

BEFORE THE SECURITIES COMMISSIONER

FOR THE STATE OF DELAWARE

IN THE MATTER OF:

BEAR, STEARNS & CO. INC.,

Respondent.

April 22, 2003

File # 03-6-10

Consent Order

WHEREAS, Bear, Stearns & Co. Inc. ("Bear Stearns" or the firm) is a broker-dealer registered in the State of Delaware; and

WHEREAS, coordinated investigations into Bear Stearns' activities in connection with certain conflicts of interest that research analysts were subject to during the period of July 1, 1999 through June 30, 2001 have been conducted by a multi-state task force and a joint task force of the U.S. Securities and Exchange Commission, the New York Stock Exchange, and the National Association of Securities Dealers (collectively, the "regulators"); and

WHEREAS, Bear Stearns has cooperated with regulators conducting the investigations by responding to inquiries, providing documentary evidence and other materials, and providing regulators with access to facts relating to the investigations; and

WHEREAS, Bear Stearns has advised regulators of its agreement to resolve the investigations relating to its research practices; and

WHEREAS, Bear Stearns agrees to implement certain changes with respect to its research and banking practices, and to make certain payments; and

WHEREAS, Bear Stearns elects to permanently waive any right to a hearing and appeal under 6 Del. C. Chap. 73 (the "Delaware Securities Act") with respect to this Consent Order (the "Order");

NOW, THEREFORE, the Securities Commissioner for the State of Delaware (the "Commissioner") hereby enters this Order:

1 **I. JURISDICTION/CONSENT**

2 Bear Stearns admits to the jurisdiction of the Division of Securities of the State of Delaware (the
3 "Division"), neither admits nor denies the Findings of Fact and Conclusions of Law contained in
4 this Order, and consents to the entry of this Order by the Commissioner.

4 **II. FINDINGS OF FACT**

5 **A. Background and Jurisdiction**

6 1. Bear Stearns, a Delaware corporation with its principal place of business in New
7 York, New York, is a subsidiary of The Bear Stearns Companies, Inc. Bear Stearns
8 provides equity research, sales, and trading services; merger and acquisition advisory
9 services; venture capital services; and underwriting services on a global basis.

9 2. Bear Stearns is registered with the Securities and Exchange Commission
10 ("Commission"), is a member of the New York Stock Exchange, Inc. (the "Exchange")
11 and the NASD Inc. ("NASD") and is licensed to conduct securities business on a
12 nationwide basis.

12 3. Bear Stearns is currently registered with Delaware Securities Division, as a
13 broker-dealer, and has been so registered since.

13 4. This action concerns the time period of July 1, 1999 to June 30, 2001 (the
14 "relevant period"). During that time, Bear Stearns engaged in both research and
15 investment banking ("IB") activities.

16 **B. Overview**

17 1. During the relevant period, the Firm sought and did IB business with many
18 companies covered by its research. Research analysts were encouraged to participate in
19 IB activities, and that was a factor considered in the analysts' compensation system. In
20 addition, the decision to initiate and maintain research coverage of certain companies was
21 in some cases coordinated with the IB Department and influenced by IB interests.

21 2. As a result of the foregoing, certain research analysts at the Firm were subjected
22 to IB influences and conflicts of interest between supporting the IB business at the Firm
23 and publishing objective research.

23 3. The Firm had knowledge of these IB influences and conflicts of interest yet failed
24 to establish and maintain adequate policies, systems and procedures that were reasonably
25 designed to detect and prevent the influences and manage the conflicts.

25 **C. Research Analyst Participation in Investment Banking Activities**

1. Research analysts were responsible for providing analyses of the financial outlook of particular companies in the context of the business sectors in which those companies operated and the securities market as a whole.

2. Research analysts evaluated companies by, among other things, examining financial information contained in public filings, questioning company management, investigating customer and supplier relationships, evaluating companies' business plans and the products or services offered, building financial models and analyzing competitive trends.

3. After synthesizing and analyzing this information, analysts produced research in the form of full reports and more abbreviated formats that typically contained a recommendation, a price target, and a summary and analysis of the factors relied upon by the analyst.

