

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE WORLDCOM, INC. SECURITIES :  
LITIGATION :  
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02 Civ. 3288 (DLC)

ORDER

DENISE COTE, District Judge:

The Lead Plaintiff and the Garden City Group ("GCG") have applied for approval of a final distribution to the WorldCom class in the Securities Litigation. This Order addresses the GCG recommendations that 518 objections to the GCG calculations of payment be rejected. An Order of August 13, 2009 requested that GCG provide further information regarding three of the objections. GCG responded with the August 28, 2009 declaration of Shandarese Garr, and two of the three objectors submitted further responses.

The objections regarding the calculation of payment by GCG fall into seven categories. As described by GCG, 220 are based on the assertion that the Recognized Claim should be equal to or based on either an investor's market loss or total investment in WorldCom securities; 122 are based on general dissatisfaction with the amount of the payment; 121 are objections to the Plan of Allocation ("Plan") or GCG's application of the Plan; 16 objections argue that the actual payment was for less money than estimated as the average per share recovery in the notices of

settlement sent to the class; 15 assert that the payment was less than the payment from the WorldCom Victims Trust Settlement achieved and administered by the United States Securities and Exchange Commission; and 13 object to the proration of the Recognized Claim, believing that they should be entitled to more than their pro rata share of the settlement fund. A seventh and final category of 11 objections combines two or more of the above complaints.

All of the objections have been reviewed. The following discussion addresses a number of those objections.

The objectors include persons who describe the amount of their investment in WorldCom, their losses, and their financial circumstances. They complain about the amount they have received or will receive in the distribution of the settlement funds, the use of AT&T and Sprint as standards for comparison in any analysis of their WorldCom losses, and the small percentage of recovery for the class, among other things. Some point out that they have received distribution checks for very small sums and suggest that small distributions be pooled and given to a charity.

GCG provided a compendium describing the application of the Plan to each of these investor's losses, and these objectors have not pointed to any error in the application of the Plan to their history of investments in WorldCom. While it is quite

true that the recovery through this settlement, particularly for shareholders as opposed to bondholders, is miniscule when compared to the loss they experienced from the WorldCom fraud, the size and adequacy of the recovery received careful attention at the Fairness Hearing in 2005. Any objections to the size of the recovery and the Plan were reviewed at that time, and the settlement was approved. Thus, these objections must be rejected.

The Order of August 13 required GCG to respond to three objections. The first, filed by Ann and Patrick Dominick, complains that GCG used the "option strike price" instead of the price they actually paid to acquire WorldCom stock on May 28, 1999. GCG's response explains that the Dominicks exercised employee stock options, and that the difference between the market price of the shares and the strike price on the date that they exercised the options constitutes compensation income and should be reported to the I.R.S. as such. The Dominicks' September 2 response concedes the same. GCG's calculations, based on strike price, are accepted, and the Dominicks' objection is rejected.

The second objection to which the August 13 Order required a reply was from John DuBois, who complains that GCG has not included the carried interest of \$36,444.44 that he paid when he purchased discounted WorldCom Senior Notes in 2002 in the

calculation of his Recognized Loss. GCG properly determined that the "purchase price" Mr. DuBois paid for the note did not include the accrued interest, because the interest was not "paid for the note" itself, but rather to compensate the seller for the passage of time. In addition, the amount of the accrued interest was not affected by the artificial inflation in the price of the note caused by the WorldCom fraud. Mr. DuBois' objection is thus denied.

Third, GCG's August 28 submission addressed the objection of Trey Matteson, who sold put option contracts, and asserts that his recognized loss should be \$93,440, and not the \$19,974.40 calculated by GCG. Mr. Matteson explains that because of the put option contracts, he purchased WorldCom stock at \$5 per share, which was much higher than the range it was trading on the open market at the time he was required to purchase the stock. GCG's response notes that put options are not securities of WorldCom and that losses sustained as the result of transactions in put options are therefore not included in any Recognized Claim. GCG also explains that it calculates Recognized Claims based on the amount of artificial inflation per share based on the date on which the share was purchased, not based on the share price on the date that any options were written, pursuant to the Supplemental Plan of Allocation.

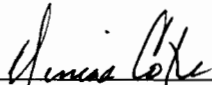
In his September 8, 2009 letter, Mr. Matteson concedes that the Supplemental Allocation Plan did not provide for compensation based on losses incurred as the result of put options, but requests that his claim be adjusted on equitable grounds. The settlement that was approved at the Fairness Hearing, however, did not allow for increased compensation based on inflation paid as the result of prices dictated by put options, and, in the interest of fairness, that settlement should control the distribution of the settlement funds. Mr. Matteson's objection is thus rejected. It is hereby

ORDERED that, having considered all of the objections to GCG's calculations of payments due, Lead Plaintiff's April 23, 2009 motion for approval of final distribution plan is granted to the extent that it applies to the 518 objections to GCG's calculation of claims.

IT IS FURTHER ORDERED that GCG shall send a copy of this Opinion and Order to all claimants affected by it.

SO ORDERED:

Dated: New York, New York  
September 14, 2009

  
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DENISE COTE  
United States District Judge

**Copies Sent To:**

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