claims Administrator that the Claims Administrator intends to reject his, her or its claim in whole or in part desires to contest such rejection, such Claimant must within twenty (20) calendar days after the date of mailing of the notice required in subparagraph 5.6(d) above serve upon the Claims

Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting documentation and specifically requesting a review thereof by the Court. If the dispute cannot be resolved to the satisfaction of the Claimant, then Lead Plaintiffs' Counsel shall present the claim for review to the Court.

5.7 Lead Plaintiffs' Counsel will apply to the Court on notice to the Settling Defendants' Counsel for a Class Distribution Order approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of the claims submitted and approving any fees and expenses not previously applied for (including the fees and expenses of the Claims Administrator) and, if the Effective Date has occurred, directing distribution of the Net Settlement Fund to Authorized Claimants. Notwithstanding the foregoing, as set forth in Paragraph 2.4 above, a distribution may occur pending any appellate court's ruling relating solely to the bar order provisions of the Final Order and Judgment set forth in Paragraphs 4.2 (c) and 4.2(d) herein.

5.8 This is not a claims-made settlement. As of the Effective Date, the Settling Defendants shall not have any right to the return of the Settlement Fund or any portion thereof irrespective of the number of Proof of Claim Forms filed, and/or the amounts to be paid to Authorized Claimants from the Net Settlement Fund.

5.9 By submitting a Proof of Claim Form, each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her or its 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 the claim. In connection with the

processing of the Proof of Claim Forms, no discovery shall be allowed on the merits of the Action or of the Settlement.

5.10 Payment pursuant to the terms of this Stipulation shall be deemed final and conclusive against Lead Plaintiffs and all Settlement Class Members. Settlement Class Members who do not timely submit valid Proofs of Claim and those whose claims are not otherwise approved by the Court (regardless of whether such Person submits a Proof of Claim Form or seeks or obtains a distribution from the Settlement Fund): (a) shall be deemed to have waived his, her or its right to share in the Settlement Fund, and shall forever be barred from participating in distributions therefrom, but (b) otherwise shall be bound by all of the terms of the Settlement and this Stipulation and all determinations, judgments and orders in the Action relating thereto, including the terms of the Final Order and Judgment to be entered in the Action (and the releases provided for therein, whether favorable or unfavorable to the Settlement Class), and will be barred from bringing any action against the Released Defendant Persons concerning the Released Plaintiffs' Claims. No Person that is not a Settlement Class Member (including, without limitation, those who exclude themselves from the Settlement Class) shall have any right to any share of the Net Settlement Fund or to receive distributions therefrom.

5.11 No Person shall have any claim against Lead Plaintiffs, Lead Plaintiffs' Counsel, the Settling Defendants, the Released Defendant Persons or Settling Defendants' Counsel based on the administration of the Settlement, including, without limitation, the processing of claims and distributions made in accordance with this Stipulation, the Settlement, the Plan of Allocation and/or the implementation of the Class Distribution Order.

5.12 All proceedings with respect to the administration, processing and determination of claims described in this Stipulation and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of claims, shall be subject to the jurisdiction of the Court.

6. Attorneys' Fees And Expenses Incurred By Lead Plaintiffs

6.1 Prior to distribution of the Net Settlement Fund to Authorized Claimants, Lead Plaintiffs' Counsel, upon reasonable notice to the Settlement Class Members, intend to apply to the Court for an award of: (a) attorneys' fees; and (b) the costs and expenses incurred in connection with the Action; plus (c) interest on both amounts. Settling Defendants will take no position on Lead Plaintiffs' Counsel's application for attorneys' fees, costs and expenses, provided that it is not inconsistent with the terms of this Stipulation.

6.2 Any attorneys' fees, costs and expenses awarded by the Court shall be paid from the Settlement Fund and not by Settling Defendants (or the Released Defendant Persons). The Settlement Fund shall be the sole source of attorneys' fees, costs and expenses and Lead Plaintiffs and the Settlement Class shall have no recourse against the Settling Defendants (or the Released Defendant Persons) for any such attorneys' fees, costs or expenses. The Settling Defendants (and the Released Defendant Persons) shall have no responsibility for and no liability whatsoever with respect to any payment of attorneys' fees, costs and expenses made to Lead Plaintiffs' Counsel.

6.3 Subject to Court approval, any attorneys' fees, costs and expenses awarded by the Court shall be paid immediately upon final approval of the Settlement by the Court through the Final Order and Judgment (provided it contains the releases and liability protection provisions described in this Stipulation), notwithstanding the existence of any timely filed objections thereto, potential for appeal therefrom, or collateral attack on the

Settlement or any part thereof, subject to Lead Plaintiffs' Counsel's obligation to make refunds or repayments to the Settlement Fund (plus accrued interest thereon at the same net rate as is earned by the Settlement Fund in the Escrow Account) if and when: (a) as the result of any appeal and/or further proceedings on remand or successful collateral attack, the fee, expense or cost award is reduced, vacated or reversed; (b) the Effective Date does not occur; (c) the Stipulation is terminated or cancelled for any reason; (d) the Settlement is voided by any party; (e) the award order does not become final; or (f) the Settlement is not approved or is reversed or modified by any court.

6.4 Lead Plaintiffs' Counsel shall refund and repay the full amount of any award of attorneys' fees, costs or expenses that is reversed, or the amount by which any such award is reduced or modified, within fifteen (15) business days of the date of the event requiring the refund and repayment as set forth in Paragraph 6.3 herein. Repayments pursuant to this Paragraph shall include interest at the same net rate earned by the Settlement Fund.

6.5 Lead Plaintiffs' Counsel's refund and repayment obligations under this Stipulation shall be joint and several among the various law firms and any person who was an equity partner of the various law firms representing Lead Plaintiffs at the time the attorneys' fees, expenses or costs referred to in this Stipulation are paid to Lead Plaintiffs' Counsel; if requested by any of the Settling Defendants, each such partner will agree in a writing to be provided to the THL Entities, in a form reasonably satisfactory to the THL Entities and prior to the release of any monies from the Escrow Account to Lead Plaintiffs' Counsel, that he or she will be jointly and severally liable for the return of such funds. Lead Plaintiffs' Counsel shall notify Counsel for the Settling Defendants at least three (3) business days before the release of any monies from the Escrow Account to Lead Plaintiffs' Counsel

for attorneys' fees, expenses or costs. In the event that Lead Plaintiffs' Counsel does not comply with the obligation to repay those funds within the specified fifteen (15)-day time period, Lead Plaintiffs' Counsel shall pay any expenses or fees (including attorneys' fees) incurred by the THL Entities in connection with enforcing this obligation; Lead Plaintiffs' Counsel's obligations shall be joint and several in this regard. The obligations in this Paragraph and Paragraphs 6.3 and 6.4 shall survive, and remain in full force and effect and be binding in all respects on Settling Parties and Lead Plaintiffs' Counsel, even if the Stipulation is terminated, the Settlement is not approved or the Effective Date does not occur.

6.6 The procedures for and the Court's decision granting in whole or in part the application by Lead Plaintiffs' Counsel for attorneys' fees, expenses or costs are not conditions of the Settlement or to entry of the Final Order and Judgment. The request by Lead Plaintiffs' Counsel for attorneys' fees, expenses or costs is to be considered by the Court separately from the Court's consideration of the question whether the Settlement is fair, reasonable, adequate and in the best interests of the Class. Any orders or proceedings relating to any request by Lead Plaintiffs' Counsel for attorneys' fees, expenses or costs or any appeal from any order or proceedings relating thereto shall not affect the validity or finality of the proposed Settlement, operate to terminate or cancel the Stipulation, and/or affect or delay either the Effective Date or the finality of the Final Order and Judgment approving the Settlement. Lead Plaintiffs (either on their own behalf or on behalf of the Settlement Class) and Lead Plaintiffs' Counsel may not cancel or terminate the Stipulation or the Settlement based on this Court's or any appellate court's ruling with respect to any application for an award of attorneys' fees, expenses or costs.

6.7 Lead Plaintiffs' Counsel shall be responsible for allocating the attorneys' fees and expenses awarded by the Court among all counsel representing the Settlement Class in a manner in which they in good faith believe reflects the contribution of each such counsel to the prosecution and resolution of the Action. The Settling Defendants (and the Released Defendant Persons) shall have no responsibility for or liability whatsoever with respect to the allocation of attorneys' fees and expenses among counsel for the Settlement Class and/or any other Person who may assert some claim thereto.

7. The Effective Date

7.1 The Effective Date of the Settlement shall be one (1) business day following the latest of the following events:

- (a) approval by the Court of the Settlement, following notice to the Settlement Class and a hearing;
- (b) expiration of the time for the THL Entities, on behalf of the Settling Defendants, to exercise their option to terminate the Stipulation under the Supplemental Agreement described in Paragraph 9.3 herein without the exercise of that option;
- (c) entry of the Final Order and Judgment substantially in the form attached hereto as Exhibit B (provided it includes the releases set forth in Section 8 herein and a bar order consistent with the PSLRA);
- (d) expiration of the time for the filing or noticing of any appeal from the Final Order and Judgment, other than those appeals and proceedings set forth in Paragraph 7.2 herein;
- (e) if there is an appeal or appeals with respect to the Final Order and Judgment (other than those appeals and proceedings specified in Paragraph 7.2), the date of final affirmance on appeal of the Final Order and Judgment and the expiration of all

deadlines for any further judicial review thereof (whether by motions for reconsideration, petitions for certiorari or other mechanism), all proceedings ordered on remand and all proceedings arising out of any subsequent appeal or appeals following a decision on remand (and, if certiorari is granted, the date of final affirmance of the Final Order and Judgment pursuant to the writ); and

(f) if the Court enters a judgment in a form that is materially different from the Final Order and Judgment attached hereto as Exhibit B (an “Alternative Judgment”) and none of the Settling Parties elect to terminate this Settlement, the expiration of the time for the filing or noticing of any appeal from the Alternative Judgment or, if there is an appeal, the date of final affirmance on appeal of the Alternative Judgment and the expiration of all deadlines for any further judicial review thereof (whether by motion for reconsideration, petition for certiorari or other mechanism), all proceedings ordered on remand and all proceedings arising out of any subsequent appeal or appeals following a decision on remand (and, if certiorari is granted, the date of final affirmance of the Alternative Judgment pursuant to that writ).

7.2 The time set forth above for the Effective Date to occur shall not be affected in any respect whatsoever by: (a) any appeal or proceeding seeking judicial review pertaining to: (i) Court approval of the Plan of Allocation; (ii) the Court’s award of attorneys’ fees, costs or expenses to Lead Plaintiffs’ Counsel; (iii) the Court’s findings and conclusions pursuant to Section 21D(c)(1) of the Exchange Act, 15 U.S.C. § 78u-4(c)(1); or (iv) any appeal relating solely to the bar order provisions of the Final Order and Judgment set forth in Paragraphs 4.2 (c) and 4.2(d) herein; and/or (b) whether or not the Additional Settlement Amount has been paid in full.

7.3 Upon the Effective Date, any and all interests and rights of the Settling Defendants in or to the Settlement Fund shall be extinguished.

8. The Releases

8.1 The obligations incurred pursuant to this Stipulation are in full and final disposition of the Action with respect to the Settling Defendants and any and all Released Claims of the Releasing Parties against all of the Released Persons.

8.2 As of the Effective Date, each and every one of the Releasing Plaintiffs (regardless of whether any individual Settlement Class Member ever seeks to obtain any distribution from the Net Settlement Fund) by operation of the Final Order and Judgment shall: (a) have and be deemed to have fully, finally and forever released, relinquished and discharged each and every one of the Released Defendant Persons from any and all of the Released Plaintiffs' Claims; (b) have and be deemed to have covenanted not to sue any of the Released Defendant Persons with respect to any and all of the Released Plaintiffs' Claims; and (c) forever be barred and enjoined from filing, commencing, prosecuting, intervening in, participating in (as a class member or otherwise) or receiving any benefits or other relief from any other lawsuit, arbitration or other proceeding or order in any jurisdiction that is based upon, arises out of or relates to any and all of the Released Plaintiffs' Claims against any of the Released Defendant Persons. Nothing in this Stipulation is intended to release any claims asserted by Lead Plaintiffs (or the Settlement Class) against any of the Non-Settling Defendants in the Action.

8.3 As of the Effective Date, each and every one of the Settling Defendants by operation of the Final Order and Judgment shall: (a) have and be deemed to have fully, finally and forever released, relinquished and discharged each and every one of the Released Plaintiff Persons from any and all of the Released Defendants' Claims; (b) have and be

deemed to have covenanted not to sue any of the Released Plaintiff Persons with respect to any and all of the Released Defendants' Claims; and (c) forever be barred and enjoined from filing, commencing, prosecuting, intervening in, participating in (as class member or otherwise), or receiving any benefits or other relief from, any other lawsuit, arbitration or other proceeding or order in any jurisdiction that is based upon, arises out of or relates to the Released Defendants' Claims against any of the Released Plaintiff Persons.

8.4 With respect of the use of the term "Unknown" in connection with the Released Claims:

(a) the Settling Parties and the Releasing Persons specifically acknowledge that the term "Unknown" in the definition of Released Claims includes claims that each of the Releasing Persons currently does not know or suspect to exist at the time he, she or it executes the release, but which, if known by him, her or it, might affect his, her or its agreement to execute or grant the release or might affect a decision with respect to the Settlement (including the decision to object or not to object to the Settlement);

(b) the Settling Parties and the Releasing Persons expressly acknowledge that they may hereafter discover facts in addition to or different from those that he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but that it is nevertheless his, her or its intention to fully, finally and forever settle and release the Released Claims, including those Unknown as that term is employed in this Section, and will be deemed to have done so by operation of the Order and Final Judgment; and

(c) the Settling Parties and the Releasing Persons expressly acknowledge that the inclusion of "Unknown" claims as defined herein was separately bargained for and was a key element of the Settlement (of which the releases provided herein are a material and

essential part) and each expressly waives and relinquishes to the fullest extent permitted by law, and shall be deemed by operation of the Final Order and Judgment to have waived and relinquished, the benefits of: (i) the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides as follows:

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.

and (ii) any and all provisions or rights 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 Section 1542 of the California Civil Code.

8.5 All Settlement Class Members shall be bound by the terms of the releases set forth in this Stipulation whether or not they submit a valid and timely Proof of Claim Form, take any other action to obtain a recovery from the Settlement Fund and/or actually receive a distribution from the Net Settlement Fund.

8.6 Notwithstanding anything to the contrary above, the Released Claims do not include claims: (a) to enforce the Final Order and Judgment and the Settlement, and any or all of their terms, including but not limited to the releases provided for in the Final Order and Judgment; or (b) claims by Settlement Class Members pending on January 19, 2010 that do not arise out of the acquisition or sale of Refco debt or equity securities, including but not limited to the claims asserted, and/or recoveries sought, by plaintiffs and putative class members in: (i) *Capital Management Select Fund Ltd. v. Bennett*, No. 08-6166-cv (2d Cir. 2008); (ii) *In re Refco Capital Markets, Ltd. Brokerage Customer Securities Litigation*, No. 08-6167-cv (2d Cir. 2008); (iii) *VR Global Partners LP. v. Bennett, et al.*, No. 08-6230-cv

(2d Cir. 2008); and (iv) *Capital Management Select Fund Ltd. et al. v. Bennett et al.*, 08 Civ. 09810 (JSR)(S.D.N.Y.).

9. Termination

9.1 The THL Entities (provided they unanimously agree) and Lead Plaintiffs (on behalf of themselves and the Settlement Class) shall each have the unilateral right to terminate the Settlement and this Stipulation by providing written notice of their election to do so to counsel for the other Settling Parties within ten (10) business days of any of the following events (“Termination Notice”):

(a) the failure of the Cash Settlement Amount to be paid to the Escrow Account on the schedule and in the manner set forth in Paragraph 2.1(a);

(b) the Court’s declining to enter the Preliminary Approval Order substantially in the form attached hereto as Exhibit A in any material respect;

(c) the Court’s refusal to approve this Stipulation or the Court’s modification of it in any material respect (including, without limitation, by making any modifications or changes to the releases set forth in Section 8 herein or refusing to provide for a bar order consistent with the PSLRA);

(d) the Court’s refusal to enter the Final Order and Judgment substantially in the form attached hereto as Exhibit B or the Court’s modification of the Final Order and Judgment in any material respect (including, without limitation, by making any modifications or changes to the releases set forth in Section 8 herein or refusing to provide for a bar order consistent with the PSLRA);

(e) the date upon which the Final Order and Judgment is modified or reversed in any material respect (including, without limitation, any modifications or changes to the releases set forth in Section 8 herein or refusing to provide for a bar order consistent

with the PSLRA) by the United States Court of Appeals or the Supreme Court of the United States; or

(f) if the Court enters an Alternative Judgment, and none of the parties hereto elects to terminate this Settlement, the date upon which such Alternative Judgment is modified or reversed in any material respect by the United States Court of Appeals or the Supreme Court of the United States.