4. The Firm distributed its analysts' research internally to various departments at the Firm and externally to the Firm's retail and institutional investing clients. In addition, the Firm sold some of its research directly to non-clients, disseminated it through distribution agreements with other broker dealers, made it available to third party subscription services such as First Call, and offered it for sale via market websites such as MultexInvestor.

5. In addition to performing research functions, certain research analysts participated or assisted in IB activities. These IB activities included identifying companies as prospects for IB services, participating in "pitches"¹ of IB services to companies, attending "road shows"² associated with underwriting transactions, and speaking to investors to generate interest in underwriting transactions.

6. In preparation for each "pitch" the bankers, with the analyst's input, prepared a "pitch book" which was distributed at the meeting and contained a summary of the Firm's presentation.

7. The pitch books, in some instances, identified the covering analyst by name, provided information about that analyst's background and reputation, sometimes characterizing the analyst as the "ax" in his or her coverage sector, and highlighted the

¹ A "pitch" is a presentation made by bankers and research analysts to a potential IB client in order to obtain the mandate for an upcoming IB transaction. In competing for an IB mandate, the Firm typically sent bankers and the analyst to meet with company management to persuade the company to select the Firm as one of the investment bankers in a contemplated transaction. At these "pitch" meetings Firm bankers would present their level of expertise in the company's sector and discuss their previous experience with other such companies, as well as their view of the company's merits and likelihood of success.

² A "road show" is a series of presentations made to potential investors in conjunction with the marketing of an upcoming underwriting.

1 success of Bear Stearns' underwritten IPOs covered by the analyst. The pitch books also
2 highlighted such factors as the number of lead and co-managed IPOs that the Firm
3 currently had under research coverage. This information was intended to convey to the
4 issuer that such treatment would be accorded to it if Bear Stearns received the mandate
5 for the IB transaction.

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7 8. The analyst's reputation played a role in pitching the Firm's IB services to
8 potential clients. Issuers often chose an investment bank because of the reputation of the
9 analyst that would cover the company's stock.

10 9. The pitch to an issuer by the research analyst contributed to Bear Stearns' ability
11 to win investment banking deals and receive investment banking fees from that and
12 subsequent investment banking relationships.

13 10. The investment banking division at Bear Stearns advised corporate clients and
14 helped them execute various financial transactions, including the issuance of stock and
15 other securities. Bear Stearns frequently served as the lead or as a co-lead underwriter in
16 initial public offerings ("IPOs") -- the first public issuance of stock of a company that
17 has not previously been publicly traded -- and follow-on offering of securities.

18 11. During the relevant period, investment banking was an important source of
19 revenues and profits for Bear Stearns. In 2000, investment banking generated more than
20 \$965 million in net revenues, or approximately eighteen percent of Bear Stearns' total net
21 revenues.

22 12. The IB activities in which analysts participated also included participating in
23 commitment committee³ and due diligence activities in connection with underwriting
24 transactions and from time to time assisting the IB Department in providing merger and
25 acquisition ("M&A") and other advisory services to companies.

26 13. The Firm encouraged research analysts to support the IB and other businesses of
the Firm. With regard to IB, research analysts were encouraged to work in partnership
with the IB Department by participating in the foregoing IB activities, and the level of
certain research analysts' participation in these IB activities was sometimes significant.

- a. On September 23, 1999, the Head of Research provided research analysts with
guidelines to follow in drafting their business plans. The guidelines stated they
were "designed to help [the research analysts] focus on executing and delivering
[their] goals, improving [their] overall contribution to the firm and enhancing
[their] relationships with [their] partners throughout the firm." These guidelines
requested the research analysts to describe their contributions to nine separate
areas of the Firm's business. With respect to the area identified as "Banking," the
guidelines stated: "After your business plan meeting with your bankers please
discuss any ideas you have generated for deal origination and timing of coverage

³ The "commitment committee" was responsible for, among other things, evaluating and
determining the Firm's participation in IPOs and other IB transactions.

1 for existing or proposed corporate relationships. Include or attach to your
2 business plan a list of stocks you and your corporate finance team have agreed
3 upon as priorities. Include plans to help market transactions or to introduce M&A
4 activity. Discuss any plans to drop coverage where there is no longer a strategic
5 fit."

