

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

Civil Action No. 02-CV-4963 (JSR)

-v-

WORLDCOM, INC.,

Defendant.

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**PETITION OF DISTRIBUTION AGENT FOR AN ORDER  
AUTHORIZING THE DISTRIBUTION AGENT TO MAKE  
A SECOND DISTRIBUTION UNDER THE DISTRIBUTION PLAN**

Richard C. Breeden, the Distribution Agent<sup>1</sup> appointed to oversee the implementation of the Distribution Plan for the WorldCom Victim Trust (“WVT”) approved by order of the Court dated July 19, 2004 (the “Distribution Plan”), respectfully submits this petition (the “Motion”) for entry of an order:

- (i) authorizing a distribution (the “Primary Distribution”) of up to \$350,000,000 to Eligible Claimants who submitted Electronic-Channel Claims (or on whose behalf such claims were submitted) and who hold Approved Claims under the Distribution Plan, payable at a rate of 4% of the amount of Eligible Loss Amount for each Approved Claim as further provided herein. “Electronic-Channel” claims are claims filed by institutions, and these claims did not participate in WVT’s previous 2% distribution approved by the Court; and
- (ii) authorizing a distribution (the “Secondary Distribution”) of up to \$150,000,000 to Eligible Claimants who submitted Paper-Channel Claims, and who hold Approved Claims under the Distribution Plan, in the amount of an additional 2% of the amount of Eligible Loss Amount

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<sup>1</sup> Capitalized terms used but not specifically defined herein shall have the respective meanings ascribed to them in the Distribution Plan or in the Court’s October 18, 2006 Order.

for each Approved Claim as further provided herein. The Secondary Distribution will not be made to Paper-Channel Claimants who have already received a Minimum Payment and would not be entitled to receive any additional payment with a second 2% distribution. All recipients of the Secondary Distribution have previously received an initial 2% distribution from the WVT (except those who received the Minimum Distribution), and will therefore have received aggregate payments of 4% of Approved Claims upon completion of the Secondary Distribution.

- (iii) At the conclusion of the distributions contemplated by this Motion all Eligible Claimants who have not previously received 100% of their total eligible recovery will have received payments from the WVT equal to 4% of Approved Claims.

In support of the Motion, the Distribution Agent respectfully represents as follows:

### FACTS

1. On October 18, 2006, the Court entered an Order authorizing the Distribution Agent, among other things, to make an initial distribution in an amount equal to 2% of the Eligible Loss Amount (the “Initial Distribution”) to Eligible Claimants (primarily individuals) who had submitted Approved Claims in paper form to WVT (“Paper-Channel Claims”). The Distribution Agent has mailed checks in the amount of \$107,912,010 to 185,752 Paper-Channel recipients as of the date hereof.

2. At the time of the Court’s October Order, institutional claimants who submitted claims to WVT electronically (“Electronic-Channel Claims”) had not exhausted the time for filing a Request for Reconsideration (“RFR”) of the Distribution Agent’s initial eligibility determination set forth in the Claim Determination Notice (“CDN”). (See Distribution Plan, ¶ 62.)

3. The Distribution Agent has now reviewed and responded to all RFRs in respect of both Paper-Channel Claims and Electronic-Channel Claims. Final Determination Notices

("FDNs") have been issued to all claimants, and the appeal period to the Court has expired on all but one such claimant.

4. The total claims base (aggregate Eligible Loss Amounts) of the WVT currently stands at approximately \$12.3 billion. Unless altered as a result of the appeals process, the current Approved Claim base will lead to an ultimate total distribution (once final reserves are established and approved by the Court for pending appeals, taxes and administrative costs) of approximately 6% of Approved Claim amounts.

### **RELIEF REQUESTED**

5. By this Motion, the Distribution Agent seeks the entry of an order authorizing the Distribution Agent to make the Primary and Secondary Distributions as described herein. These distributions will be paid in respect of all claims except where appeals are pending, as identified in the list of Approved Claims that has been prepared by the Distribution Agent and made available to the Court. Upon completion of these distributions all Eligible Claimants will have received a distribution of 4% of their Eligible Loss Amount or the authorized Minimum Payment of the lesser of (a) \$100 or (b) the claimant's economic loss. As additional appeals are resolved, the resolved claims would receive payment at the applicable percentage distribution rate or a Minimum Payment.