9.2 No order of the Court or modification or reversal on appeal of any order of the Court concerning any plan of allocation, an award by the Court of attorneys' fees, expenses and costs shall constitute grounds for cancellation or termination of this Stipulation or the Settlement.

9.3 In addition to the grounds set forth in Paragraph 9.1 above, the THL Entities, provided they unanimously agree, on behalf of the Settling Defendants, shall have the unilateral unconditional option to withdraw from the Settlement and terminate the Stipulation if the Persons requesting exclusion from the Settlement Class meet or exceed the conditions set forth in a confidential supplemental agreement that accompanies this Stipulation (the "Supplemental Agreement"). The Supplemental Agreement shall not be filed with the Court and its terms shall not be disclosed in any other manner (other than the statements herein and those in the Notice attached hereto as Exhibit A-1) unless and until the Court requires the Settling Parties to file the Supplemental Agreement or disclose its terms or a dispute arises between Lead Plaintiffs and Settling Defendants concerning its interpretation or application. In either of those events, the Supplemental Agreement shall be filed and maintained by the Court under seal. In the event of an objection to the Settlement based upon the confidentiality of the amount stated in the Supplemental Agreement, and notwithstanding

anything to the contrary in this Paragraph or the Supplemental Agreement, Lead Plaintiffs and the THL Entities (by a unanimous determination) can agree to jointly waive confidentiality.

9.4 In the event that the THL Entities, on behalf of the Settling Defendants, elect to terminate the Stipulation in accordance with the Supplemental Agreement pursuant to Paragraph 9.3 herein and such termination is not nullified in accordance with the terms of the Supplemental Agreement, the Stipulation shall be terminated and deemed null and void and the provisions of Paragraph 9.5 shall apply. Notwithstanding the foregoing, the Stipulation shall not become null and void as a result of the election by the THL Entities to exercise their option to withdraw from the Stipulation pursuant to the Supplemental Agreement until the conditions set forth in the Supplemental Agreement have been fully satisfied.

9.5 If the Stipulation is terminated, the Settlement is not approved by the Court and/or the Effective Date does not occur or the Settlement otherwise fails for any reason:

(a) the Settlement Amount (including any net interest earned thereon), but less any Notice and Administration Expenses actually incurred or paid in connection with the Settlement permitted by this Stipulation up to \$250,000 and less all Taxes paid or owing, shall be refunded to the Settling Defendants (for return to the Persons which funded same) in accordance with the written instructions to be provided by Settling Defendants' Counsel as set forth in the Escrow Agreement. If the funds are sent in compliance with the instructions provided by Settling Defendants' Counsel, Lead Plaintiffs, Lead Plaintiffs' Counsel and the Escrow Agent shall have no liability or responsibility with respect to the return of such refunded amounts to the Persons which funded same.

(b) the Settlement shall be null, void and without prejudice and none of its terms shall have any further force or effect or be enforceable except as specifically provided herein;

(c) the Action shall proceed in all respects as if this Stipulation had not been entered and all negotiations, discussions, acts, Court orders and other proceedings in connection therewith treated as if they never existed;

(d) the parties to this Stipulation shall be deemed to have reverted to their respective status in the Action as of January 19, 2010;

(e) any judgment(s) or order(s) entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, nunc pro tunc;

(f) the conditional certification of the Action as a class action shall be null and void and the Settling Defendants shall have the full and complete right and ability in any future proceedings in this Court to oppose certification of any putative class and defend the claims asserted in the Complaint on the merits; and

(g) the facts and terms of this Stipulation shall not be admissible in any trial of this Action.

9.6 The provisions of and obligations in Paragraph 9.5 above shall survive and remain in full force and effect and be binding in all respects on the Settling Parties even if the Stipulation is terminated, the Settlement is not approved and/or the Effective Date does not occur.

10. No Admissions

10.1 Whether or not the Settlement is approved by the Court and whether or not the Settlement is consummated, the facts and terms of the Settlement and this Stipulation

(including all exhibits hereto), as well as all negotiations, discussions, acts performed, agreements, drafts, documents signed and proceedings in connection with the Settlement:

(a) shall not be described as, construed as, interpreted as, or offered or received against any of the Settling Defendants as evidence of and/or deemed to be evidence of any presumption, concession or admission by any of the Settling Defendants as to: (i) the truth of any fact alleged in the Complaint; (ii) the validity of any claim that has been or could have been asserted in the Action or in any other litigation; (iii) the deficiency of any defense that has been or could have been asserted in the Action or in any other litigation; and/or (iv) any liability, negligence, fault, or wrongdoing on their part;

(b) shall not be described as, construed as, interpreted as or offered or received against Lead Plaintiffs or any Settlement Class Member as evidence of any infirmity in the claims of said Lead Plaintiffs and the Settlement Class or that damages recoverable from the Settling Defendants would not have exceeded the Settlement Amount;

(c) shall not be described as, construed as, interpreted as, offered or received against any of the Settling Defendants, Lead Plaintiffs and/or any Settlement Class Member as an admission or concession that the consideration to be given in the Settlement represents the amount which could be or would have been awarded to said Lead Plaintiffs or Settlement Class Members after trial; and

(d) shall not be offered or received against any of the Settling Parties in any other civil, criminal or administrative action or proceeding, except in connection with any action, litigation or proceeding to enforce the terms of this Stipulation.

10.2 Notwithstanding subparagraph 10.1 above, any of the Released Persons may file, cite and/or refer to the Stipulation, the Notice and Settlement Hearing Order, the Final

Order and Judgment and any Alternative Judgment in any other action or proceeding that may be brought against them in any forum in order to effectuate the liability protection granted hereunder or to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release and discharge, good faith settlement, judgment bar or reduction, any theory of claim preclusion or issue preclusion or any similar defense or counterclaim.

10.3 The provisions of and obligations in Paragraph 10.1 shall survive and remain in full force and effect and be binding in all respects on the Settling Parties even if the Stipulation is terminated, the Settlement is not approved and/or the Effective Date does not occur.

11. Miscellaneous Provisions

11.1 Each of the Settling Defendants warrants (but only as to himself, herself or itself), that, as to that portion of the Cash Settlement Amount actually paid by that Settling Defendant, at the time of such payment that the Settling Defendant made pursuant to ¶2.1(a) above, he, she or it was not insolvent nor did the payments made by him, her, or it render him, her or it insolvent within the meaning of and for the purposes of the United States Bankruptcy Code, including §§ 101 and 547 thereof. This warranty is made by each of the Settling Defendants and not by their counsel.

11.2 If a case is commenced in respect of any of the Settling Defendants (or any insurer contributing to the Settlement Amount on behalf of any of the Settling Defendants) under title 11 of the United States Code (Bankruptcy), or a trustee, receiver or conservator is appointed under any similar law, and in the event of the entry of a final order of a court of competent jurisdiction determining the transfer of money to the Settlement Fund or any portion thereof by or on behalf of the Settling Defendants, or any of them, to be a preference, voidable transfer, fraudulent transfer or similar transaction, and any portion thereof is

required to be returned, and such amount is not promptly deposited to the Settlement Fund by others, then at the election of Lead Plaintiffs, the parties shall jointly move the Court to vacate and set aside the releases given and the Final Order and Judgment entered in favor of the Settling Defendants pursuant to this Stipulation, which releases and Final Order and Judgment shall be null and void, and the parties shall be restored to their respective positions as of January 19, 2010, and any cash amounts in the Settlement Fund shall be returned as provided above.

11.3 The Stipulation shall be binding when signed by all parties hereto but the Settlement shall be effective and final only upon occurrence of the Effective Date.

11.4 The Settling Parties agree that the terms of this Stipulation and the fact that it has been executed are strictly confidential until this Stipulation has been filed with the Court, except to the extent required by law or as mutually agreed to by the Settling Parties hereto in writing. While maintaining their position that the claims asserted in the Action are meritorious, Lead Plaintiffs and Plaintiffs' Co-Lead Counsel shall not make any public statements or statements to the media (whether or not for attribution) that disparage the business, conduct or reputation of any of the Settling Defendants based on the subject matter of the Securities Action, provided that this sentence does not apply to statements in any judicial proceeding. While maintaining their position that the claims asserted in the Action are not meritorious, the Settling Defendants and their counsel shall not make any public statements or statements to the media (whether or not for attribution) that disparage the business, conduct or reputation of Lead Plaintiffs based on the subject matter of the Securities Action, provided that this sentence does not apply to statements in any judicial proceeding. In all events, Lead Plaintiffs and Settling Defendants and their respective

counsel shall not make any accusations of wrongful or actionable conduct by the other side concerning the prosecution, defense and resolution of the Action, and shall not otherwise suggest that the Settlement constitutes an admission as to any claim or defense alleged. The obligations in this Paragraph shall survive and remain in full force and effect and be binding on the Settling Parties even if the Stipulation is terminated, the Settlement is not approved and/or the Effective Date does not occur.

11.5 Lead Plaintiffs' Counsel and Settling Defendants' Counsel agree to cooperate fully with each other in seeking Court approval of the Settlement and to agree promptly upon and execute all additional documentation that may reasonably be required to obtain Court approval. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of this Stipulation.

11.6 This Stipulation, the exhibits hereto and the Supplemental Agreement constitute the entire agreement and understanding of the Settling Parties, and supersede any prior agreements or understandings between the parties with respect to the Settlement (except for those provisions of the MOU that the parties agreed therein will survive its termination). In entering into this Stipulation, none of the Settling Parties is relying on any promise, warranty, inducement or representation other than those set forth in this Stipulation and the Settling Parties disclaim the existence of any such promise, warranty, inducement or representation.

11.7 All agreements made and orders entered during the course of this Action relating to the confidentiality of documents and information shall survive this Stipulation and the Effective Date pursuant to their terms unless otherwise modified by the Court.

11.8 All of the exhibits attached to this Stipulation as well as the Supplemental Agreement are material and integral parts hereof and are hereby incorporated by reference as though fully set forth herein. This Stipulation, including the exhibits to this Stipulation and the Supplemental Agreement referred to in Paragraph 9.3 of this Stipulation, may not be amended or modified except in a writing signed by all counsel who have executed this Stipulation. Any condition contained in this Stipulation may be waived by the party entitled to enforce the condition in a writing signed by that party or his, her or its counsel. The waiver by any party of any breach of this Stipulation by any other party shall not be deemed a waiver of the breach by any other party or a waiver of any other prior or subsequent breach of this Stipulation by that party or any other party.

11.9 The construction, interpretation, operation, effect and validity of this Stipulation (and all documents necessary to effectuate it) shall be governed by and construed according to the internal laws of the State of New York without regard to the conflict of law rules, except to the extent that federal law requires that federal law governs.

11.10 This Stipulation is the result of arms'-length negotiations between the parties and all parties have contributed substantially and materially to the preparation of this Stipulation. This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that the Stipulation or a particular provision or paragraph of the Stipulation may have been prepared by counsel for a particular party.

11.11 The section headings used throughout this Stipulation (and the exhibits) are for convenience only and shall not affect the interpretation or construction of this Stipulation. This Stipulation may be executed in one or more counterparts.

11.12 This Stipulation shall be binding upon and inure to the benefit of the heirs, successors and assigns of the Settling Parties.

11.13 The administration and consummation of the Settlement shall be under the authority of the Court and the Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of this Stipulation and for the purpose of entering orders providing for any award of attorneys' fees, expenses and costs to Lead Plaintiffs' Counsel.

11.14 All counsel executing this Stipulation and any related settlement documents warrant and represent that they have the full authority to do so and that they have the

authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

Dated: New York, New York
March 29, 2010
Amended: May 3, 2010

BERNSTEIN LITOWITZ BERGER &
GROSSMANN LLP

By: _____

Max Berger
Salvatore J. Graziano
John C. Browne

1285 Avenue of the Americas
New York, NY 10019
212-554-1400 (Telephone)
212-554-1444 (Fax)

WEIL, GOTSHAL & MANGES LLP

By: _____

Greg A. Danilow
Seth Goodchild

767 Fifth Avenue
New York, NY 10153
212-310-8000 (Telephone)
212-310-8007 (Fax)

and

and

GRANT & EISENHOFER P.A.

By: _____

Stuart M. Grant
James J. Sabella

485 Lexington Avenue, 29th Floor
New York, NY 10017
646-722-8500 (Telephone)
646-722-8501 (Fax)

PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP

By: _____

Richard A. Rosen

1285 Avenue of the Americas
New York, NY 10019
212-373-3000 (Telephone)
212-757-3990 (Fax)

Attorneys for the Settling Defendants

Co-Lead Counsel for Lead Plaintiffs and the
Settlement Class

Exhibit A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

IN RE REFCO, INC. SECURITIES LITIGATION : No. 05 CV 8626 (JSR)

:

-----X

**[PROPOSED] ORDER PRELIMINARILY APPROVING PROPOSED
PARTIAL SETTLEMENT**

WHEREAS, a consolidated class action is pending in this Court entitled In re Refco, Inc. Securities Litigation, No. 05 Civ. 8626 (JSR) (S.D.N.Y.) (the “Action”);

WHEREAS, Lead Plaintiffs RH Capital Associates LLC and Pacific Investment Management Company LLC (“Lead Plaintiffs”), on behalf of themselves and the class of persons and entities defined below, and Defendants Ronald L. O’Kelley, Leo R. Breitman, Nathan Gantcher, Thomas H. Lee Equity Fund V, L.P., Thomas H. Lee Parallel Fund V, L.P., Thomas H. Lee Equity (Cayman) Fund V, L.P., Thomas H. Lee Partners, L.P., THL Equity Advisors V, LLC, Thomas H. Lee Investors Limited Partnership, The 1997 Thomas H. Lee Nominee Trust, Thomas H. Lee, David V. Harkins, Scott L. Jaeckel and Scott A. Schoen (the “Settling Defendants” and, together with the Lead Plaintiffs, the “Settling Parties”), have determined to settle all claims asserted against the Settling Defendants in this Action with prejudice on the terms and conditions set forth in the Stipulation and Agreement of Settlement, dated March 29, 2010 and amended on May 3, 2010 (the “Stipulation”), subject to the approval of this Court (the “Settlement”); and

WHEREAS, the Settling Parties have made an application, pursuant to Rule 23 of the Federal Rules of Civil Procedure, for an order preliminarily approving the Settlement in accordance with the Stipulation, preliminarily certifying a Settlement Class for

purposes of the Settlement and allowing notice to the Settlement Class Members as more fully described herein; and

WHEREAS, the Court having read and considered: (a) the Second Amended Consolidated Class Action Complaint, filed in this Action on December 3, 2007; (b) Lead Plaintiffs' motion for preliminary approval of the Settlement and the papers filed and arguments made in support thereof; and (c) the Stipulation by and between Lead Plaintiffs and the Settling Defendants and the exhibits attached thereto; and

WHEREAS, the capitalized words and terms shall have the same meaning as they have in the Stipulation (certain of which are repeated herein for ease of reference only);

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. **Preliminary Class Certification for Settlement Purposes** – Pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure, the Court preliminarily certifies, solely for purposes of the Stipulation and effectuating the proposed Settlement, a Settlement Class consisting of all persons and entities who purchased or otherwise acquired Refco Group Ltd., LLC/Refco Finance Inc. 9% Senior Subordinated Notes due 2012 (CUSIP Nos. 75866HAA5 and/or 75866HAC1) and/or common stock of Refco (CUSIP No. 75866G109) during the period July 1, 2004 through and including October 17, 2005, and who were damaged thereby. Excluded from the Settlement Class are: (a) Refco; (b) the Defendants; (c) any person or entity who was a partner, executive officer, director, controlling person, subsidiary, or affiliate of Refco or of any Defendant during the Class Period; (d) members of the Defendants' immediate families; (e) entities in which Refco or any Defendant has a controlling interest; and (f) the legal representatives, heirs, estates, administrators, predecessors, successors or assigns of any of the foregoing excluded persons

and entities; provided however that any Investment Vehicle shall not be deemed an excluded person or entity by definition. Also excluded from the Settlement Class is any person and/or entity who or which properly excludes himself, herself or itself by filing a valid and timely request for exclusion in accordance with the requirements set forth in the Notice to be sent to Settlement Class Members pursuant to this Order. If the proposed Settlement is terminated for any reason or final approval is not granted by the Court, this preliminary certification of the Action as a class action shall be automatically vacated.