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- b. In her 1997/1998 business plan, an analyst stated, "If I were any more aggressive in the banking area, my office would be on the third floor [location of IB offices of the Firm]."

14. In connection with their participation in IB activities, certain research analysts and investment bankers ("bankers") communicated, in various frequency and extent, through meetings and via telephone and electronic mail ("e-mail").

15. The IB department at the Firm was organized into industry groups that corresponded to certain research sectors. Research analysts were aware that, in certain circumstances, their positive and continued coverage of particular companies was an important factor for the generation of investment banking business. Thus, some research analysts and bankers coordinated the initiation and maintenance of research coverage, based upon, among other things, investment banking considerations.

- a. On February 9, 2000, two bankers and an analyst submitted a joint business plan to the co-heads of the IB technology group. The stated purpose of the memorandum was to "describe a strategy for investment banking and research coverage and coordination of companies which provide Internet enabling technologies. The near-term goal is to establish an organized and prioritized calling effort with an emphasis on cultivating fewer and deeper, lead managed relationships." [Emphasis in original.]

D. Participation in Investment Banking Activities was a Factor in Evaluating and Compensating Research Analysts

1. The compensation system at the Firm provided an incentive for research analysts to contribute to all areas of the Firm's business, including participating in IB activities and assisting in generating IB business for the Firm. Research analysts' participation in IB activities was one of several factors considered in determining their compensation. Notes of staff meetings reflect the following statements by the Head of Research to analysts:

- a. "I'd like to remind everyone how you get paid at Bear Stearns. It is based on your contribution to your team and your contribution to the firm . . . Notice that being a partner with banking is part of the analyst job description. You are not compared or matrixed or in any way paid on a formula. Working on transactions is not incremental to your compensation, it is an expected part of it."

1 b. "I need to remind you that investment banking revenues are not incremental to
2 your bonus. Being a partner to banking is part of your job. You are paid on
3 performance and based on your contribution to the firm."

4 2. The performance of research analysts was evaluated through an annual review
5 process. Where not set by contract, the research analyst's salary and annual bonus were
6 also determined through this process.

7 3. Information on the analyst's job performance was gathered through annual self-
8 evaluations, analyst's business plans, surveys of management, and trading and
9 institutional sales department personnel, e-mail and oral feedback from employees in the
10 IB and other departments at the Firm, and the Firm's institutional clients.

11 4. The research analysts' annual business plans contained, among other things, their
12 contributions to various areas of the Firm, including IB, for the past year, and their plans
13 for improving their contribution to these areas of the Firm, including IB, in the coming
14 year.

15 5. In their self-evaluations, which were used to communicate their accomplishments
16 to and petition management for increased compensation analysts discussed such areas as
17 their rankings in independent research polls, the scope of their research coverage, their
18 participation in industry conferences, and the Firm's Autex rankings in stocks they
19 covered. Certain research analysts provided extensive information regarding their
20 assistance to IB, including accomplishments, goals, and participation in lead- and co-
21 managed underwritings, and sometimes also including the revenues to the Firm
22 associated with the IB transactions on which the analyst worked. In addition, analysts
23 were occasionally requested to inform research management of fees generated by the IB
24 transactions on which they worked.

25 a. In an October 24, 2000 e-mail to the Head of Research, a senior analyst
26 summarized his 9 key accomplishments during fiscal year 2000. The first and
largest point, which dealt with his contributions to IB, stated as follows:
"*Corporate finance: generated over \$23 million in fees to the firm in nine
separate transactions: *Storage networking: identified a new financial
opportunity for the firm, which resulted in six transactions... I should be
designated as a finder for Ancor [Ancor Communications], JNI [JNI Corp.] and
Vixel [Vixel Corp.]. *iAppliances: identified a new industry category ...which
was a source of two IPOs... *Agilent [Agilent Technologies]: I should be
designated as a finder -- or at least a save for Agilent. BS pitched the business
and lost. I went in and re-won the business, generated fees of around \$2.5 million
to the firm." The e-mail to the Head of Research included a spreadsheet listing
the IB transactions on which he had worked and the associated revenues to the
Firm. The Head of Research praised the format of the summary and suggested
she might have all research analysts submit theirs in the same form.

b. In a June 21, 2001 e-mail from a member of the research management staff, the
research analysts were requested to submit information regarding all banking

1 transactions that had closed or that were pending in their sectors during the prior 6
2 month period.