6. As of December 31, 2006, the WVT had total assets of \$676,219,806. During the first quarter of 2007, WVT has mailed additional checks totaling \$14,819,541 to claimants as appeals or documentary issues were resolved. The Distribution Agent estimates that the Primary Distribution will result in actual cash distributions of approximately \$294 million, and that the Secondary Distribution will result in actual cash distributions of approximately \$97.5 million. Thus, after making these payments (assuming the estimated amounts are paid

in full), the cash balance in the Fair Fund will be in excess of approximately \$270,000,000 with all Approved Claims having received a distribution of 4% of Eligible Loss Amount or the Minimum Payment.

7. As a result, after making the distributions proposed in this motion, WVT would have sufficient cash available to make a 4% distribution on additional claims totaling over \$6.0 billion in Eligible Loss Amount (assuming, hypothetically, that such losses existed and qualified for payment). The current estimate of the combined Eligible Loss Amount of all Claimants whose claims have been timely appealed but remain unresolved, or for which the appeal deadline has not yet passed, is approximately \$85 million. Therefore, even assuming that all appeals are granted in full, the Fair Fund could pay an equivalent 4% distribution on all such claims and still have more than \$266 million remaining to make a third and final distribution to all Eligible Claimants (less the amounts of reserves, as approved by the Court).

8. Paragraph 67 of the Distribution Plan provides that in seeking approval of the Court for distributions pursuant to the Plan, the Distribution Agent shall prepare “a list of all Eligible Claimants and the Approved Claim for each Eligible Claimant” and further provides that “[u]nder no circumstances shall the Distribution Agent or his Agents incur any liability to any Person if he makes a distribution in accord with the schedules previously submitted and approved by the Court and all Persons are enjoined from taking any action in contravention of this sentence.” As authorized by the Court’s October 18, 2006 Order, the Distribution Agent has made the appropriate schedules available to the Court with respect to the proposed Primary Distribution and Secondary Distribution, rather than filing this material in the Court’s docket.

9. The Distribution Agent has consulted with the staff of the Commission concerning this Motion, and the staff has not raised an objection to it.

**NOTICE**

10. Notice of this Motion has been provided to the United States Securities and Exchange Commission, 450 Fifth Street, NW, Washington, D.C. 20549, Attn: Arthur Lowry, Esq.

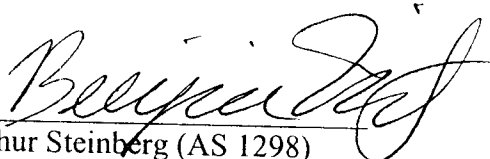
11. In view of the nature of the relief requested herein, the Distribution Agent submits that no further notice or memorandum of law is necessary or required. The Distribution Agent has previously provided written notice to each of the Eligible Claimants of the amount of their Approved Claim. The Distribution Agent has previously provided notice to and is communicating with the holders of unresolved claims regarding the status of their claims and the review process. The Distribution Agent is posting the Motion on the Fair Fund's website ([www.worldconvictimtrust.com](http://www.worldconvictimtrust.com)) which the Distribution Agent has maintained to facilitate communications with claimants. The Distribution Agent submits that providing direct notice of this Motion to all of the Eligible Claimants, the holders of unresolved claims and other claimants would be an undue waste of the Fair Fund's assets.

**PRAYER FOR RELIEF**

WHEREFORE, the Distribution Agent requests that this Court (i) enter an order substantially in the form annexed hereto granting the relief sought herein and (ii) grant the Distribution Agent such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
March 2, 2007

**KAYE SCHOLER LLP**

By:   
Arthur Steinberg (AS 1298)  
Benjamin Mintz (BM 6060)  
425 Park Avenue  
New York, NY 10022

*Counsel for the Distribution Agent*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

Civil Action No. 02-CV-4963 (JSR)

-v-

WORLDCOM, INC.,

Defendant.