2. **Class Findings** – Solely for purposes of the proposed Settlement of this Action as against the Settling Defendants (and without any adjudication on the merits), the Court preliminarily finds that each element required for certification of the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure has been met: (a) the members of the Settlement Class are so numerous that their joinder in the Action would be impracticable; (b) there are questions of law and fact common to the Settlement Class which predominate over any individual questions; (c) the claims of Lead Plaintiffs in the Action are typical of the claims of the Settlement Class; (d) Lead Plaintiffs and their counsel, Bernstein Litowitz Berger & Grossmann LLP and Grant & Eisenhofer P.A. (“Lead Plaintiffs’ Counsel”) have fairly and adequately represented and protected the interests of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the Action.

3. **Preliminary Approval of Proposed Settlement** – The Court hereby preliminarily approves the proposed Settlement, as embodied in the Stipulation (including the releases set forth therein), as being fair, reasonable and adequate and in the best interests of

the Settlement Class, subject to further consideration at a hearing to be conducted as described below.

4. **Settlement Hearing** – The Court will hold a settlement hearing (the “Settlement Hearing”) on _____, 2010 at __:__ .m. in Courtroom 14B of the United States District Court for the Southern District of New York, 500 Pearl Street, New York, NY 10007, for the following purposes: (a) to determine whether the proposed Settlement on the terms and conditions provided for in the Stipulation is fair, reasonable, adequate and in the best interests of the Settlement Class and should be approved by the Court; (b) to determine whether the Settlement Class should be finally certified for purposes of the Settlement; (c) to determine whether a Final Order and Judgment substantially in the form attached as Exhibit B to the Stipulation should be entered dismissing the Action with prejudice against the Settling Defendants; (d) to determine whether the motion by Plaintiffs’ Lead Counsel for reimbursement of litigation expenses should be approved; and (e) to consider any other matters that may properly be brought before the Court in connection with the Settlement. Notice of the Settlement and the Settlement Hearing shall be given to Settlement Class Members as set forth in Paragraph 6 of this Order.

5. The Court may adjourn the Settlement Hearing and approve the proposed Settlement with such modifications that the Settling Parties may agree to, if appropriate, without further notice to the Settlement Class.

6. **Retention of Claims Administrator and Manner of Notice** – Lead Plaintiffs’ Counsel are hereby authorized to retain The Garden City Group, Inc. (the “Claims Administrator”) to supervise and administer the notice procedures as well as the processing

of claims as more fully set forth below. Notice of the Settlement and the Settlement Hearing shall be given by Lead Plaintiffs' Counsel as follows:

(a) not later than _____, 2010 (the "Notice Date"), the Claims Administrator shall cause a copy of the Notice and the Proof of Claim Form, substantially in the form attached hereto as Exhibits 1 and 2, respectively, to be mailed by first-class mail to all Settlement Class Members who can be identified with reasonable effort;

(b) not later than ten (10) business days after the Notice Date (the "Publication Notice Date"), the Claims Administrator shall cause the Summary Notice, substantially in the form attached hereto as Exhibit 3, to be published once in the national edition of Investors' Business Daily; and

(c) not later than seven (7) calendar days prior to the Settlement Hearing, Lead Plaintiffs' Counsel shall serve on counsel for the Settling Defendants and file with the Court proof by affidavit or declaration of such mailing and publishing.

7. **Approval of Form and Content of Notice** – The Court: (a) approves, as to the form and content, the Notice, the Proof of Claim Form and the Summary Notice attached hereto as Exhibits 1, 2 and 3; and (b) finds that the mailing and distribution of the Notice and the publication of the Summary Notice in the manner and form set forth in Paragraph 6 of this Order: (i) is the best notice reasonably practicable under the circumstances; (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of the Action, of the effect of the proposed Settlement (including the releases contained therein) and of their rights to object to the proposed Settlement, exclude themselves from the Settlement Class and appear at the Settlement Hearing; (iii) constitutes due, adequate and sufficient notice to all persons and

entities entitled to receive notice of the proposed Settlement; and (iv) satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995 (15 U.S.C. §78u-4, *et seq.*) (the “PSLRA”), and all other applicable law and rules. The date and time of the Settlement Hearing shall be included in the Notice and Summary Notice before they are mailed and published, respectively.

8. **Nominee Procedures** – Brokers and other nominees who purchased or acquired Refco Group Ltd., LLC/Refco Finance Inc. 9% Senior Subordinated Notes Due 2012 or Refco, Inc. common stock during the Class Period for the benefit of another person or entity shall be requested to forward the Notice and Proof of Claim Form to all such beneficial owners within seven (7) calendar days after receipt thereof, or send a list of the names and addresses of such beneficial owners to the Claims Administrator within seven (7) calendar days of receipt thereof, in which event the Claims Administrator shall promptly mail the Notice and Proof of Claim Form to such beneficial owners. Upon full compliance with this Order, such nominees may seek reimbursement of their reasonable expenses actually incurred in complying with this Order by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. Such properly documented expenses incurred by nominees in compliance with the terms of this Order shall be paid from the Settlement Fund.

9. **Participation in Settlement** – Settlement Class Members who wish to participate in the Settlement and receive a distribution from the proceeds of the Settlement maintained in the Settlement Fund must complete and submit a Proof of Claim Form in accordance with the instructions contained therein. Unless the Court orders otherwise, all

Proof of Claim Forms must be postmarked no later than ninety (90) calendar days after the Notice Date. Notwithstanding the foregoing, Lead Plaintiffs' Counsel may, at their discretion, accept for processing late claims provided such acceptance does not delay the distribution of the Net Settlement Fund to the Settlement Class. By submitting a Proof of Claim Form, a Person shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her or its claim and the subject matter of the Settlement.

10. Any Settlement Class Member that does not timely and validly submit a Proof of Claim Form or whose claim is not otherwise approved by the Court: (a) shall be deemed to have waived his, her or its right to share in the Net Settlement Fund; (b) shall forever be barred from participating in any distributions therefrom; (c) shall be bound by the provisions of the Stipulation and the Settlement and all proceedings, determinations, orders and judgments in the Action relating thereto, including, without limitation, the Final Order and Judgment and the releases provided for therein, whether favorable or unfavorable to the Settlement Class; and (d) will be barred from commencing, maintaining or prosecuting any of the Released Plaintiffs' Claims against each and all of the Released Defendant Persons, as more fully described in the Notice.

11. **Exclusion from the Settlement Class** – Any member of the Settlement Class who wishes to exclude himself, herself or itself from the Settlement Class shall request exclusion in writing within the time and in the manner set forth in the Notice. Any such request for exclusion shall be mailed or delivered such that it is received no later than twenty (20) calendar days prior to the Settlement Hearing, to: *Refco Securities Litigation*, c/o The Garden City Group, Inc., Claims Administrator, P.O. Box 9087, Dublin, Ohio 43017-0987, as provided in the Notice. Unless the Court orders otherwise, no request for exclusion shall

be valid unless it is made within the time provided and in the manner specified in the Notice. Any request for exclusion that does not comply with the prerequisites for exclusion will be invalid.

12. Any person who timely and validly requests exclusion in compliance with the terms stated in this Order (as more fully described in the Notice) and is excluded from the Settlement Class shall not be a Settlement Class Member, shall not be bound by the terms of the Settlement and shall have no right to participate in the distribution of the Net Settlement Fund.

13. Any Settlement Class Member who does not timely and validly request exclusion from the Settlement Class in the manner stated in this Order: (a) shall be deemed to have waived his, her or its right to be excluded from the Settlement; (b) shall be forever barred from requesting exclusion from the Settlement Class in this or any other proceeding; (c) shall be bound by all proceedings, determinations, orders and judgments in the Action relating to the proposed Settlement, including, but not limited to, the Final Order and Judgment and the releases provided for therein, whether favorable or unfavorable to the Settlement Class; and (d) will be barred from commencing, maintaining or prosecuting any of the Released Plaintiffs' Claims against each and all of the Released Defendant Persons, as more fully described in the Notice.

14. **Appearance and Objections to the Proposed Settlement and/or the Motion for Reimbursement of Litigation Expenses** – Any Settlement Class Member may enter an appearance in the Action, at his, her or its own expense, individually or through counsel of his, her or its own choice by filing with the Clerk of Court and delivering a notice of appearance to both Lead Plaintiffs' Counsel and the Settling Defendants' Counsel listed in

the Notice such that it is received no later than twenty (20) calendar days prior to the Settlement Hearing, or as the Court may otherwise direct. Any Settlement Class Member who does not enter an appearance will be represented by Lead Plaintiffs' Counsel. Any member of the Settlement Class who does not request exclusion from the Settlement Class may file a written objection to the proposed Settlement and/or the motion for reimbursement of litigation expenses and appear and show cause, if he, she or it has any cause, why the proposed Settlement and/or the motion for reimbursement of litigation expenses should not be approved; provided, however, that no Settlement Class Member shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement and/or the motion for reimbursement of litigation expenses unless that person or entity has filed written objections with the Court and served copies of such objections in the manner provided in the Notice such that it is received no later than twenty (20) calendar days prior to the Settlement Hearing on:

Greg A. Danilow
Weil Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153

Megan D. McIntyre
Grant & Eisenhofer P.A.
1201 N. Market Street
Wilmington, DE 19801

Salvatore J. Graziano
Bernstein Litowitz Berger & Grossmann LLP
1285 Avenue of the Americas
New York, NY 10019

15. Any objections, filings and other submissions by the objecting Settlement Class Member must contain a statement of his, her or its objection, as well as the specific reasons, if any, for each objection, including the legal and evidentiary support the Settlement

Class Member wishes to bring to the Court's attention as well as documents sufficient to show the number of shares of Refco common stock and/or face value of the 9% Senior Subordinated Notes purchased and sold during the Class Period, as well as the dates and prices of each such purchase and sale.

16. Any member of the Settlement Class who does not make his, her or its objection in the manner provided herein shall be deemed to have waived his, her or its right to object to the Settlement and the request for reimbursement of litigation expenses and shall forever be barred and foreclosed from objecting to the fairness, reasonableness or adequacy of the proposed Settlement, or the requested reimbursement, or from otherwise being heard concerning the Settlement or the reimbursement request in this or any other proceeding.

17. **Stay** – Until otherwise ordered by the Court, the Court stays all proceedings in the Action involving the Settling Defendants, other than proceedings necessary to carry out or enforce the terms and conditions of the Stipulation. Pending the Settlement Hearing, the Court enjoins Lead Plaintiffs and all Settlement Class Members from commencing or prosecuting, either directly, indirectly, representatively or in any other capacity, any and all of the Released Plaintiffs' Claims against each and all of the Released Defendant Persons.

18. **Fees and Expenses** – All reasonable costs incurred in identifying and notifying Settlement Class Members as well as in administering the Settlement Fund shall be paid as set forth in the Stipulation.

19. **Settlement Fund** – The contents of the Settlement Fund held by The Huntington National Bank (which the Court approves as the Escrow Agent), shall be deemed and considered to be in custodia legis of the Court, and shall remain subject to the

jurisdiction of the Court, until such time as they shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

20. **Taxes** – Lead Plaintiffs’ Counsel are authorized and directed to prepare any tax returns and any other tax reporting form for or in respect of the Settlement Fund, to pay from the Settlement Fund any Taxes owed with respect to the Settlement Fund, and to otherwise perform all obligations with respect to Taxes and any reporting or filings in respect thereof without further order of the Court in a manner consistent with the provisions of the Stipulation.

21. **Termination of Settlement** – If the Stipulation is terminated, the Settlement is not approved or the Effective Date does not occur, this Order shall become null and void and be without prejudice to the rights of Lead Plaintiffs, the Settlement Class Members and the Settling Defendants, all of whom shall be restored to their respective positions in the Action as of January 19, 2010.

22. **Use of this Order** – This Order, the proposed Settlement, the Stipulation and any and all of their terms (and all negotiations, discussions and proceedings in connection therewith): (a) shall not be offered or received in evidence or used for any other purpose in this or any other proceeding in any court, administrative agency, arbitration forum, or other tribunal other than as may be necessary to enforce the terms of this Order and/or the proposed Settlement; (b) shall not be described as, construed as, interpreted as or offered or received against any of the Settling Defendants as evidence of and/or deemed to be evidence of any presumption, concession, or admission by the Settling Defendants as to any liability, negligence, fault, wrongdoing on their part or the validity of any claim by Lead Plaintiffs or the merits of any of their defenses; and (c) shall not be described as, construed as, interpreted

as, or offered or received against Lead Plaintiffs or any Settlement Class Member as evidence of any infirmity in the claims of said Lead Plaintiffs and the Settlement Class or that the damages recoverable from the Settling Defendants would not have exceeded the Settlement Amount;

23. **Supporting Papers** – Lead Counsel shall file and serve papers in support of the proposed Settlement no later than thirty-five (35) calendar days prior to the Settlement Hearing; if reply papers are necessary, they are to be filed and served no later than seven (7) calendar days prior to the Settlement Hearing.

24. The Court retains jurisdiction to consider all further applications arising out of the proposed Settlement.

SO ORDERED this _____ day of _____, 2010

The Honorable Jed S. Rakoff
United States District Judge

436488

Exhibit A-1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
: 05 Civ. 8626 (JSR)
In re REFCO, INC. SECURITIES LITIGATION :
: :
----- X

**NOTICE OF (I) PROPOSED SETTLEMENT OF CLASS ACTION WITH
THE AUDIT COMMITTEE AND THL DEFENDANTS,
(II) HEARING ON PROPOSED SETTLEMENT AND
MOTION FOR REIMBURSEMENT OF LITIGATION EXPENSES**

If you purchased or otherwise acquired Refco Group Ltd., LLC/Refco Finance Inc. 9% Senior Subordinated Notes due 2012 (CUSIP Nos. 75866HAA5 and/or 75866HAC1) and/or common stock of Refco (CUSIP No. 75866G109) during the period July 1, 2004 through and including October 17, 2005, you might be a member of the settlement class in this action making you eligible for relief in connection with a partial settlement of the action.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

- This notice relates to a securities class action brought by investors who claim that the prices of Refco, Inc. common stock and Refco Group Ltd., LLC/ Refco Finance Inc. 9% Senior Subordinated Notes due 2012 (“Refco Notes”) were artificially inflated as a result of false statements, non-disclosures, and fraudulent conduct in violation of the federal securities laws.
- On _____, 2010, the Court preliminarily approved a partial settlement of this class action (the “Settlement”) between the Court-appointed Lead Plaintiffs RH Capital Associates LLC and Pacific Investment Management Company LLC (“Lead Plaintiffs”) and Defendants Ronald L. O’Kelley, Leo R. Breitman and Nathan Gantcher (collectively, the “Audit Committee Defendants”); Thomas H. Lee Equity Fund V, L.P., Thomas H. Lee Parallel Fund V, L.P., and Thomas H. Lee Equity (Cayman) Fund V, L.P. (the “THL Funds”); Thomas H. Lee Partners, L.P. (“THLP”), THL Equity Advisors V, LLC, Thomas H. Lee Investors Limited Partnership and The 1997 Thomas H. Lee Nominee Trust (collectively, the “THL Entities”); and Thomas H. Lee, David V. Harkins, Scott L. Jaeckel and Scott A. Schoen (collectively, the “Individual THL Defendants” and together with the THL Entities and the THL Funds, the “THL Defendants”). The Audit Committee Defendants and THL Defendants are referred to herein collectively as the “Settling Defendants.”
- The Settlement, if approved, will resolve all claims between the members of the proposed Settlement Class and the Settling Defendants, but it is only a partial settlement of this Action; it does not resolve the claims against numerous other defendants against whom the Action remains pending (the “Remaining Defendants”).
- The Settlement provides that Settling Defendants will cause \$130,000,000 to be paid to the Settlement Class in cash and also provides for the possible payment of an additional payment

of up to \$10,000,000 as described in the Stipulation and Agreement of Settlement entered into by and between Lead Plaintiffs and the Settling Defendants, dated March 29, 2010 and amended on May 3, 2010 (the "Stipulation").¹ After payment of attorneys' fees, costs and expenses, the Settlement proceeds will be distributed to investors who are members of the Settlement Class and who submit timely and valid Proof of Claim forms.