3 6. Certain research analysts perceived that the amount of their bonus would be
4 influenced by their contribution to and impact on the firm's IB business, and the fees
5 generated by IB transactions on which they worked.

6 7. Research analysts were encouraged to support and assist all areas of the Firm and
7 to participate in IB activities and activities that enhanced the reputation of the Firm's IB
8 business. Based upon statements by research management indicating that partnership
9 with banking was part of their job as research analysts, the inclusion of a "Banking"
10 section in their annual business plans, information regarding IB transactions in their self-
11 evaluations, and requests from research management for specific information regarding
12 IB transactions in their coverage sectors, certain research analysts believed that the
13 revenues generated by their participation in IB activities was an important factor in their
14 evaluations and compensation. Accordingly, some research analysts were encouraged to
15 participate in IB activities, increase IB revenues, and enhance the reputation of the Firm,
16 including its IB business.

17 8. Research Analysts' salaries and bonuses were determined by a multiple factor-
18 based approach. Among other things, analysts were judged for compensation purposes
19 based on the performance of their stock picks, their impact on the buy-side accounts as
20 measured by votes, the Firm's market share in trading volume in the stocks they covered,
21 their participation in IB activities, and the fees and secondary trading commissions
22 generated from those activities were considered.

23 **E. Investment Banking Interests Influenced the Firm's Decisions to Initiate and**
24 **Maintain Research Coverage**

25 1. In general, the Firm determined whether to initiate and maintain research
26 coverage based upon institutional investors' interest in the company, and the company's
importance to the sector or IB considerations, such as attracting companies to the Firm to
generate IB business or maintaining a positive relationship with existing IB clients.

2 The nature and duration of research coverage were important criteria for a
company's choice of a broker dealer for IB services. The pitch books typically contained
information stating, among other things, that: "an important element to successfully
executing an IPO is having an assurance that the Firm will provide research coverage to
the IPO candidate in the offering and in the aftermarket."

3 The Firm generally initiated coverage on companies that engaged the Firm in an
IB transaction. In pitching for IB business, the Firm sometimes represented to the
company the frequency with which reports would be issued.

4 The Firm's ratings system, which was intended to reflect the long-term prospects
of a rated stock, allowed research analysts to assign one of five ratings to a stock: (1)
"Buy" - Expected to outperform the local market by 20% in the next 12 months. Strong
conviction and typically accompanied by an identifiable catalyst; (2) "Attractive" -

Expected to outperform the local market by 10% or more, it is usually more difficult to identify the catalyst; (3) "Neutral" - Expected to perform in line with the local market; (4) "Unattractive" - Expected to underperform the local market; and (5) "Sell" - Avoid the stock.

5. During the relevant period, there was a sharp downturn in the stock market and stocks in certain sectors performed poorly. During this period, the Firm did not issue ratings of "Unattractive" or "Sell" in connection with any covered companies in these sectors.

6. Research management communicated with IB management to ensure that research opportunities were appropriately aligned with identified IB opportunities.

7. The Stock Selection Committee was ultimately responsible for making the determination to initiate coverage of a given company. The Head of Research was ultimately responsible for making the determination to maintain research coverage. Nonetheless, IB considerations sometimes influenced the decision to initiate and maintain coverage.

8. Some research analysts and bankers actively coordinated the initiation and maintenance of research coverage based upon, among other things, IB considerations. This coordination consisted of meetings and communications by telephone and e-mail.

9. In some circumstances, research coverage was initiated based on IB considerations.

a. In an April 19, 2000 e-mail from a member of his staff, the head of the IB Technology Group communicated the following to the Heads of Research and IB as well as numerous analysts and bankers: "[Analyst A] and [Analyst B] agree that [Analyst B] will be the analyst covering CacheFlo [Cacheflow]. [Banker] and [Analyst B] will discuss with CacheFlo what the planned timing of their offering will be so as to insure that if we initiate coverage in advance of the transaction we will not be prohibited from being an underwriter. [Analyst B] and [Banker] will also stress to the company that if we initiate coverage we expect our position in the company's future financing and strategy actions to be materially improved."