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**ORDER AUTHORIZING THE DISTRIBUTION AGENT  
TO MAKE A SECOND DISTRIBUTION UNDER THE DISTRIBUTION PLAN**

Upon the Petition (the “Motion”) of Richard C. Breeden, the Distribution Agent (“Distribution Agent”) appointed to oversee the implementation of the Distribution Plan approved by Order of this Court dated July 19, 2004, for the entry of an Order: (i) authorizing the Distribution Agent to make a first distribution under the Distribution Plan of up to \$350,000,000 to Electronic-Channel Claimants<sup>2</sup> consisting of a payment of 4% of the Eligible Loss Amount of each Approved Claim; and (ii) authorizing the Distribution Agent to make a second distribution under the Distribution Plan of up to \$150,000,000 to Paper-Channel Claimants consisting of a payment of 2% of the Eligible Loss Amount of each Approved Claim. It appears that the staff of the Commission has consented to the relief requested; and it further appears that due notice of the Motion has been given as described in

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<sup>2</sup> Capitalized terms used but not specifically defined herein shall have the respective meanings ascribed to them in the Motion.

the Motion, and that no other or further notice is necessary or required; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein and that such relief is in the best interest of the claimants of the Fair Fund; and after due deliberation and sufficient cause appearing therefore, it is

ORDERED, that the Motion is hereby granted in all respects; and it is further

ORDERED, that the Distribution Agent is authorized to make a first distribution (the "Primary Distribution") to Electronic-Channel Claimants of up to \$350,000,000 payable at a rate of 4% of Eligible Loss Amounts as proposed in the Motion; and it is further

ORDERED, that the Distribution Agent is authorized to make a second distribution (the "Secondary Distribution") to Paper-Channel Claimants (who have not previously received their maximum allowable payment as described in the Motion) of up to \$150,000,000 payable at a rate of 2% of Eligible Loss Amounts as proposed in the Motion; and it is further

ORDERED, that the Distribution Agent and his agents and employees shall be relieved of all liability to any person or entity for making distributions to Eligible Claimants in compliance with this Order; and it is further

ORDERED, that, in accordance with the Distribution Plan, upon receipt and acceptance of the distributions approved in this Order by an Eligible Claimant: (a) such Eligible Claimant shall be deemed to have released all claims that such Eligible Claimant may have against the Distribution Agent and his agents and employees, and the Equity Manager and his agents and employees on account of such distribution; and (b) such Eligible Claimant shall be enjoined from prosecuting or asserting any such claims against the Distribution Agent

and his agents, the Equity Manager and his agents, or the WVT on account of such distribution; *provided, however*, that notwithstanding the foregoing, the Eligible Claimant shall be entitled in respect of its Approved Claim to claim a proportionate share of any further distributions that may be made by the Distribution Agent (as adjusted to account for amounts received in the distributions approved in this Order and under the Court's Order of October 18, 2006); and it is further

ORDERED, that this Court shall retain exclusive jurisdiction with respect to any disputes or other matters related to, or arising from, the interpretation or implementation of this Order.

Dated: New York, New York  
\_\_\_\_\_, 2007

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Hon. Jed S. Rakoff  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

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-v-

WORLDCOM, INC.

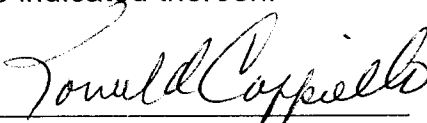
Defendant.  
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**AFFIDAVIT OF SERVICE**

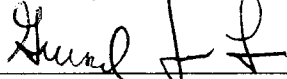
Ronald Cappiello, being duly sworn, deposes and says:

1. I am over the age of eighteen years, am employed by the offices of KAYE SCHOLER LLP, and am not a party to this action.

2. On the 2<sup>nd</sup> day of March, 2007, I caused to be served true copies of the **Petition Of Distribution Agent For An Order Authorizing The Distribution Agent To Make A Second Distribution Under The Distribution Plan**, dated March 2, 2007, addressed to each of the parties at the last known address set forth on the annexed list in the manner of service indicated thereon.

  
\_\_\_\_\_  
Ronald Cappiello

Sworn to before me this  
2nd day of March, 2007

  
\_\_\_\_\_  
Notary Public

**GURNEL JEAN-LOUIS**  
Notary Public, State of New York  
No. 01JE9016979  
Qualified in Queens County  
Commission Expires Nov. 30, 2010

**SERVICE LIST:**

Securities & Exchange Commission  
450 5th Street, N.W.  
Washington, DC 20549  
Attn: Arthur Lowry, Esq.

Electronic Mail and Overnight Mail/Next  
Business Day

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**KAYE SCHOLER LLP**  
A NEW YORK LIMITED LIABILITY PARTNERSHIP

*Attorneys for:* **Richard C. Breeden, The Distribution Agent for  
The Fair Fund**  
*Office and Post Office Address, Telephone*  
425 PARK AVENUE  
NEW YORK, NEW YORK 10022-3598  
(212) 836-8000

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To

Attorney(s) for

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