- If you request to be excluded from the Settlement Class, you will not be eligible to share in the proceeds of this Settlement or the recoveries from any other settlements that are presented to the Court for its consideration at the Settlement Hearing (as defined in Paragraph 24 below) or in any other recoveries that might be obtained in the Action, other than the recovery from the prior settlement that has already been finally approved by the Court.
- The amount that a Settlement Class Member will recover from the Settlement will be based on the plan of allocation that the Court approves. Lead Plaintiffs will propose a plan to the Court at a future date on notice to the Settlement Class. Settlement Class Members will have the opportunity to comment on the proposed plan before it is approved by the Court.
- Lead Plaintiffs and the Settling Defendants disagree as to both liability and damages and do not agree on the average amount of damages per share and per note that would be recoverable if Lead Plaintiffs were to have prevailed on each claim alleged. The issues on which the parties disagree include: (1) whether the Settling Defendants engaged in conduct that would give rise to liability under the federal securities laws; (2) whether the Settling Defendants have valid defenses to any of the claims against them; and (3) the amount, if any, by which the prices of Refco's securities were artificially inflated as a result of the Settling Defendants' alleged violations of the federal securities laws. The Settlement was reached because it provides significant benefits to Settlement Class Members and avoids the costs and risks of continuing the lawsuit against Settling Defendants.
- Lead Plaintiffs' Counsel, who have been prosecuting this Action on a wholly contingent basis since its inception in 2005, are not asking the Court to award them attorneys' fees from the funds recovered from the Settling Defendants at this time. They intend to do so in the future after providing further notice to the Settlement Class and giving the class an opportunity to be heard with respect to the fee application.
- Lead Plaintiffs' Counsel, who have advanced the costs of the litigation since its inception, are asking the Court to grant their motion for reimbursement of expenses incurred in connection with the prosecution of the action in an amount not to exceed \$_____ with interest thereon on at the same rate as earned by the Settlement Fund to be paid from the settlement funds recovered in this action.² If the Court approves Lead Plaintiffs' Counsel's

¹ All capitalized words or terms, not otherwise defined herein, shall have the meaning as set forth in the Stipulation.

² You were previously advised that Lead Plaintiffs entered into an earlier partial settlement in this Action that was presented to and finally approved by the Court. Details of that settlement can be found at www.refcosecuritieslitigation.com. At the time of that settlement, Lead Plaintiffs' Counsel did not apply for fees or expenses. Thus, to date they have received neither attorneys' fees nor reimbursement for the amounts they have advanced to pay for the expenses incurred.

expense application, the average cost will be approximately \$_____ per outstanding share or note of Refco.³ The expense application includes reimbursement for expenses that were reasonably incurred and necessary to the prosecution of this Action.

Lead Plaintiffs and the Settlement Class are being represented by Salvatore J. Graziano, Esq., of Bernstein Litowitz Berger & Grossmann LLP, and Megan D. McIntyre, Esq., of Grant & Eisenhofer P.A., the Court-appointed Lead Counsel (“Lead Plaintiffs’ Counsel”). Any questions regarding the Settlement should be directed to Mr. Graziano at Bernstein Litowitz Berger & Grossmann LLP, 1285 Avenue of the Americas, New York, NY 10019, (800) 380-8496, blbg@blbglaw.com, or Ms. McIntyre, at Grant & Eisenhofer P.A., 1201 N. Market Street, Wilmington, DE 19801, (302) 622-7000, mmcintyre@gelaw.com.

- **If you are a member of the Settlement Class and the Settlement is approved, your legal rights will be affected whether you act or not. Read this notice carefully and in its entirety to see what your options are in connection with the Settlement.**

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT	
Submit a Proof of Claim Form by _____ 2010.	<p>If this Settlement is approved and you are a member of the Settlement Class, you may be entitled to receive a payment from the Settlement. You must submit a Proof of Claim form to share in the Settlement proceeds. A copy of the Proof of Claim form is enclosed, and is also available at www.refcosecuritieslitigation.com.</p> <p>If you remain in the Settlement Class, you will be bound by the Settlement and will give up any “Released Plaintiffs’ Claims” (as defined below) you may have against the Settling Defendants and the other “Released Defendant Persons” (as defined below), so, if you remain in the Settlement Class, it is in your interest to submit a Proof of Claim form.</p>
Exclude Yourself from the Settlement Class by submitting a written request for exclusion so that it is <i>received</i> no later	<p>If you exclude yourself, you will not be eligible to get a payment from the Settlement. This is the only option that allows you to ever be part of any other lawsuit against any of the Settling Defendants or other Released Defendant Persons concerning the claims that were, or could have been, asserted in</p>

Lead Plaintiffs have now negotiated agreements of settlement with other defendants, in addition to the settlement with the Audit Committee Defendants and the THL Defendants described herein, that will be presented to the Court. Separate notice regarding those other settlements is being sent.

³ If the Court approves all of the settlements being presented, based on the total recoveries achieved by Lead Plaintiffs to date (including the previously approved settlement, the settlement described herein, and additional settlements being presented separately), the percentage of the recoveries represented by the requested expenses will be ____%.

<p>than _____, 2010.</p>	<p>this case.</p> <p>If you exclude yourself, you also will not be eligible to participate in the recoveries from any other settlements that are presented to the Court for its consideration at the Settlement Hearing or in any future recoveries that may be obtained from any of the Remaining Defendants; and you may jeopardize your right to receive any portion of any amounts that Lead Plaintiffs receive from the United States government on behalf of the class in connection with the criminal proceedings arising from Refco’s bankruptcy.</p>
<p>Object to the Settlement by submitting a written objection so that it is received no later than _____, 2010.</p>	<p>If you do not exclude yourself, but you wish to object to any part of the Settlement and/or Lead Plaintiffs’ Counsel’s motion for reimbursement of litigation expenses, you may write to the Court about your objections.</p>
<p>Attend the Hearing on _____, 2010 and file a Notice of Intention to Appear so that it is received no later than _____, 2010.</p>	<p>Filing a written objection and notice of intention to appear by _____, allows you to speak in Court about the fairness of the proposed Settlement and/or the request for reimbursement of litigation expenses. If you have submitted a written objection to the Settlement or the expense application to the Court, you may (but do not have to) attend the hearing and speak to the Court about your objections.</p>

- These rights and options -- **and the deadlines to exercise them** -- are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. The Settlement Fund will be available for distribution to the Settlement Class only if the Settlement is approved and that approval is upheld following any appeals. As noted above, this is only a partial settlement of the Action and no plan of allocation is being presented to the Court at this time. Distribution of the proceeds of the Settlement will not be made until a plan of allocation is approved by the Court. You will have the opportunity to review and comment on the proposed plan before it is approved by the Court.

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BASIC INFORMATION

1. Why did I get this Notice?

You or someone in your family may have purchased or acquired Refco Group Ltd., LLC/Refco Finance Inc. 9% Senior Subordinated Notes due 2012 (CUSIP Nos. 75866HAA5 and/or 75866HAC1) and/or common stock of Refco (CUSIP No. 75866G109) during the period July 1, 2004 through and including October 17, 2005. The Court caused this Notice to be sent to you because, if you purchased or acquired those securities during that period, the Class Period, you have a right to know about the proposed Settlement and about all of your options before the Court decides whether to approve the Settlement.

This Notice describes the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of this case is the United States District Court for the Southern District of New York. The case is known as *In re Refco Inc. Securities Litigation*, Case Number 05 Civ. 8626 (JSR).

2. What is a class action?

In a class action, one or more plaintiffs, called “lead plaintiffs” or “class representatives”, sue on behalf of people who have similar claims. All of the individuals and entities on whose behalf the class representatives are suing are known as class members. One court resolves the issues in the case for all class members, except for those who choose to exclude themselves from the class if exclusion is permitted by applicable rules of procedure.

3. What is this lawsuit about?

This lawsuit (the “Action”) is a class action alleging violations of the federal securities laws by various persons, including those affiliated with Refco, Inc. and its predecessors and affiliates (including, but not limited to, Refco Group Ltd., LLC, Refco Finance Holdings LLC, and Refco Finance Inc.) (Refco, Inc. and its predecessors and affiliates are referred to collectively as the “Company” or “Refco” in this Notice). The Court has appointed Pacific Investment Management Company LLC and RH Capital Associates LLC to serve as Lead Plaintiffs in the Action, and has appointed the law firms of Grant & Eisenhofer P.A. and Bernstein Litowitz Berger & Grossmann LLP to serve as Lead Plaintiffs’ Counsel on behalf of the class. The Action was brought against more than forty individuals and entities, including certain current and former executive officers of Refco (including Phillip Bennett, Santo Maggio and Robert Trosten), the members of Refco’s audit

committee, Refco's outside auditing firm (Grant Thornton LLP), fifteen Wall Street investment banks (including Credit Suisse Securities, Banc of America Securities, Deutsche Bank and Goldman Sachs & Co.), the private equity firm of Thomas H. Lee Partners, L.P., certain affiliates and certain other persons associated with them, Refco's outside law firm (Mayer Brown) and one of its partners (Joseph Collins), and Austrian bank BAWAG P.S.K. Bank Für Arbeit und Wirtschaft und Österreichische Postsparkasse Aktiengesellschaft ("BAWAG") (collectively, the "Defendants"). Lead Plaintiffs allege that Defendants are liable for violations of the federal securities laws because they actively participated in the Company's manipulative accounting practices and misstatements during the Class Period, knew or should have known about them in the exercise of due diligence or are otherwise responsible for misstatements and/or omissions made by the Company.

As alleged in the Second Amended Consolidated Class Action Complaint (the "Complaint"), which was filed in the Action on December 3, 2007, a little more than two months after completing an Initial Public Offering, Refco admitted that its financial statements "should no longer be relied upon" given a previously undisclosed receivable owed to the Company by an entity owned by its Chief Executive Officer, Phillip Bennett ("Bennett"). The Complaint further alleges that while this admission only partially revealed the true extent of the problems at the Company, it set into motion a chain of events and subsequent disclosures that led to Refco's bankruptcy filing.

The Complaint alleges that the THL Defendants who invested in Refco in June 2004 in a leveraged buyout (the "LBO") and the Audit Committee Defendants are responsible for the materially false and misleading statements made by the Company in connection with bonds issued by Refco as part of the LBO and subsequently in Refco's August 2005 Initial Public Offering and that these false and misleading statements caused the price of Refco securities to be artificially inflated, causing investors who purchased such securities during the Class Period to suffer damages. The Complaint alleges claims under Sections 11 and 15 of the Securities Act of 1933 (the "Securities Act") against the Audit Committee Defendants and certain of the THL Defendants, claims pursuant to Section 12(a) (2) of the Securities Act against certain of the THL Defendants, claims pursuant to Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act") against the Audit Committee Defendants and certain of the THL Defendants and a claim pursuant to Section 20A of the Exchange Act against certain of the THL Entities.

The Settling Defendants moved to dismiss certain of the claims asserted against them. By Order, dated April 30, 2007, the Court dismissed the claims asserted against the Audit Committee and THL Defendants under Sections 12(a)(2) and 15 of the Securities Act on behalf of purchasers of unregistered Refco bonds ("Rule 144A Bonds"), and certain claims under Sections 11 and 15 of the Securities Act on behalf of those persons who exchanged Rule 144A Bonds for registered bonds. The remaining claims against the Settling Defendants are pending but will be dismissed with prejudice if the Settlement is approved.

While the Court has ruled that certain of Lead Plaintiffs' claims should not be dismissed at this stage of the litigation, the Court has made no substantive determination on the merits of the claims against the Settling Defendants or against any other Defendant. The Settling Defendants continue to deny any allegations of fault, wrongdoing or liability with respect to the allegations in the Complaint.

4. What should I do if my address changes, or if this notice was sent to the wrong address?

If this Notice was sent to you at the wrong address, or if your address changes in the future, please send prompt written notification of your correct address to the Claims Administrator at the following address:

Refco Securities Litigation
c/o The Garden City Group, Inc.
Claims Administrator
P.O. Box 9087
Dublin, Ohio 43017-0987

WHO IS IN THE SETTLEMENT CLASS

5. How do I know whether I am part of the Settlement?

The Court has preliminarily certified for purposes of the Settlement a Settlement Class that consists of, subject to certain exceptions identified below, the following individuals and entities:

All persons and entities who purchased or otherwise acquired Refco Group Ltd., LLC/Refco Finance Inc. 9% Senior Subordinated Notes due 2012 (CUSIP Nos. 75866HAA5 and/or 75866HAC1) and/or common stock of Refco (CUSIP No. 75866G109) during the period July 1, 2004 through and including October 17, 2005, and who were damaged thereby.

6. Are there exceptions to being included?

Even if you fall within the Settlement Class definition, you are not a member of the Settlement Class if you are a Defendant in the Action; if you were a partner, executive officer, director, controlling person, subsidiary, or affiliate of Refco or any Defendant during the Class Period; if you are an immediate family member of any of the individual Defendants; if you are an entity in which Refco or any Defendant has a controlling interest; or if you are a legal representative, heir, predecessor, successor, administrator, estate or assign of any of these excluded persons or entities.⁴

7. I am still not sure whether I am included.

If you are still not sure whether you are included, you can ask for help, which will be provided to you at no cost. You can call the Claims Administrator toll free at (888) 212-5574, or write to the Claims Administrator at the address stated in the answer to Question #4 above.

⁴ Any investment company or pooled investment fund, including but not limited to mutual fund families, exchange-traded funds, fund of funds and hedge funds, in which any Underwriter Defendant or affiliate has or may have a direct or indirect interest or act as an investment advisor, but in which the Underwriter Defendant or affiliate is not a majority owner and does not hold a majority beneficial interest is not excluded from the Settlement Class by definition.

SUMMARY OF SETTLEMENT

8. How and when was the Settlement reached?

Lead Plaintiffs reached an agreement-in-principle with Settling Defendants regarding the Settlement on January 19, 2010. Thereafter, Lead Plaintiffs and Settling Defendants executed the Stipulation to formalize their agreement.

The Settlement was reached after arms'-length negotiation between Lead Plaintiffs' Counsel and counsel for the Settling Defendants, and only after Lead Plaintiffs' Counsel had (i) obtained access to, and reviewed, extensive documentation pertinent to the claims and the Settling Defendants' defenses to those claims, (ii) taken the depositions of 110 people believed to have knowledge of this case, including each of the Audit Committee Defendants; eight current and former employees of the THL Entities, including each of the THL Individual Defendants; six attorneys currently or formerly employed by the THL Entities' outside counsel with regard to the LBO and/or which represented Refco in the IPO; and nine individuals currently or formerly employed by organizations retained by the THL Funds in connection with their due diligence at the time of the LBO; (iii) conducted a mediation with the Settling Defendants before the Hon. Daniel Weinstein, a retired judge; (iv) investigated and analyzed all available evidence; and (v) researched the applicable law with respect to the claims against the Settling Defendants and the potential defenses thereto.

9. What does the Settlement provide?

The Settlement provides for the Settling Defendants to cause \$130,000,000 in cash to be paid to the Settlement Class, with the possibility of an additional payment of up to \$10,000,000 in cash under certain conditions specified in the Stipulation. The \$130,000,000 has been deposited into an interest bearing escrow account for the benefit of the Settlement Class.

If the Settlement is approved by the Court, then as of the Effective Date, all members of the Settlement Class will be deemed to have released all claims against Settling Defendants and the Released Defendant Persons that arise out of or relate to, among other things, the allegations in the Complaint and/or the acquisition or disposition of Refco common stock or Refco Notes between July 1, 2004 and October 17, 2005, as further described in Question 16 below. This means, among other things, that, upon the Effective Date, all Settlement Class Members will be permanently barred from asserting any of the claims described in the Stipulation against the Settling Defendants and other released persons. In addition, upon the Effective Date, the Settling Defendants will be precluded from suing the Lead Plaintiffs, members of the Settlement Class, or Lead Plaintiffs' Counsel in connection with the Action.

10. What are the reasons for the Settlement?

Lead Plaintiffs agreed to the Settlement because of the substantial monetary benefit it will provide to the Settlement Class, compared to the risk that recovery might not be achieved after a contested trial. Even if the plaintiffs were successful at trial, Settling Defendants might well appeal the verdict, resulting in further uncertainty and delay.

Although the Settling Defendants believe that the claims in the Action are without merit and that they would ultimately prevail, they nevertheless recognize the uncertainty and the risk of the outcome of any litigation, especially complex securities litigation, and the difficulties and substantial burdens, expense and length of time necessary to defend this proceeding. To eliminate the burden and expense of further litigation, the Settling Defendants have agreed to settle and resolve the Action.