10. Given that research analysts participated in determining in which IB transactions in their sectors the Firm would participate, if the Firm determined to participate in an equity offering for a company, it was expected the company would qualify for an initial "Buy" rating.

11. An analyst who anticipated initiating coverage of such a company with less than a "Buy" rating informed IB in advance as follows.

a. In a February 8, 2000 e-mail to bankers and the Head of Research, this analyst stated: "Just wanted to be sure that everyone knows that we will be using an

1 Attractive rating on go.com. If anyone has any comments or issues, please let me
2 know."

- 3 b. In a March 17, 2000 e-mail to research analysts, an associate analyst stated: "I
4 talked to [the liaison between research and IB] and we have the go ahead to
5 initiate on IPET [Pets.com] with an Attractive rating. According to [the liaison]
6 we should explain somewhere in the text, why our opinion about the company's
7 prospects have changed from the time we initiated coverage."⁴
- 8 c. In his annual evaluation, this analyst was criticized as follows: "Has been
9 working poorly w/bankers - in changing opinions after the firm has committed to
10 co. mgmts". The analyst testified that he believed the statement related to his
11 communicating his opinions regarding companies to bankers in a timely manner,
12 and that if his opinion regarding a company changed from a more positive opinion
13 to a more negative opinion about a company after a banker had already made
14 some sort of commitment to a company, it made life difficult for the banker and
15 was not ideal from his standpoint. He went on to testify that, particularly in his
16 highly volatile sector, companies often changed a lot between the time of the first
17 organizational meeting and the date of the IPO.

18 12. In some circumstances, the determination to maintain research was influenced by
19 IB considerations.

- 20 a. Due to IB influences a supervisory analyst perceived and communicated to others
21 that IB approval was required before coverage could be dropped. In response to
22 an inquiry by an associate analyst regarding dropping coverage of 2 companies, a
23 supervisory analyst stated in an April 19, 2002 e-mail: "[The Head of Research]
24 says before dropping coverage, you need to get permission from both: 1. the
25 market makers on the trading desk, 2. the bankers."
- 26 b. In an April 3, 2000 e-mail to the Heads of Research and IB as well as numerous
members of both departments, a banker discussed a company's decision to
exclude the Firm from a follow-on offering. He stated: "I expressed significant
disappointment with the fact that they neglected to discuss this issue with us prior
to this time and that they left us no choice but to drop research coverage and
trading, since they obviously did not value our support to date. [Analyst] - As we
discussed, feel free to drop at any time. I told the CFO that you would likely put
out a note, but did not know when." In a follow-up e-mail the Head of Research
stated that she agreed with the decision to drop coverage. The analyst ultimately
determined not to drop coverage.

24 **F. Research Analysts Were Visible on Stocks to Generate Investment Banking**
25 **Business**

26 ⁴ In fact, Bear Stearns had not yet initiated coverage on IPET at the time this e-mail
was sent.

1 1. Issuers also considered investment banks' aftermarket trading support as a factor
2 in selecting an investment bank. The Firm's trading volume and trading rank were factors
3 it promoted to IB clients in pitch presentations.

4 2. The Firm distributed to sales and trading personnel and research analysts the
5 "Trading Focus List," which contained stocks of companies from which the Firm was
6 seeking or with which the Firm had IB business.

7 3. A research analyst actively marketed companies on the Trading Focus List in
8 order to obtain IB business.

9 a. In a December 10, 1999 e-mail, an analyst wrote the following to Equity Trading
10 copied to the Heads of Research and IB: "Subject: Pls make the trading of
11 Packeteer a top priority. I spent two days with Packeteer (PKTR) management
12 this week visiting investors. Management are extremely happy with our research
13 coverage and banking services. But they have repeatedly indicated to me that our
14 trading stat. is not satisfactory...CEO hinted to me many times that we have a
15 chance for the books for the secondary if we improve the trading...They are likely
16 to do a secondary in Q1 - mostly likely late January/early February; could be as
17 much as \$200 MM deal. Plcase help us in improving our trading immediately. We
18 will do whatever it takes from the research side."

