

411, Fed. R. Evid., the Director Defendants' motions in limine numbers one and two are granted.

Through a third motion, the Director Defendants move to exclude any evidence, whether testimonial or documentary in nature, and any argument concerning the Report of Investigation by the Special Investigative Committee of the Board of Directors of WorldCom, Inc. ("Board Report"). A parallel motion has already resulted in the exclusion of the Board Report. See In re WorldCom, Inc. Sec. Litig., No. 02 Civ. 3288 (DLC), 2005 WL 491402, at *1 (S.D.N.Y. Mar. 3, 2005). Accordingly, the Director Defendants' third motion in limine is granted to the extent it seeks exclusion of the Board Report.

Finally, the Director Defendants move pursuant to Rules 703 and 403, Fed. R. Evid., to preclude evidence or argument that relates to other reports and/or public statements by the SEC, the U.S. Attorney for the Southern District of New York, and two congressional committees, that have been issued pursuant to investigations of WorldCom. The Director Defendants do not oppose the use of interview materials and documents generated by any such investigation so long as they are not identified as having been part of "an official or reliable investigation." In a related vein, the Director Defendants do not seek to preclude references to the SEC's investigation of WorldCom; rather, they seek exclusion only of references to any conclusions reached by the SEC in the conduct of its investigation and the resulting settlement.

The Lead Plaintiff does not oppose the Director Defendants' motion with respect to reports such as the Breeden Report and the Thornburgh Reports, or public statements made by the Government. As allowed by a prior Opinion in this action, In re WorldCom, Inc. Sec. Litig., No. 02 Civ. 3288 (DLC), 2005 WL 375314, at *1 & n.4 (S.D.N.Y. Feb. 17, 2005), however, the Lead Plaintiff intends to offer evidence regarding WorldCom's bankruptcy proceeding. It also gives notice of an intent to offer guilty pleas that were entered in the criminal prosecution of WorldCom-related parties, and the sworn congressional testimony of defendant and former WorldCom director Bert C. Roberts; Melvin P. Dick, a partner with defendant Arthur Andersen who handled the WorldCom engagement; and settling defendant and former Salomon Smith Barney analyst Jack B. Grubman.¹

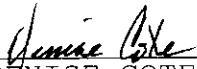
The Lead Plaintiff opposes the motion to the extent it seeks to exclude evidence of investigations regarding WorldCom. It may be necessary to refer at trial to an investigation of WorldCom to put the creation of an admissible document or of admissible testimony into context. It is premature, however, to make that decision. Consistent with prior rulings in this action, the final motion of the Director Defendants is granted to the extent

¹ The Lead Plaintiff contends that it is entitled to use Grubman's congressional testimony under a prior ruling in this litigation that allows the Lead Plaintiff to use evidence "regarding the accuracy of the Grubman analyst reports" and entitles it "to explore the extent to which those conducting due diligence considered Grubman's analyst reports concerning WorldCom." In re WorldCom, Inc. Sec. Litig., 2005 WL 375314, at *9. This motion in limine does not require a ruling on the admissibility of Grubman's congressional testimony.

that they seek to exclude from trial the reports of investigations and public statements by Government officials about the investigations of WorldCom.

SO ORDERED:

Dated: New York, New York
March 16, 2005



DENISE COTE
United States District Judge