11. What is the potential outcome of the lawsuit absent the Settlement?

If there were no Settlement and Lead Plaintiffs failed to establish any essential legal or factual element of their claims, neither Lead Plaintiffs nor the other members of the Settlement Class would recover anything from the Settling Defendants. Also, if the Settling Defendants were successful in proving any of their defenses, the members of the Settlement Class likely would recover substantially less than the amount provided in the Settlement, or nothing at all.

THE SETTLEMENT BENEFITS – WHAT YOU GET

12. How much will be distributed to investors?

The Settlement will create a cash settlement fund in the aggregate principal amount of \$130,000,000 and a possible additional payment of up to \$10,000,000 for a total possible settlement amount of up to \$140,000,000. If the Settlement is approved by the Court and the Effective Date, as defined in the Stipulation occurs, after deduction of the costs of notice and administration, taxes and tax-related expenses, and any attorneys' fees and expenses that are approved by the Court, the balance of the settlement fund, plus accrued interest, will be available for distribution to members of the Settlement Class (the "Net Settlement Fund").

13. How much will my payment be?

The amounts to be distributed to individual Settlement Class Members will depend on a variety of factors, including: the number of other Settlement Class Members who submit valid Proof of Claim forms; the number of shares of stock or number of notes you purchased; the prices and dates of those purchases; and the prices and dates of any sales of your stock or notes. The manner of dividing the Net Settlement Fund has not yet been determined. Depending upon which securities you purchased and the timing of your transactions, you may be entitled to recover from the Net Settlement Fund for all, none, or only some of the claims asserted in the Complaint.

The amount to be distributed to Settlement Class Members on a per share or per note basis will be based on the plan of allocation of the Settlement proceeds that is approved by the Court. Lead Plaintiffs will seek Court approval of a plan of allocation that will govern the calculation of Settlement Class Members' individual distributions from the Net Settlement Fund. The proposed plan will be disseminated to Settlement Class Members and they will have the opportunity to review it and to file any objections they may have to it before the Court determines whether the plan should be approved.

HOW TO GET A PAYMENT

14. What do I have to do to receive a share of the Settlement?

To be eligible for a settlement payment from the proceeds of the Settlement, you **must** send in the Proof of Claim form. A Proof of Claim form is enclosed with this Notice. You also may get a claim form on the Internet at www.refcosecuritieslitigation.com or by calling the Claims Administrator. Read the instructions carefully, fill out the form, include all the documents the form asks for, sign the form, and mail it postmarked no later than _____, 2010. By submitting the Proof of Claim form, you will be making a claim to receive payment from the settlements achieved by Lead Plaintiffs in the Action. If you request exclusion from this Settlement, you will not be eligible to receive a payment from this Settlement with these Settling Defendants or from any other settlements that are presented to the Court for its consideration at the Settlement Hearing or in any other recoveries that might be obtained in the Action, other than the previously achieved settlement described in footnote 2 above. Please timely submit your Proof of Claim form.

15. When will I receive my payment?

Lead Plaintiffs cannot, at this time, say when they will be able to distribute the Settlement proceeds to members of the Settlement Class. Distribution may be delayed in the interest of the Settlement Class in order to minimize the number and cost of distributions during the course of the Action, and to allow for the proceeds of the Settlement to be distributed in combination with future settlements or recoveries from other Defendants which are separate from this Settlement.

Any settlement payments from the Settlement proceeds are also contingent upon the Court approving the Settlement and on such approval becoming final and no longer subject to any appeals. Even if the Court approves the Settlement, there still might be appeals, which can take more than a year to resolve.

In addition, as noted in Question 13 above, Lead Plaintiffs will submit to the Court for its approval a proposed plan of allocation that will determine how the Settlement proceeds will be divided among the eligible Settlement Class Members who submit timely and valid Proof of Claim forms. The Settlement proceeds will not be distributed to the Settlement Class until a plan of allocation is approved by the Court and such approval is final and no longer subject to any appeals.

The Settlement Fund will be kept in an interest-bearing account until it is ready for distribution, and the accrued interest will be added to the principal that will be distributed to the Settlement Class.

16. What am I giving up to get a payment or stay in the Settlement Class?

If you remain a member of the Settlement Class and do not exclude yourself, you will be bound by the orders and judgment entered by the Court regarding the Settlement. If the Settlement is approved, you will not be able to sue, continue to sue, or be part of any other lawsuit involving

any claims released in the Settlement. You will be bound by the orders of the Court whether or not you submit a Proof of Claim form and/or receive a payment

The Judgment will dismiss with prejudice the claims against the Settling Defendants and will provide that Lead Plaintiffs, all other Settlement Class Members and the other Releasing Plaintiffs (as defined below) shall by operation of the Judgment fully, finally and forever release, relinquish and discharge each and every one of the Released Defendant Persons (as defined below) from any and all of the Released Plaintiffs' Claims (as defined below).

"Released Defendant Persons" means each and all of the following: (a) the Settling Defendants; (b) the Settling Defendants' respective past and/or present affiliates, subsidiaries, general partners, parents and limited partners (including those who co-invested in Refco alongside the THL Funds in August 2004) (the "Affiliated Releasees"); (c) the past and/or present employees, officers, partners and directors of any of the Settling Defendants or any of the Affiliated Releasees (the "Additional Releasees," together with the Settling Defendants and the Affiliated Releasees, the "Releasees"); and (d) the Releasees' past and/or present representatives, agents, managing directors, attorneys, insurers, reinsurers, principals, members, managers, families, stockholders, heirs, executors, trustees, personal representatives, estates, administrators, predecessors, divisions, successors and assigns. Nothing in this definition is intended to release any claims asserted in the Action by Lead Plaintiffs (or any member of the Settlement Class) against any Non-Settling Defendant.

"Released Plaintiffs' Claims" means any and all claims, demands, actions, causes of action, obligations, debts, judgments and liabilities of any kind, nature and description, whether direct or derivative, whether at law or in equity (upon any legal or equitable theory, whether contractual, common law or statutory, whether arising under federal, state, common or foreign law, whether based on allegedly intentional, negligent or reckless conduct, whether asserted as claims, cross-claims, counterclaims or third-party claims in any pleadings, in this Court, in any federal or state court, or in any other court, arbitration proceeding, administrative agency or other forum in the United States or elsewhere), whether such are known or Unknown (as that term is defined below), secured or unsecured, contingent or absolute, choate or inchoate, liquidated or unliquidated, perfected or unperfected, that previously existed or that currently exist as of the date of the approval of the Settlement by the Court or that may arise in the future that were or could have been asserted by any or all of the Releasing Plaintiffs against any or all of the Released Defendant Persons that: (a) in any way arise out of, are based upon, relate to or concern the facts, matters, occurrences, allegations, representations, omissions, actions, transactions or conduct alleged set forth, referred to, involved in or which could have been raised in the Complaint or the Action; and/or (b) in any way arise out of, are based upon, relate to or concern the purchase, acquisition, disposition or sale of, or other transaction in, any and all publicly traded Refco securities, including, Refco Group Ltd., LLC/Refco Finance Inc. 9% Senior Subordinated Notes due 2012 (CUSIP Nos. 75866HAA5 and/or 75866HAC1) and/or Refco common stock (CUSIP No. 75866G109) during the Class Period, including without limitation, claims that arise out of or relate to any disclosures, Securities and Exchange Commission filings, press releases, registration statements, offering memoranda or other public statements by Refco during the Class Period.

"Releasing Plaintiffs" means each and all of the following: Lead Plaintiffs and every Settlement Class Member (regardless of whether or not any individual Settlement Class Member

submits a Proof of Claim Form or seeks or obtains a distribution from the Settlement Fund); each and all of their respective predecessors, successors, representatives, agents, heirs, executors, trustees, personal representatives, estates, administrators, and assigns; and any other person or entity who has the right, ability, standing or capacity to assert, prosecute or maintain any of the Released Plaintiffs' Claims belonging to a Settlement Class Member to obtain the proceeds of any recovery on those claims but only with respect to those claims.

"Unknown Claims" in the definition of Released Claims includes claims that each of the Releasing Persons currently does not know or suspect to exist at the time he, she or it executes the release, but which, if known by him, her or it, might affect his, her or its agreement to execute or grant the release or might affect a decision with respect to the Settlement (including the decision to object or not to object to the Settlement). The Settling Parties and the Releasing Persons expressly acknowledge that they may hereafter discover facts in addition to or different from those that he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but that it is nevertheless his, her or its intention to fully, finally and forever settle and release the Released Claims, including those Unknown as that term is employed in this Paragraph, and will be deemed to have done so by operation of the Order and Final Judgment; and the Settling Parties and the Releasing Persons expressly acknowledge that the inclusion of "Unknown" claims as defined herein was separately bargained for and was a key element of the Settlement (of which the releases provided herein are a material and essential part) and each expressly waives and relinquishes to the fullest extent permitted by law, and shall be deemed by operation of the Final Order and Judgment to have waived and relinquished, the benefits of: (i) the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides as follows:

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.

and (ii) any and all provisions or rights 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 Section 1542 of the California Civil Code.

Notwithstanding anything to the contrary above, the Released Claims do not include claims: (a) to enforce the Judgment and the Settlement, and any or all of their terms, including but not limited to the releases provided for in the Judgment; or (b) claims by Settlement Class Members pending on January 19, 2010 that do not arise out of the acquisition or sale of Refco debt or equity securities, including but not limited to the claims asserted, and/or recoveries sought, by plaintiffs and putative class members in : (i) *Capital Management Select Fund Ltd. v. Bennett*, No. 08-6166-cv (2d Cir. 2008); (ii) *In re Refco Capital Markets, Ltd. Brokerage Customer Securities Litigation*, No. 08-6167-cv (2d Cir. 2008); (iii) *VR Global Partners LP. v. Bennett, et al.*, No. 08-6230-cv (2d Cir. 2008); and (iv) *Capital Management Select Fund Ltd. et al. v. Bennett et al.*, 08 Civ. 09810 (JSR)(S.D.N.Y.).

EXCLUDING YOURSELF FROM THE SETTLEMENT

17. What if I want to be excluded from the Settlement?

To exclude yourself from the Settlement, you must send a letter by mail to the Claims Administrator saying that you want to be excluded from *In re Refco Inc. Securities Litigation*. You **must** include: (i) your name, address, telephone number; (ii) your Social Security Number or Taxpayer Identification Number; (iii) a list stating the par amount of Refco Notes and number of shares of Refco common stock purchased and sold during the period July 1, 2004 through and including October 17, 2005, and the dates and prices of each purchase and sale; (iv) a statement indicating whether you sold or disposed of any Refco Notes after October 17, 2005, and if you did, stating the amount of money you received for the Notes; (v) a statement indicating whether you received anything for your Refco Notes in connection with Refco's bankruptcy proceedings, and if so, how much; and (vi) your signature. Your exclusion request must be **received** no later than _____, 2010. Mail your request to:

Refco Securities Litigation
c/o The Garden City Group, Inc.
Claims Administrator
P.O. Box 9087
Dublin, Ohio 43017-0987

If you request exclusion on behalf of any person or entity other than yourself (such as, for example, a trust, a minor, or a pension fund), you also must state the basis of your legal authority to make a request for exclusion on behalf of that person or entity.

You cannot exclude yourself on the phone or by e-mail. If you do not follow the above procedures – including meeting the deadline for receipt of your request and including all of the information described above – you will not be excluded from the Settlement Class, and you will be bound by all of the orders and judgments entered by the Court regarding the Settlement. You must exclude yourself even if you already have a pending case against Settling Defendants based on the claims being released, if you wish to be able to continue that case.

If you ask to be excluded, you will not be eligible to get any payment from this proposed Settlement (or the recoveries from any other settlements that are presented to the Court for its consideration at the Settlement Hearing or any other recoveries that might be obtained in the Action, other than the recovery from the prior settlement that has already been finally approved by the Court), you cannot object to the Settlement or the motion for reimbursement of expenses, and you will not be legally bound by anything that happens in this lawsuit with respect to the Settling Defendants or with respect to the Remaining Defendants.⁵ Additionally, if you exclude yourself from the Settlement, you may jeopardize your right to receive any portion of any amounts that Lead Plaintiffs receive from the United States government on behalf of the Settlement Class in connection with the criminal proceedings arising from Refco's bankruptcy brought in the Southern District of

⁵ PLEASE NOTE, the time to exclude yourself from the previously approved settlement in the Action has passed. If you did not exclude yourself from that settlement, you are bound by the judgment entered by the Court with respect to that settling defendant and you also may be eligible for a distribution from the amount recovered. Please submit your Proof of Claim.

New York. If you exclude yourself from the Settlement, you might be able to sue Settling Defendants and the Remaining Defendants in the future.

The THL Entities, provided they unanimously agree, on behalf of the Settling Defendants, have the right to terminate the Settlement, if valid requests for exclusion are received from Persons entitled to be members of the Settlement Class in an amount that exceeds an amount agreed to by Lead Plaintiffs and the Settling Defendants.

18. If I don't exclude myself, can I sue Settling Defendants for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Settling Defendants for the claims that the Settlement resolves. If you have a pending lawsuit, speak to your lawyer in that case immediately. You must exclude yourself from *this* Settlement Class to continue your own lawsuit.

19. If I exclude myself, can I get money from the Settlement?

No. Only Settlement Class Members who do not exclude themselves will be eligible to recover money in the Settlement.

THE LAWYERS REPRESENTING YOU

20. Do I have a lawyer in this case?

The Court has appointed the law firms of Bernstein Litowitz Berger & Grossmann LLP and Grant & Eisenhofer P.A. as Lead Plaintiffs' Counsel to represent Lead Plaintiffs and all other Settlement Class Members in the Action. If you have any questions about the proposed Settlement, you may contact Lead Plaintiffs' Counsel as follows: Megan D. McIntyre, Esq., Grant & Eisenhofer P.A., 1201 N. Market St., Wilmington, Delaware 19801, (302) 622-7000; or Salvatore J. Graziano, Esq., Bernstein Litowitz Berger & Grossmann, LLP, 1285 Avenue of the Americas, New York, New York 10019, (212) 554-1400.

If you want to be represented by your own lawyer, you may hire one at your own expense.

21. How will the lawyers be paid?

You will be not charged directly for the fees or expenses of the Lead Plaintiffs' Counsel appointed by the Court. Instead, those lawyers intend to apply to the Court for payment of fees and expenses out of the proceeds of any recoveries achieved in the Action.

Lead Plaintiffs' Counsel have not received any payment for their services in prosecuting this Action. A motion for an award of attorneys' fees from the Settlement recovery, however, will not be made at this time. A further notice relating to Lead Plaintiffs' Counsel's motion for attorneys' fees will be provided to the Settlement Class at a future date and Settlement Class Members will have an

opportunity to comment on the motion before the Court determines whether and in what amount to award attorneys' fees to Lead Plaintiffs' Counsel.

Lead Plaintiffs' Counsel have not been reimbursed for any of their out-of-pocket litigation expenses incurred in connection with the prosecution of the Action. Before final approval of the Settlement, Lead Plaintiffs' Counsel intend to apply for reimbursement of their litigation expenses in an amount not to exceed \$_____ with interest thereon at the same rate as earned by the Settlement Fund. The Court will determine the amount to be awarded to Lead Plaintiffs' Counsel.

OBJECTING TO THE SETTLEMENT OR THE EXPENSE APPLICATION

22. How do I tell the Court that I don't like the Settlement?

If you are a Settlement Class Member and you do not exclude yourself, you can object to the Settlement or any part of it, including Lead Plaintiffs' Counsel's application for reimbursement of litigation expenses, and give reasons why you think the Court should not approve it. To object, you must send a letter or other filing saying that you object to the proposed Settlement and/or Lead Plaintiffs' Counsel's application for reimbursement of litigation expenses in *In re Refco, Inc. Securities Litigation*, Case No. 05 Civ. 8626 (JSR). Be sure to include your name, address, telephone number, signature, and the reasons for your objection, as well as a list of your purchases and sales of Refco, Inc. common stock or Refco Notes made during the Class Period, including the dates, the number of securities purchased or sold, the price(s) paid or received per security for each such purchase or sale, and whether you continue to hold the securities at the time your objection is submitted. Your written objection must be sent to the following counsel and must be *received* by them no later than _____, 2010:

Counsel for Settling Defendants:

Greg A. Danilow, Esquire
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, NY 10153

Lead Plaintiffs' Counsel:

Megan D. McIntyre, Esquire
GRANT & EISENHOFER P.A.
1201 N. Market Street
Wilmington, DE 19801

and

Salvatore J. Graziano, Esquire

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP
1285 Avenue of the Americas
New York, NY 10019

You must **also** file your objection with the clerk of the United States District Court for the Southern District of New York, so it is **received** no later than _____, 2010. The address is:

Clerk of the U.S. District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Persons who intend to object and desire to present evidence at the Settlement Hearing must include in their written objection the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the hearing.