19 b. In a September 14, 2000 e-mail to Equity Trading the same analyst wrote the
20 following regarding banking client SonicWall ("SNWL"): "We need help in
21 boosting our trading stat for SNWL. Both management and their VC called me
22 yesterday complaining about our trading - #2 in August and #3 so far in
23 September. More importantly, they argued that we are not supporting the stock
24 when it is weak...I made a positive call on Monday but am not getting much
25 support. Pls help us here since this important technology client indicated to me
26 that if we do not improve, it will hurt our banking relationship with the company."

27 c. In a March 8, 2001 e-mail the same analyst again wrote to Equity Trading
28 regarding two IB clients he covered: "Subject: MUSE [Micromuse] and ISSX
29 [Internet Security Systems] autex - both on focus list. On MUSE - we dropped
30 from #3 or 4 in 2000 to #10 in Feb and March to date. I just called the trader to
31 see what we can do. I have been extremely active on the name- took management
32 to Boston, Denver, Minneapolis and KC in February alone. Do not quite
33 understand. Pls follow up. ISSX - we dropped from #2 or #3...to #11 in March. I
34 am very active on ISSX also. Thanks for your help on this." Equity Trading
35 responded: "What do you want me to do? Get some orders on the stock yourself.
36 Generate some order flow!!" The analyst replied: "I am trying...but are the traders
on these two stocks good?"

37 4. In order to raise or maintain the Firm's visibility on stocks with which the Firm
38 wanted to do IB business, certain research analysts nominated companies to participate at
39 Firm sponsored conferences, took company managements on non-deal road shows, hosted

field trips for institutional investors to companies' headquarters and arranged other meetings between institutional investor clients and companies.

5. Research analysts were visible on stocks of companies with which the Firm wanted to do IB business in order to generate IB business.

G. Research Analysts Were Subject to Pressure by Covered Companies

1. Certain research analysts communicated regularly with employees of the companies that they covered, including executive and senior management of those companies. These communications occurred through telephone and e-mail exchanges, company-sponsored events, and analyst calls.

2. Research analysts were sometimes subject to pressure from companies they covered to issue better ratings and recommendations. Research analysts understood that negative ratings and recommendations could adversely affect the Firm's ability to attract and retain IB business from those companies.

- a. On November 2, 2000, in his 2000 self-evaluation an analyst wrote in a section entitled "Areas to Improve: We want our banking clients to know that our research is objective and independent but always sensitive to their best interests. There have been instances in my career where certain banking clients felt that our research and public comments weren't sensitive to their interests. This is a very important issue for us and we take it most seriously. We will continue to make every effort to be sensitive to our clients and our banking partners."

3. When research analysts downgraded or issued a negative comment on a banking client, they sometimes received direct feedback from high-ranking company officials.

- a. In an August 24, 2000 e-mail, a banking client responding to a downgrade of his company wrote: "Your earnings estimates are on track, however, given the downgrade, I sure would have liked to see you give us a lower bar on revenue...[W]hile we affirmed the revenue estimate, they were definitely a stretch. Seems a shame to waste a downgrade by not buying the opportunity for us both to over-perform going forward..."

H. In Certain Instances, the Firm Published Exaggerated or Unwarranted Research

1. On several occasions, the conflicts of interest discussed above resulted in analysts publishing recommendations and/or ratings that were exaggerated or unwarranted, and/or contained opinions for which there was no reasonable basis. The following are examples of how these conflicts affected the research.

- a. Bear Stearns lead managed the IPO and secondary offerings for SonicWall in November 1999 and March 2000 respectively. An analyst rated the stock a "Buy"

1 from the IPO until April 2002. In January 25, 2001 while they were participating
2 in a SonicWall conference call the analyst stated to his associate: "I am trying to
3 make them look good...on the dso and the growth etc." A few minutes later he
4 added: "we got paid for this...and I am going to Cancun tomorrow b/c of them!"

