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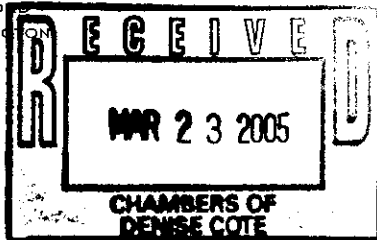
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March 23, 2005

BY HAND DELIVERY

Honorable Denise L. Cote
United States District Judge
United States Courthouse
500 Pearl Street Room 1040
New York, NY 10007

MEMO ENDORSED

Re: In re WorldCom, Inc. Securities Litigation,
02 Civ. 3288 (DLC)

Dear Judge Cote:

On behalf of Arthur Andersen LLP ("Andersen"), we write regarding Lead Plaintiff's objection to the admission in the instant case of testimony from the Ebbers criminal trial given by Mark Abide, Troy Normand, and Lisa Taranto (the "Witnesses"). On March 20, we wrote to the Court, urging that the testimony be admitted under Fed. R. Evid. 807. While we maintain that position, we also urge the Court, in the alternative, to admit the testimony under Fed. R. Evid. 804(b)(3).

The facts are set forth in the accompanying affidavit of Michael Moscato. The Witnesses were deposed on March 14 and 15. All three invoked their Fifth Amendment right and refused to testify.

Rule 804(b)(3) creates a hearsay exception for statements, made by unavailable witnesses, "so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability," that a reasonable person would not have made the statement if he or she did not believe it to be true. To be admissible, "corroborating circumstances" must "clearly indicate the trustworthiness of the statement." *Id.*

The trial testimony of the Witnesses falls well within Rule 804(b)(3) and should be admitted.

As a threshold matter, because the Witnesses invoked their Fifth Amendment privilege, they are "unavailable" within the meaning of Rule 804. *See, e.g., United States v. Jackson*, 335 F.3d 170, 177 (2d Cir. 2003); *United States v. Bahadar*, 954 F.2d 821, 827 (2d Cir. 1992).


The other elements of Rule 804(b)(3) are satisfied as well. The testimony of the Witnesses at the Ebbers criminal trial was very much against their pecuniary and proprietary interest, and could subject them to civil or criminal liability. As set forth in the accompanying affidavit of Michael Moscato, the testimony of Abide and Normand show that the conspirators at WorldCom were aware that Andersen was on the brink of discovering the line cost fraud, and further show how the conspirators took the extraordinary step of moving the prepaid capacity entries into dozens of accounts to prevent that discovery. Taranto's testimony establishes that WorldCom personnel altered MonRev reports provided to Andersen in order to hide certain revenue items from Andersen's auditors.

The testimony could readily be used, in any future criminal or civil proceedings against the Witnesses, as evidence of the Witnesses' knowing participation in the WorldCom fraud. The fact that each of the Witnesses invoked the Fifth Amendment privilege when deposed on these same issues shows that they recognize that the testimony they gave in the Ebbers trial runs contrary to their penal interests. Their testimony constitutes statements against interest within the meaning of Fed. R. Evid. 804(b)(3).

Finally, the testimony bears strong indicia of trustworthiness: (1) the testimony was given under oath at a criminal trial, where it was offered by the Government; (2) the Witnesses were subject to cross examination; (3) the Witnesses risked losing the benefits of their agreements with the Government if they testified falsely; (4) the statements were against their pecuniary interests when made, as it subjects them to civil liability; (5) the statements were against their penal interests when made, as it subjects them to criminal liability; (6) the Witnesses had no motive to falsely exculpate Andersen, and (7) the Witnesses had no motive to make their own roles, or their own wrongdoing, more significant than they actually were. In addition, Lead Plaintiff has previously conceded that testimony of other witnesses given at the Ebbers trial (Ebbers, Sullivan, and Myers) is sufficiently trustworthy to be admitted at this trial. There is no principled distinction between the admission of the testimony of those witnesses and the testimony of the Witnesses.

In sum, all of the requirements of Fed. R. Evid. 804(b)(3) are satisfied. The testimony of Abide, Normand, and Taranto given in the Ebbers criminal trial should be admitted in the instant case, both under Fed. R. Evid. 804(b)(3) and under Fed. R. Evid. 807.

Respectfully submitted,


Eliot Lauer

The designations of these three witnesses' testimony, to the extent Andersen believes it is admissible under rule 804(b)(3) shall be immediately provided to Lead Plaintiff. A/

cc: Trial Counsel (Via E-Mail)

*There are objections, they will be addressed
Denise Cote
March 23, 2005*