Any member of the Settlement Class who does not object in the manner provided above will be deemed to have waived all objections to the Settlement and to Lead Plaintiffs' Counsel's application for reimbursement of litigation expenses.

23. What's the difference between objecting and requesting exclusion?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you are a Settlement Class Member.

Excluding yourself is telling the Court that you do not want to be part of the Settlement Class for purposes of the Settlement. If you exclude yourself, you have no basis to object, because the case no longer affects you. If you do not exclude yourself, you will be bound by the Settlement and all orders and judgments entered by the Court regarding the Settlement, regardless of whether the Court accepts or denies your objection.

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

The Court has scheduled a hearing on the proposed Settlement for _____, 2010 at _____, before the Honorable Jed S. Rakoff in the U.S. District Court for the Southern District of New York, United States Courthouse, 500 Pearl Street, New York, New York 10007. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and will consider Lead Plaintiffs' Counsel's application for reimbursement of litigation expenses. If there are objections, the Court will consider them. At or after the hearing, the Court will decide whether to approve the Settlement and whether to approve the motion for reimbursement of litigation expenses.

Please note that the date of the Court hearing is subject to change without further notice. If you plan to attend the hearing, you should check with Lead Plaintiffs' Counsel to be sure no change to the date and time of the hearing has been made.

25. Do I have to come to the hearing?

No. Lead Plaintiffs' Counsel will answer any questions the Court might have. But you are welcome to come at your own expense. If you send an objection, you do not have to come to the Court to talk about it. As long as you mailed your written objection so that it was received by the deadline, it will be before the Court when the Court considers whether to approve the Settlement. You may also pay your own lawyer to attend the hearing, but attendance is not necessary.

26. May I speak at the hearing?

If you are a Settlement Class Member who has not asked to be excluded from the Settlement Class, you may ask the Court for permission to speak at the hearing. To do so, you must send a letter or other paper called a "Notice of Intention to Appear at Fairness Hearing in *In re Refco, Inc. Securities Litigation*." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be filed with the Clerk of the Court and sent to the counsel listed above in the answer to Question #22 so it is *received* by the Court and counsel no later than _____, 2010. You cannot speak at the hearing if you have asked to be excluded from the Settlement Class.

IF YOU DO NOTHING

27. What happens if I do nothing at all?

If you do nothing in response to this Notice, you will remain a member of the Settlement Class and will be bound by the Settlement. You will not be able to start, continue, or be part of any other lawsuit or arbitration against the Settling Defendants or the other Released Defendant Persons based on the claims in the Action. If you do not submit a proof of claim, you will not be eligible to receive a payment from the Settlement.

GETTING MORE INFORMATION

28. Are there more details about the Settlement?

This Notice contains only a summary of the proposed Settlement. The complete Settlement is set out in a Stipulation and Agreement of Settlement dated March 29, 2010 and amended on May 3, 2010. You may request a copy of the Stipulation in writing to *Refco Securities Litigation*, c/o The Garden City Group, Inc., Claims Administrator, P.O. Box 9087, Dublin, Ohio 43017-0987. There may be a charge for copying and mailing the Stipulation. Copies of the Stipulation may be obtained for free at www.refcosecuritieslitigation.com.

29. How do I get more information?

You can also call the Claims Administrator toll free at (888) 212-5574, write to the Claims Administrator at the above address, or visit the website at www.refcosecuritieslitigation.com, where you will find a copy of the Stipulation, the Complaint, and certain other documents relating to the Action and the Settlement. Anyone interested in more detail regarding the Action is invited to visit

the Office of the Clerk of the United States District Court for the Southern District of New York at the United States Courthouse, 500 Pearl Street, New York, NY, 10007, during regular business hours, to inspect the Stipulation, the pleadings, and the other papers maintained there in Case No. 05 Civ. 8626 (JSR).

**PLEASE DO NOT CALL OR WRITE THE COURT OR
THE OFFICE OF THE CLERK OF COURT REGARDING THIS NOTICE.**

SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES

If you purchased or otherwise acquired Refco Notes or common stock during the Class Period for the beneficial interest of a person or organization other than yourself, you must either (i) send a copy of this Notice and the Proof of Claim form to such beneficial owner, postmarked no later than seven (7) days after you receive this Notice, or (ii) provide the names and addresses of such persons no later than seven (7) days after you receive this Notice to Refco Securities Litigation, c/o The Garden City Group, Inc, P.O. Box 9087, Dublin, Ohio 43017-0987. If you choose the second option, the Claims Administrator will send a copy of the Notice and the Proof of Claim form to the beneficial owner. Upon full compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred, by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. Copies of this Notice and the Proof of Claim form can be obtained from the website maintained by the Claims Administrator, www.refcosecuritieslitigation.com, or by calling toll-free 1-____-_____, or from Lead Plaintiffs' Counsel's websites, www.blbglaw.com and www.gelaw.com.

Dated: _____

BY ORDER OF THE COURT

Hon. Jed S. Rakoff
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

#437243

Exhibit A-2

Refco Securities Litigation
 c/o The Garden City Group, Inc.
 Claims Administrator
 P.O. Box 9087
 Dublin, Ohio 43017-0987
www.refcosecuritieslitigation.com

PROOF OF CLAIM AND RELEASE

THIS PROOF OF CLAIM MUST BE POSTMARKED NO LATER THAN _____, 2010.

I. GENERAL INSTRUCTIONS

- A.** It is important that you completely read and understand the notices of proposed settlements (“Settlement Notices”) that accompany this Proof of Claim and Release form (“Claim Form”). The Settlement Notices and the Proof of Claim Notice contain the definitions of many of the defined terms (which are indicated by initial capital letters) used in this Claim Form, as well as a description of partial settlements reached to date and how they affect Settlement Class Members. By signing and submitting this Claim Form, you will be certifying that you have read and that you understand the Settlement Notices, including the terms of the releases described therein and provided for herein.
- B.** By submitting this Claim Form, you will be making a request to share in the proceeds of the settlements described in the Settlement Notices. This Proof of Claim will also be used for purposes of determining the amount that you may be eligible to receive from the prior recovery achieved in the Action and any future recoveries that might be obtained in the Action. If you request exclusion from either of the settlements described in the Settlement Notices, you will not be eligible to receive a payment from either of these Settlements or from any other recoveries that might be obtained in the Action, but you may still be eligible to receive a distribution from the previously achieved Court-approved settlement. You must submit a Claim Form in accordance with the instructions herein in order to be eligible to receive a distribution from the earlier settlement.
- C.** TO BE ELIGIBLE TO RECEIVE A DISTRIBUTION, YOU MUST MAIL YOUR COMPLETED AND SIGNED CLAIM FORM TO THE CLAIMS ADMINISTRATOR BY FIRST-CLASS MAIL, POSTAGE PREPAID, **POSTMARKED BY _____, 2010**, ADDRESSED AS FOLLOWS:

Refco Securities Litigation
 c/o The Garden City Group, Inc.
 Claims Administrator
 P.O. Box 9087
 Dublin, Ohio 43017-0987

- D.** This Proof of Claim is directed to all persons and entities who purchased or otherwise acquired Refco Group Ltd., LLC/Refco Finance Inc. 9% Senior Subordinated Notes due 2012 (CUSIP Nos. 75866HAA5 and/or 75866HAC1) and/or common stock of Refco, Inc. (CUSIP No. 75866G109) (collectively, “Refco Securities”) during the period July 1, 2004 through and including October 17, 2005 (the “Class Period”) and who were damaged thereby (the “Settlement Class”).
- E.** “Settlement Class Members” means any persons and entities who purchased or otherwise acquired Refco Securities during the Class Period and are not excluded by definition from the Settlement Class and who do not timely submit a proper request for exclusion in accordance with the requirements set forth in the Settlement Notices. Persons and entities excluded from the Settlement Class by definition are (a) Refco; (b)

the Defendants in the Action; (c) any person or entity who was a partner, executive officer, director, controlling person, subsidiary, or affiliate of Refco or of any Defendant during the Class Period; (e) members of the Defendants' immediate families; (f) entities in which Refco or any Defendant has a controlling interest; and (g) the legal representatives, heirs, estates, administrators, predecessors, successors or assigns of any of the foregoing excluded persons and entities, except that any Investment Vehicle, as defined in the Stipulation with the Settling Underwriter Defendants, is not excluded.

- F. IF YOU ARE NOT A SETTLEMENT CLASS MEMBER, YOU MAY NOT, DIRECTLY OR INDIRECTLY, PARTICIPATE IN ANY OF THE RECOVERIES OBTAINED IN THIS ACTION. IF YOU WOULD BE A SETTLEMENT CLASS MEMBER BUT FOR YOUR REQUEST TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN CONNECTION WITH THE SETTLEMENTS DESCRIBED IN THE ACCOMPANYING SETTLEMENT NOTICES, YOU MAY NOT DIRECTLY OR INDIRECTLY PARTICIPATE IN THE RECOVERIES OBTAINED IN THOSE SETTLEMENTS OR IN ANY OTHER RECOVERIES THAT MIGHT BE OBTAINED IN THE ACTION, BUT YOU MAY STILL BE ELIGIBLE TO PARTICIPATE IN THE EARLIER APPROVED SETTLEMENT IF YOU SUBMIT A TIMELY AND VALID CLAIM FORM.**
- G. All Settlement Class Members will be bound by the terms of the judgments entered in connection with the settlements described in the Settlement Notices WHETHER OR NOT A CLAIM FORM IS SUBMITTED, unless a valid request for exclusion from the Settlement Class is received by _____, 2010. The judgments will release and enjoin the filing or continued prosecution of Released Plaintiffs' Claims, Settled Claims and Settled Plaintiffs' Claims as defined in the respective Stipulations (collectively referred to herein as "Released Claims") against the Released Defendant Persons, as described in the respective Settlement Notices.**
- H. You may only participate in the settlements described in the Settlement Notices and the earlier \$140 million settlement if you are a member of the Settlement Class and if you complete and return this form as specified below. If you fail to file a timely, properly addressed, and completed Claim Form, your claim may be rejected and you may be precluded from receiving any proceeds from the settlements described in the Settlement Notices and the earlier settlement.**
- I. Submission of this Claim Form does not guarantee that you will share in the proceeds of the settlements described in the Settlement Notices, the earlier settlement, or any other recoveries in the Action.** Distribution of those proceeds, after payment of attorneys' fees, expenses and other costs, will be governed by a plan of allocation to be submitted to the Court at a later date for approval, following further notice to the Settlement Class.
- J. Use Section III of this Claim Form entitled "SCHEDULE OF TRANSACTIONS IN REFCO SECURITIES" to supply all required details of your transaction(s) in Refco Securities. On the schedules, provide all of the requested information with respect to all purchases and other acquisitions (including free receipts) of Refco Securities from July 1, 2004 through the date you submit this Claim Form, as well as all sales (including free deliveries) of Refco Securities from July 1, 2004 through the date you submit this Claim Form. You must also report any recoveries you obtained with respect to your Refco Notes in connection with Refco's bankruptcy proceedings. If you need more space, follow the instructions set forth in that section. Failure to report all transactions during the requested periods may result in the rejection of your claim.**
- K. You are required to submit genuine and sufficient documentation for all your transactions in Refco Securities and any recovery in Refco's bankruptcy proceedings. Documentation may consist of copies of brokerage confirmations or monthly statements. IF SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN COPIES OR EQUIVALENT CONTEMPORANEOUS DOCUMENTS FROM YOUR BROKER. FAILURE TO SUPPLY THIS DOCUMENTATION MAY RESULT IN**

REJECTION OF YOUR CLAIM. DO NOT SEND ORIGINAL DOCUMENTS. Please keep a copy of all documents that you send to the Claims Administrator.

- L.** Separate Claim Forms should be submitted for each separate legal entity (e.g., a claim from joint owners should not include separate transactions of just one of the joint owners, and an individual should not combine his or her IRA transactions with transactions made solely in the individual's name). Conversely, a single Claim Form should be submitted on behalf of one legal entity including all transactions made by that entity on one Claim Form, no matter how many separate accounts that entity has (e.g., a corporation with multiple brokerage accounts should include all transactions made in all accounts on one Claim Form).
- M.** All joint beneficial owners must each sign this Claim Form. If you purchased or acquired Refco Securities during the Class Period and held the securities in your name, you are the beneficial owner as well as the record owner. If, however, you purchased or acquired Refco Securities during the Class Period and the securities were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial owner of these securities, but the third party is the record owner.
- N.** Agents, executors, administrators, guardians, and trustees must complete and sign the Claim Form on behalf of persons represented by them, and they must:
- (a) expressly state the capacity in which they are acting;
 - (b) identify the name, account number, Social Security Number (or taxpayer identification number), address and telephone number of the beneficial owner of (or other person or entity on whose behalf they are acting with respect to) the Refco Securities; and
 - (c) furnish herewith evidence of their authority to bind to the Claim Form the person or entity on whose behalf they are acting. (Authority to complete and sign a Claim Form cannot be established by stockbrokers demonstrating only that they have discretionary authority to trade stock in another person's accounts.)
- O.** By submitting a signed Claim Form, you will be swearing that you:
- (a) own(ed) the Refco Securities you have listed in the Claim Form; or
 - (b) are expressly authorized to act on behalf of the owner thereof.
- P.** By submitting a signed Claim Form, you will be swearing to the truth of the statements contained therein and the genuineness of the documents attached thereto, subject to penalties of perjury under the laws of the United States of America. The making of false statements, or the submission of forged or fraudulent documentation, will result in the rejection of your claim and may subject you to civil liability or criminal prosecution.
- Q.** **NOTICE REGARDING ELECTRONIC FILES:** Certain claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in electronic files. All claimants **MUST** submit a manually signed paper Claim Form, whether or not they also submit an electronic copy. If you wish to file your claim electronically, you must contact the Claims Administrator at 1-888-212-5574, or visit www.refcosecuritieslitigation.com to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the claimant a written paper acknowledgment of receipt and acceptance of electronically submitted data.

- R.** If you have questions concerning the Claim Form, or need additional copies of the Claim Form or the Notice, you may contact the Claims Administrator, The Garden City Group, Inc., at the above address or by toll-free phone at (888) 212-5574, or you may download the documents from www.refcosecuritieslitigation.com.

CLAIMS
MUST BE POSTMARKED BY
_____, 2010

PROOF OF CLAIM AND RELEASE
IN RE REFCO, INC. SECURITIES LITIGATION
No. 05-cv-8626 (JSR)
PLEASE PRINT OR TYPE

RFX
FOR INTERNAL USE ONLY

II. CLAIMANT IDENTIFICATION

LAST NAME (CLAIMANT)		FIRST NAME (CLAIMANT)	
_____		_____	
Last Name (Beneficial Owner if Different From Claimant)		First Name (Beneficial Owner)	
_____		_____	
Last Name (Co-Beneficial Owner)		First Name (Co-Beneficial Owner)	
_____		_____	
Company/Other Entity (If Claimant Is Not an Individual)			

Trustee/Nominee/Other			

Account Number (If Claimant Is Not an Individual)		Trust/Other Date (If Applicable)	
_____		_____	
Address Line 1			

Address Line 2 (If Applicable)			

City		State	Zip Code
_____		_____	_____
Foreign Province	Foreign Zip Code	Foreign Country	
_____	_____	_____	
Telephone Number (Day)		Telephone Number (Night)	
() - ()		_____ - _____	
Beneficial Owner's Employer Identification Number or Social Security Number ¹			
_____ - _____ - _____			
E-Mail Address			

IDENTITY OF CLAIMANT

- Individual Joint Owners Estate Corporation Trust Partnership Private Pension Fund
- IRA, Keogh, or other type of individual retirement plan (indicate type of plan, mailing address, and name of current custodian) _____
- Legal Representative Other (specify, describe on separate sheet)

¹ The taxpayer identification number (TIN), consisting of a valid Social Security number (SSN) for individuals or employer identification number (EIN) for business entities, trusts, estates, etc., and telephone number of the beneficial owner(s) may be used in verifying this claim.

III. SCHEDULE OF TRANSACTIONS IN REFCO SECURITIES

Failure to provide proof of all purchases, sales, and closing positions will impede proper processing of your claim. Please include proper documentation with your Claim Form as described in detail in Section I, Paragraph K, above.

A. REFCO BONDS (CUSIP Nos. 75866HAA5 and/or 75866HAC1):

1. Purchases – Separately list each and every purchase and/or acquisition, including free receipts, of Refco Group Ltd., LLC/Refco Finance Inc. 9% Senior Subordinated Notes due 2012 during the period **July 1, 2004 through the date you submit this Claim Form.**

IF NONE, CHECK HERE

Date(s) of original purchase or acquisition List chronologically MM DD YYYY	Par amount purchased/acquired	Original purchase price per unit (excluding interest, commissions, taxes, & fees)	Proof of purchase enclosed
/ /		\$.	<input type="radio"/> Y <input type="radio"/> N
/ /		\$.	<input type="radio"/> Y <input type="radio"/> N
/ /		\$.	<input type="radio"/> Y <input type="radio"/> N
/ /		\$.	<input type="radio"/> Y <input type="radio"/> N
/ /		\$.	<input type="radio"/> Y <input type="radio"/> N

2. Sales – Separately list each and every sale, including free deliveries, of Refco Group Ltd., LLC/Refco Finance Inc. 9% Senior Subordinated Notes due 2012 during the period from July 1, 2004 through the date you submit this Claim Form.

IF NONE, CHECK HERE

Date(s) of sales List chronologically MM DD YYYY	Par amount sold	Sale price per unit (excluding interest, commissions, taxes, & fees)	Proof of sale enclosed
--	-----------------	---	------------------------

/	/	\$.	<input type="radio"/> Y <input type="radio"/> N
/	/	\$.	<input type="radio"/> Y <input type="radio"/> N
/	/	\$.	<input type="radio"/> Y <input type="radio"/> N
/	/	\$.	<input type="radio"/> Y <input type="radio"/> N
/	/	\$.	<input type="radio"/> Y <input type="radio"/> N

3. Balance – State the par value of the Refco Group Ltd., LLC/Refco Finance Inc. 9% Senior Subordinated Notes due 2012 you held as of the date you submit this Claim Form. Y
 N

4. Recovery obtained in Refco’s Bankruptcy Proceedings - State The amount you recovered in Refco’s bankruptcy proceedings with respect to your Refco Notes. If none, write zero \$ _____

B. REFCO COMMON STOCK (CUSIP No. 75866G109):

1. Purchases – Separately list each and every purchase and/or acquisition, including free receipts, of Refco, Inc. common stock during the period **July 1, 2004 through the date you submit this Claim Form.** **IF NONE, CHECK HERE**

Date(s) of original purchase or acquisition List chronologically MM DD YYYY	Number of shares purchased/acquired	Original purchase price per share (excluding commissions, taxes, & fees)	Proof of purchase enclosed
/ /		\$.	<input type="radio"/> Y <input type="radio"/> N
/ /		\$.	<input type="radio"/> Y <input type="radio"/> N

/ / \$. Y
 N

/ / \$. Y
 N

/ / \$. Y
 N

2. Sales – Separately list each and every sale, including free deliveries, of Refco, Inc. common stock during the period from **July 1, 2004 through the date you submit this Claim Form.** **IF NONE, CHECK HERE**

Date(s) of sales List chronologically MM DD YYYY	Number of shares sold	Sale price per share (excluding commissions, taxes, & fees)	Proof of sale enclosed
/ /		\$.	<input type="radio"/> Y <input type="radio"/> N
/ /		\$.	<input type="radio"/> Y <input type="radio"/> N
/ /		\$.	<input type="radio"/> Y <input type="radio"/> N
/ /		\$.	<input type="radio"/> Y <input type="radio"/> N
/ /		\$.	<input type="radio"/> Y <input type="radio"/> N

3. Balance – State the number of shares of Refco common stock you held as of the date you submit this Claim Form. \$. Y
 N

IF YOU REQUIRE ADDITIONAL SPACE, ATTACH EXTRA SCHEDULES IN THE SAME FORMAT AS ABOVE. PRINT THE BENEFICIAL OWNER'S FULL NAME AND TAXPAYER IDENTIFICATION NUMBER ON EACH ADDITIONAL PAGE.

YOU MUST ALSO READ THE RELEASE AND CERTIFICATION BELOW AND SIGN ON PAGE __ OF THIS CLAIM FORM.

IV. RELEASES

A. I (we) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally, and forever settle, release, relinquish, and discharge each and every one of the Released Defendant Persons with respect to any and all of the Released Claims, as those terms are defined in the respective accompanying Settlement Notices.

B. I (we) hereby acknowledge that as of the Effective Date, I (we) shall (a) have and be deemed to have fully, finally and forever released, relinquished and discharged each and every one of the Released Defendant Persons from any and all of the Released Claims; (b) have and be deemed to have covenanted not to sue any of the Released Defendant Persons with respect to any and all of the Released Claims; and (c) forever be barred and enjoined from filing, commencing, prosecuting, intervening in, participating in (as a class member or otherwise) or receiving any benefits or other relief from any other lawsuit, arbitration or other proceeding or order in any jurisdiction that is based upon, arises out of or relates to any and all of the Released Claims against any of the Released Defendant Persons. Nothing in this Paragraph is intended to release any claims asserted by Lead Plaintiffs (or the Settlement Class) against any of the Non-Settling Defendants in the Action other than CMG Institutional Trading, LLC and Utendahl Capital Partners, L.P.

V. CERTIFICATION

By signing and submitting this Claim Form, the claimant(s) or the person(s) who represents the claimant(s) certifies, as follows:

1. that I (we) have read and understand the contents of the Settlement Notices and the Claim Form, including the releases provided for in the Settlements;
2. that the claimant(s) is a (are) Settlement Class Member(s), as defined in the Notice, and is (are) not excluded from the Class;
3. that the claimant **has not** submitted a request for exclusion from the Settlement Class;
4. that I (we) own(ed) the Refco Securities identified in the Claim Form and have not assigned the claim against the Released Defendant Persons to another, or that, in signing and submitting this Claim Form, I (we) have the authority to act on behalf of the owner(s) thereof;
5. that the claimant has not submitted any other claim covering the same purchases, sales, or holdings of Refco Securities and knows of no other person having done so on his/her/its behalf;
6. that the claimant submits to the jurisdiction of the Court with respect to his/her/its claim and for purposes of enforcing the releases set forth herein;
7. that I (we) agree to furnish such additional information with respect to this Claim Form as the parties, the Claims Administrator or the Court may require;
8. that the claimant waives the right to trial by jury, to the extent it exists, and agrees to the Court's summary disposition of the determination of the validity or amount of the claim made by this Claim Form;
9. that I (we) acknowledge that the claimant will be bound by and subject to the terms of any judgment that may be entered in the Action; and
10. that the claimant is NOT subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code because (a) the claimant is exempt from backup withholding or (b) the claimant has not been notified by the IRS that he/she/it is subject to backup withholding as a result of a failure to report all interest or dividends or (c) the IRS has notified the claimant that he/she/it is no longer subject to backup withholding. **If the IRS has notified the claimant that it is subject to backup withholding, please strike out**

the language in the preceding sentence indicating that the claim is not subject to backup withholding in the certification above.

UNDER THE PENALTIES OF PERJURY, I (WE) CERTIFY THAT ALL OF THE INFORMATION PROVIDED BY ME (US) ON THIS FORM IS TRUE, CORRECT, AND COMPLETE, AND THAT THE DOCUMENTS SUBMITTED HEREWITH ARE TRUE AND CORRECT COPIES OF WHAT THEY PURPORT TO BE.

Signature of claimant

Date

Print your name here

Signature of joint claimant, if any

Date

Print your name here

If the claimant is other than an individual, or is not the person completing this form, the following also must be provided:

Signature of person signing on behalf of claimant

Date

Print your name here

Capacity of person signing on behalf of claimant, if other than an individual, e.g., executor, president, custodian, etc.

THIS PROOF OF CLAIM MUST BE SUBMITTED NO LATER THAN _____, 2010, AND MUST BE MAILED TO:

Refco Securities Litigation
c/o The Garden City Group, Inc.
Claims Administrator
P.O. Box 9087
Dublin, Ohio 43017-0987

A Claim Form received by the Claims Administrator shall be deemed to have been submitted when posted, if mailed by _____, 2010 and if a postmark is indicated on the envelope and it is mailed First Class, and addressed in accordance with the above instructions. In all other cases, a Claim Form shall be deemed to have been submitted when actually received by the Claims Administrator.

You should be aware that it will take a significant amount of time to prepare and submit a proposed plan of allocation and to fully process all of the Claim Forms after the plan of allocation is approved by the Court. Distribution of the settlement proceeds may be delayed pending the resolution of claims against other parties in the Action. Please notify the Claims Administrator of any change of address.

REMINDER CHECKLIST:

1. Please sign the above release and certification. If this Claim Form is being made on behalf of joint claimants, then both must sign.
2. Remember to attach only **copies** of acceptable supporting documentation.
3. Please do not highlight any portion of the Claim Form or any supporting documents.
4. Do not send original stock certificates or documentation. These items cannot be returned to you by the Claims Administrator.
5. Keep copies of the completed Claim Form and documentation for your own records.
6. The Claims Administrator will acknowledge receipt of your Claim Form by mail, within 60 days. Your claim is not deemed filed until you receive an acknowledgement postcard. If you do not receive an acknowledgement postcard within 60 days, please call the Claims Administrator toll free at 1-888-212-5574 .
7. If your address changes in the future, or if this Claim Form was sent to an old or incorrect address, please send the Claims Administrator written notification of your new address. If you change your name, please inform the Claims Administrator.
8. If you have any questions or concerns regarding your claim, please contact the Claims Administrator at the above address or at 1-888-212-5574, or visit www.refcosecuritieslitigation.com.

#437345

Exhibit A-3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	05 Civ. 8626 (JSR)
In re REFCO, INC. SECURITIES LITIGATION	:	
	:	
-----	X	

**SUMMARY NOTICE OF (I) PROPOSED SETTLEMENT OF CLASS ACTION
WITH THE AUDIT COMMITTEE AND THL DEFENDANTS AND
(II) HEARING ON PROPOSED SETTLEMENT AND MOTION FOR
REIMBURSEMENT OF LITIGATION EXPENSES**

TO: ALL PERSONS OR ENTITIES WHO PURCHASED OR ACQUIRED REFCO GROUP LTD., LLC/REFCO FINANCE INC. 9% SENIOR SUBORDINATED NOTES DUE 2012 (CUSIP NOS. 75866HAA5 AND/OR 75866HAC1) AND/OR REFCO INC. COMMON STOCK (CUSIP NO. 75866G109) DURING THE PERIOD JULY 1, 2004 THROUGH AND INCLUDING AND OCTOBER 17, 2005 (THE “CLASS PERIOD”), AND WHO WERE DAMAGED THEREBY (THE “SETTLEMENT CLASS”)

YOU ARE HEREBY NOTIFIED that the Lead Plaintiffs in the above-captioned class action (the “Action”) have proposed a settlement with Defendants Ronald L. O’Kelley, Leo R. Breitman and Nathan Gantcher (collectively, the “Audit Committee Defendants”); Thomas H. Lee Equity Fund V, L.P., Thomas H. Lee Parallel Fund V, L.P., and Thomas H. Lee Equity (Cayman) Fund V, L.P. (the “THL Funds”); Thomas H. Lee Partners, L.P. (“THLP”), THL Equity Advisors V, LLC, Thomas H. Lee Investors Limited Partnership and The 1997 Thomas H. Lee Nominee Trust (collectively, the “THL Entities”); and Thomas H. Lee, David V. Harkins, Scott L. Jaeckel and Scott A. Schoen (collectively, the “Individual THL Defendants” and together with the THL Entities and the THL Funds, the “THL Defendants”) (and together with the Audit Committee Defendants, the “Settling Defendants”) (the “Settlement”). The Settlement, which resolves the Action against some but not all defendants named in the Action, provides that the Settling Defendants will pay \$130,000,000 for the benefit of the Settlement Class, as well as the Additional Settlement Amount described in the Stipulation of Settlement between the Lead

Plaintiffs and the Settling Defendants. In return, the Settlement Class Members will dismiss with prejudice the claims asserted in this Action against the Settling Defendants and grant the releases specified and described in the Stipulation of Settlement. The claims against all remaining defendants in the Action will continue.

A hearing will be held on _____, 2010 at _____, before the Honorable Jed S. Rakoff in the U.S. District Court for the Southern District of New York, United States Courthouse, 500 Pearl Street, New York, NY, 10007, to determine: (1) whether the Settlement with the Audit Committee Defendants and the THL Defendants should be approved as fair, reasonable and adequate; (2) whether the Action should be dismissed with prejudice against the Settling Defendants and the releases specified and described in the Stipulation of Settlement should be granted; and (3) whether the plaintiffs' attorneys' application for reimbursement of litigation expenses should be granted.

IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS DESCRIBED ABOVE, YOUR RIGHTS WILL BE AFFECTED AND YOU MAY BE ENTITLED TO SHARE IN THE SETTLEMENT FUND. If you have not yet received the full printed Notice of (I) Proposed Settlement of Class Action With The Audit Committee and THL Defendants and (II) Hearing on Proposed Settlement and Motion for Reimbursement of Litigation Expenses and the Proof of Claim Form, you may obtain copies by contacting the Claims Administrator at:

Refco Securities Litigation
c/o The Garden City Group, Inc.
Claims Administrator
P.O. Box 9087
Dublin, Ohio 43017-0987

Copies of the Notice and Proof of Claim Form are also available at www.refcosecuritieslitigation.com.

If you are a member of the Settlement Class, in order to be eligible to participate in the proposed settlement, as well as a previously achieved and approved settlement, you will be required to submit a Proof of Claim by _____, 2010.

If you are a member of the Settlement Class and do not exclude yourself from the Settlement Class, you will be bound by any judgment entered in the Action whether or not you make a Claim. To exclude yourself from the Settlement Class, you must submit a request for exclusion such that it is received no later than _____, 2010, in accordance with the instructions set forth in the Notice. Any objections to the proposed settlement and/or the application for reimbursement of expenses must be filed with the Court and delivered to counsel for the parties as set forth in the Notice such that they are received no later than _____, 2010, in accordance with the instructions set forth in the Notice. If you are a member of the Settlement Class and do not submit a proper Proof of Claim form, you will not share in the proceeds of the settlement but you will nevertheless be bound by the judgment of the Court.

Inquiries, other than requests for copies of the Notice and Proof of Claim Form or for inclusion on the mailing list for future notices, may be directed to Plaintiffs' Lead Counsel:

Salvatore J. Graziano, Esquire
BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP
1285 Avenue of the Americas
New York, NY 10019

Megan D. McIntyre, Esquire
GRANT & EISENHOFER P.A.
1201 N. Market Street
Wilmington, DE 19801

Dated: _____, 2010

BY ORDER OF THE COURT

436493

Exhibit B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE REFCO, INC. SECURITIES LITIGATION : No. 05 CV 8626 (JSR)
-----X

**[PROPOSED] JUDGMENT AND ORDER
OF DISMISSAL WITH PREJUDICE**

WHEREAS, Lead Plaintiffs RH Capital Associates LLC and Pacific Investment LLC (“Lead Plaintiffs”), on behalf of themselves and the class of persons and entities defined below, and Defendants Ronald L. O’Kelley, Leo R. Breitman, Nathan Gantcher, Thomas H. Lee Equity Fund V, L.P., Thomas H. Lee Parallel Fund V, L.P., Thomas H. Lee Equity (Cayman) Fund V, L.P., Thomas H. Lee Partners, L.P., THL Equity Advisors V, LLC, Thomas H. Lee Investors Limited Partnership, The 1997 Thomas H. Lee Nominee Trust, Thomas H. Lee, David V. Harkins, Scott L. Jaeckel and Scott A. Schoen (the “Settling Defendants” and, together with the Lead Plaintiffs, the “Settling Parties”) have entered into a Stipulation and Agreement of Settlement dated March 29, 2010 and amended on May 3, 2010 (the “Stipulation”) that provides for a complete dismissal with prejudice of the claims asserted in the above-referenced litigation (the “Action”) against the Settling Defendants on the terms and conditions set forth in the Stipulation, subject to the approval of this Court (the “Settlement”);

WHEREAS, the capitalized words and terms shall have the same meaning as they have in the Stipulation (certain of which are repeated herein for ease of reference only);

WHEREAS, by Order dated ____, 2010 (the “Preliminary Approval Order”), this Court: (a) preliminarily approved the Settlement and certified a Settlement Class solely

for purposes of effectuating the Settlement, (b) ordered that notice of the proposed Settlement be provided to potential Settlement Class Members, (c) provided Settlement Class Members with the opportunity either to exclude themselves from or to object to the proposed Settlement, and (d) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, due and adequate notice having been given to the Settlement Class;

WHEREAS, this Court conducted a hearing on _____, 2010 to consider, among other things, whether the terms and conditions of the Settlement are fair, reasonable and adequate and should therefore be approved, and whether a judgment should be entered dismissing the Action with prejudice as against the Settling Defendants (the “Settlement Hearing”); and

WHEREAS, the Court having reviewed and considered the Stipulation, all papers filed and proceedings held herein in connection with the Settlement, all oral and written comments received regarding the proposed Settlement, and the record in the Action, and good cause appearing therefor;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. **Jurisdiction** – The Court has jurisdiction over the subject matter of the Action and all matters relating to the Settlement, as well as personal jurisdiction over all of the Settling Parties and each of the Settlement Class Members.
2. **Incorporation of Settlement Documents** – This Final Order and Judgment incorporates and makes a part hereof: (a) the Stipulation filed with the Court on

_____, 2010; and (b) the Notice and Summary Notice, both of which were filed with the Court on _____, 2010.

3. **Settlement Class Findings** – With respect to the Settlement Class set forth below, this Court finds only for the purpose of effectuating this Settlement and only as pertains to the claims asserted against the Settling Defendants by Lead Plaintiffs and the Settlement Class that the prerequisites for a class action under Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the members of the Settlement Class are so numerous that their joinder would be impracticable; (b) there are questions of law and fact common to the Settlement Class which predominate over any individual questions; (c) the claims of Lead Plaintiffs in the Action are typical of the claims of the Settlement Class; (d) Lead Plaintiffs and their counsel, Bernstein Litowitz Berger & Grossmann LLP and Grant & Eisenhofer P.A. (“Lead Plaintiffs’ Counsel”) have fairly and adequately represented and protected the interests of all of the Settlement Class Members; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

4. **Final Settlement Class Certification** – Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court hereby finally certifies solely for the purpose of effectuating this Settlement, a class of all persons and entities who purchased or otherwise acquired Refco Group Ltd., LLC/Refco Finance Inc. 9% Senior Subordinated Notes due 2012 (CUSIP Nos. 75866HAA5 and/or 75866HAC1) and/or common stock of Refco (CUSIP No. 75866G109) during the period July 1, 2004 through and including October 17, 2005, and who were damaged thereby. Excluded from the Settlement Class are: (a) Refco; (b) the Defendants; (c) any person or entity who was a partner, executive

officer, director, controlling person, subsidiary, or affiliate of Refco or of any Defendant during the Class Period; (d) members of the Defendants' immediate families; (e) entities in which Refco or any Defendant has a controlling interest; and (f) the legal representatives, heirs, estates, administrators, predecessors, successors or assigns of any of the foregoing excluded persons and entities; provided however that any Investment Vehicle shall not be deemed an excluded person or entity by definition. Also excluded from the Class are the persons and/or entities set forth in Exhibit A hereto who or which have properly excluded themselves from the Settlement Class in accordance with the requirements set forth in the Stipulation and in the Notice.

5. **Adequacy of Representation** – Pursuant to Rule 23 of the Federal Rules of Civil Procedure, for purposes of the Settlement only, this Court certifies Lead Plaintiffs as Settlement Class representatives and appoints Lead Plaintiffs' Counsel as Settlement Class counsel.

6. **Notice** – The Court finds that the distribution of the Notice and publication of the Summary Notice: (a) were implemented in accordance with the Court's _____, 2010 Preliminary Approval Order; (b) constituted the best notice reasonably practicable under the circumstances; (c) constituted notice that was reasonably calculated under the circumstances to apprise Settlement Class Members of the pendency of the Action, of the effect of the Settlement (including the releases provided for therein), of Lead Plaintiffs' Counsel's motion for reimbursement of litigation expenses incurred in connection with the prosecution of the Action, of their right to object to the Settlement and/or Lead Plaintiffs' Counsel's motion for reimbursement of litigation expenses, of their right to exclude themselves from the Settlement Class, and of their right to appear at

the Settlement Hearing; (d) constituted due, adequate and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995 (15 U.S.C. §78u-4, *et seq.*) (the “PSLRA”), and all other applicable law and rules.

7. **Final Settlement Approval and Dismissal of Claims** – Pursuant to, and in accordance with, Rule 23 of the Federal Rules of Civil Procedure, this Court hereby fully and finally approves the Settlement set forth in the Stipulation in all respects (including, without limitation, the amount of the Settlement, the releases provided for therein and the dismissal with prejudice of any and all of the Released Claims against each and every one of the Released Persons) and finds that the Settlement is, in all respects, fair, reasonable and adequate and is in the best interests of Lead Plaintiffs and the Settlement Class.

8. The Action and all of the claims against the Settling Defendants by the Settlement Class Members and the Lead Plaintiffs are hereby dismissed on the merits and with prejudice, as of the Effective Date. The Settling Parties shall bear their own costs and expenses, except as otherwise expressly provided in the Stipulation.

9. **Binding Effect** – The terms of the Stipulation and of this Final Order and Judgment shall forever be binding on Lead Plaintiffs and every Settlement Class Member (regardless of whether or not any individual Settlement Class Member submits a Proof of Claim Form or seeks or obtains a distribution from the Net Settlement Fund) each and all of their respective predecessors, successors, representatives, affiliates, agents, heirs,

executors, trustees, personal representatives, estates, administrators, and assigns; and any other person or entity who has the right, ability, standing or capacity to assert, prosecute or maintain any of the Released Plaintiffs' Claims belonging to a Settlement Class Member to obtain the proceeds of any recovery therefor but only with respect to those claims. The Settling Parties are directed to implement, perform and consummate the Settlement in accordance with the terms and provisions contained in the Stipulation.

10. **Releases** – The releases as set forth in Paragraphs 8.2 and 8.3 of the Stipulation (the “Releases”) together with the definitions contained in Section 1 of the Stipulation relating thereto are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, this Court orders that, as of the Effective Date:

(a) each and every one of the Releasing Plaintiffs (regardless of whether any individual Settlement Class Member ever seeks to obtain any distribution from the Net Settlement Fund) by operation of this Final Order and Judgment shall: (i) have and be deemed to have fully, finally and forever released, relinquished and discharged each and every one of the Released Defendant Persons from any and all of the Released Plaintiffs' Claims; (ii) have and be deemed to have covenanted not to sue any of the Released Defendant Persons with respect to any and all of the Released Plaintiffs' Claims; and (iii) forever be barred and enjoined from filing, commencing, prosecuting intervening in, participating in (as class member or otherwise), or receiving any benefits or other relief from any other lawsuit, arbitration or other proceeding or order in any jurisdiction that is based upon, arises out of or relates to any and all of the Released Plaintiffs' Claims against any of the Released Defendant Persons. Nothing herein shall

prohibit a Settlement Class Member from obtaining a recovery in the Refco Chapter 11 case based on a currently existing claim that exists solely by reason of their status as a creditor and that is not based on the purchase or sale of a Refco security (this sentence shall not be construed as or be deemed to create any new right of recovery or cause of action on behalf of any Person); nor is anything in this Paragraph intended to release any claims asserted by Lead Plaintiffs (or the Settlement Class) against any of the Non-Settling Defendants in the Action;

(b) each and every one of the Settling Defendants by operation of this Final Order and Judgment shall: (i) have and be deemed to have fully, finally and forever released, relinquished and discharged each and every one of the Released Plaintiff Persons from any and all of the Released Defendants' Claims; (ii) have and be deemed to have covenanted not to sue any of the Released Plaintiff Persons with respect to any and all of the Released Defendants' Claims; and (iii) forever be barred and enjoined from filing, commencing, prosecuting, intervening in, participating in (as class member or otherwise), or receiving any benefits or other relief from, any other lawsuit, arbitration or other proceeding or order in any jurisdiction that is based upon, arises out of or relates to the Released Defendants' Claims against any of the Released Plaintiff Persons;.and

(c) The Released Plaintiffs' Claims shall be compromised, settled, discharged and dismissed as against the Released Defendant Persons on the merits and with prejudice by virtue of this Final Order and Judgment. The Released Defendants' Claims shall be compromised, settled, released discharged and dismissed as against the Released Plaintiff Persons on the merits and with prejudice by virtue of this Final Order and Judgment.

Notwithstanding anything to the contrary above, the Released Claims do not include claims: (a) to enforce this Final Order and Judgment and the Settlement, and any or all of their terms, including but not limited to the releases provided for in this Final Order and Judgment; or (b) claims by Settlement Class Members pending on January 19, 2010 that do not arise out of the acquisition or sale of Refco debt or equity securities, including but not limited to the claims asserted, and/or recoveries sought, by plaintiffs and putative class members in : (i) *Capital Management Select Fund Ltd. v. Bennett*, No. 08-6166-cv (2d Cir. 2008); (ii) *In re Refco Capital Markets, Ltd. Brokerage Customer Securities Litigation*, No. 08-6167-cv (2d Cir. 2008); (iii) *VR Global Partners LP. v. Bennett, et al.*, No. 08-6230-cv (2d Cir. 2008); and (iv) *Capital Management Select Fund Ltd. et al. v. Bennett et al.*, 08 Civ. 09810 (JSR)(S.D.N.Y.).

11. **Contribution Bar Order** -- The Court hereby:

(a) permanently bars, enjoins and restrains any and all Persons from commencing, prosecuting or asserting against any of the Released Defendant Persons any claim for contribution or indemnity arising out of the Action (or any other claim where the injury to the claiming Person is the claiming Person's actual or threatened liability to the Lead Plaintiffs or any Settlement Class Member arising out of the Action);

(b) permanently bars, enjoins and restrains the Released Defendant Persons from commencing, prosecuting or asserting against any and all Persons (other than a Person whose liability has been extinguished by the Settlement) any claim for contribution or indemnity arising out of the Action (or any other claim where the injury to the Released Defendant Person is the Released Defendant Persons' actual or threatened liability to the Lead Plaintiffs or any Settlement Class Member arising out of the Action);

(c) provides that nothing in subparagraphs (a) and (b) above, the Stipulation or this Final Order and Judgment shall limit, impact or otherwise affect in any respect, the following claims that do not seek recovery for the Settling Defendant's actual or threatened liability to the Lead Plaintiffs or any Settlement Class Member in connection with the Action: (1) the claims asserted, and/or recoveries sought, by the THL Funds in the following actions: (i) Thomas H. Lee Equity Fund V., L.P., et al. v. Philip R. Bennett, et al., 05 Civ. 9608 (JSR) (S.D.N.Y), (ii) Thomas H. Lee Equity Fund V., L.P., et al. v. Mayer Brown Rowe and Maw LLP, 07 Civ. 6767 (JSR) (S.D.N.Y), and (iii) Thomas H. Lee Equity Fund V., L.P., et al. v. Grant Thornton LLP, 07 Civ. 8663 (JSR) (S.D.N.Y); and/or (2) any other claim for any other injury to a Settling Defendant that any of the Settling Defendants have, may have or may assert against any Person relating to Refco other than the Released Plaintiff Persons;

(d) provides that nothing in subparagraphs (a) and (b) above, the Stipulation or this Final Order and Judgment shall limit, impact or otherwise affect in any respect, any claim of any Person against any of the Settling Defendants that does not seek recovery for that Person's actual or threatened liability to the Lead Plaintiffs or any Settlement Class Member in connection with the Action in any of the actions that have been, or might be, brought by a Settling Defendant as identified in subparagraphs (c)(1) and (c)(2) herein; and

(e) provides that nothing in subparagraphs (a) and (b) shall apply to claims that may be asserted by or against any of the Released Defendant Persons in cases of persons or entities who timely and validly opt out of this Settlement and do not revoke their request for exclusion within the applicable time period.

12. **Judgment Reduction** – Any final verdict or judgment that may be obtained by or on behalf of the Settlement Class or a Settlement Class Member against a Non-Settling Defendant or Non-Settling Defendants shall be reduced by the greater of:

(a) an amount that corresponds to the percentage of responsibility of the Settling Defendants for common damages; or (b) the amount paid by or on behalf of the Settling Defendants to the Settlement Class for common damages.

13. **Rule 11 Findings** – The Court finds and concludes that the Settling Parties and their respective counsel have complied in all respects with the requirements or Rule 11 of the Federal Rules of Civil Procedure in connection with the commencement, maintenance, prosecution, defense and/or settlement of the Action. The Court further finds that Lead Plaintiffs and Lead Plaintiffs’ Counsel adequately represented the Settlement Class Members for purposes of entering into and implementing the Settlement.

14. **No Admissions** – This Final Order and Judgment, the facts and terms of the Settlement and Stipulation (including all exhibits thereto) as well as all negotiations, discussions, acts performed, agreements, drafts, documents signed and proceedings in connection with the Settlement;

(a) shall not be described as, construed as, interpreted as, or offered or received against any of the Settling Defendants as evidence of and/or deemed to be evidence of any presumption, concession or admission by any of the Settling Defendants as to: (i) the truth of any fact alleged in the Complaint; (ii) the validity of any claim that has been or could have been asserted in the Action or in any other litigation; (iii) the deficiency of any defense that has been or could have been asserted in the Action or in

any other litigation; and/or (iv) any liability, negligence, fault, or wrongdoing on their part;

(b) shall not be described as, construed as, interpreted as or offered or received against Lead Plaintiffs or any Settlement Class Member as evidence of any infirmity in the claims of said Lead Plaintiffs and the Settlement Class or that damages recoverable from the Settling Defendants would not have exceeded the Settlement Amount;

(c) shall not be described as, construed as, interpreted as, offered or received against any of the Settling Defendants, Lead Plaintiffs and/or any Settlement Class Member as an admission or concession that the consideration to be given in the Settlement represents the amount which could be or would have been awarded to said Lead Plaintiffs or Settlement Class Members after trial; and

(d) shall not be offered or received against any of the Settling Parties in any other civil, criminal or administrative action or proceeding, except in connection with any action, litigation or proceeding to enforce the terms of the Stipulation.

15. Nothing in this Final Order and Judgment shall preclude any action to enforce the terms of the Stipulation or this Final Order and Judgment. Notwithstanding Paragraph 14, any of the Released Persons may file, cite and/or refer to the Stipulation and this Final Order and Judgment in any other action or proceeding that may be brought against them in any forum in order to effectuate the liability protection granted hereunder, or to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release and discharge, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

16. **Retention of Jurisdiction** – Without affecting the finality of this Final Order and Judgment in any way, this Court retains continuing and exclusive jurisdiction over: (a) the Settling Parties for purposes of the administration, interpretation, implementation and enforcement of the Settlement; (b) the disposition of the Settlement Fund; (c) any motion for an award of attorneys’ fees and/or expenses by Lead Plaintiffs’ Counsel in the Action that will be paid from the Settlement Fund; (d) the Settlement Class Members for all matters relating to the Action; and (e) any motion to approve the Plan of Allocation and the Class Distribution Order.

17. Any plan of allocation submitted by Lead Plaintiffs’ Counsel or any order entered regarding any motion for attorneys’ fees and expenses filed by Lead Plaintiffs’ Counsel shall in no way affect or delay the finality of this Final Order and Judgment and shall not affect or delay the Effective Date of the Settlement.

18. **Modifications of the Settlement Agreement** – Without further approval from the Court, Lead Plaintiffs and Settling Defendants are hereby authorized to agree to and adopt such amendments and modifications of the Stipulation or any exhibits attached thereto to effectuate this Settlement that: (a) are not materially inconsistent with this Final Order and Judgment; and (b) do not materially limit the rights of Settlement Class Members in connection with the Settlement. Without further order of the Court, Lead Plaintiffs and the Settling Defendants may agree to reasonable extensions of time to carry out any provisions of the Settlement.

19. **Entry of Final Judgment** – There is no just reason to delay the entry of this Final Order and Judgment as a final judgment as against the Settling Defendants. The Clerk of the Court is expressly directed to immediately enter final judgment as

against the Settling Defendants, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

20. **Termination** – If the Effective Date does not occur or the Stipulation is terminated, then this Final Order and Judgment (and any orders of the Court relating to the Settlement) shall be vacated, rendered null and void and be of no further force or effect, except as otherwise provided by the Stipulation.

SO ORDERED this ____ day of _____, 2010.

The Honorable Jed S. Rakoff
United States District Judge

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