5 b. Bear Stearns initiated coverage of MUSE with an "Attractive" rating in
6 September 1999, raised the rating to a "Buy" in January 2000 and maintained a
7 "Buy" rating on the stock until July 2002. While listening to a MUSE analyst call
8 on July 18, 2001, an analyst suggested to his associate that he was going to
9 downgrade his rating on the stock to "Attractive". The associate disagreed with
10 the suggestion and the analyst responded that the stock was "dead money!"
11 However, the analyst did not downgrade his rating on the stock, instead issuing
12 research the same day maintaining his "Buy" rating.

13 c. Bear Stearns lead managed the IPO for CAIS Internet, Inc. in May 1999. The
14 analyst rated the stock a "Buy" from the IPO through his last report on the
15 company in November 2000. On January 24, 2001, in response to an e-mail
16 reporting extensive service failures at CAIS the analyst stated: "Any other scoop
17 on this piece of shit?" A few days later, in response to an institutional client's
18 request for his thoughts on CAIS' 4th quarter, the analyst stated: "It's up a lot year
19 to date...don't overstay your welcome on this one."

20 d. Bear Stearns co-managed the IPO and secondary offerings for Digital River in
21 August and December 1998 respectively. The Firm, via three successive analysts,
22 rated the stock a "Buy" from the IPO until April 2002. In an April 1, 2002 e-mail
23 to his IB counterpart an analyst stated: "I have to tell you, I feel a bit
24 compromised today. I have told every client on the phone that they should avoid
25 or short the stock over the last few months. I have been fairly hands-off on DRIV
26 [Digital River, a stock under his coverage], primarily because of the banking
prospect that you and [Another Banker] have noted. Today, clearly the stock is
down a lot. The artificial Buy rating on the stock, while artificial, still makes me
look bad. In the future, I'd like to have more leeway with the ratings, even for
companies like Digital River, where we have a relationship on the banking side. I
trust it would benefit all of us."

20 I. The Firm Made A Payment for Research

21 1. In August 2000, as part of an offering that took place in May 2000, the Firm made
22 a payment of \$102,750 to another broker-dealer in connection with research coverage it
23 provided for Andrx Corp. ("ADRX"), a Bear Stearns' investment banking client in
24 connection with an underwriting transaction for which Bear Stearns was a lead manager.

25 2. Bear Stearns did not take steps to ensure that this broker-dealer disclosed in its
26 research that it had been paid to issue research on ADRX. Further Bear Stearns did not
disclose or cause to be disclosed the details of this payment.

J. Bear Stearns Failed to Adequately Supervise Its Research and Investment Banking Departments

1. While the role of the research analysts was to produce objective research, the Firm also encouraged them to participate in IB activities. As a result of the foregoing, research analysts were subject to IB influences and conflicts of interest between supporting the IB business at the Firm and publishing objective research.

2. The Firm had knowledge of these IB influences and conflicts of interest yet failed to manage them adequately to protect the objectivity of its published research.

3. Bear Stearns failed to establish and maintain adequate policies, systems and procedures reasonably designed to ensure the objectivity of its published research. Although Bear Stearns had some policies governing research analyst activities during the relevant period, these policies were inadequate and did not address the conflicts of interest that existed.

III. CONCLUSIONS OF LAW

1. The Division has jurisdiction over this matter pursuant to the Delaware Securities Act., and more specifically 6 Del. C. sec. 7325.

2. The Commissioner finds the following relief appropriate and in the public interest.

3. Six Del. C. sec. 7316(a) states that the Commissioner may by order deny, suspend, or revoke any registration if he finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser: (7) has engaged in dishonest or unethical practices within or outside of this State; or (10) has failed reasonably to supervise ...the person's agents or employees if the person is a broker-dealer or broker-dealer agent with supervisory responsibilities....

a. Bear Stearns failed to ensure that analysts who issued research were adequately insulated from pressures and influences from covered companies and investment banking. This conduct was a dishonest and unethical practice under 6 Del. C. sec. 7316(a)(7).

b. Bear Stearns failed to reasonably supervise its employees to ensure that its analysts who issued research were adequately insulated from pressures and influences from covered companies and investment banking as required by 6 Del. C. sec. 7316(a)(10).

IV. ORDER

On the basis of the Findings of Fact, Conclusions of Law and Bear Stearns' consent to the entry of this Order, for the sole purpose of settling this matter, prior to a hearing and without admitting or denying any of the Findings of Fact or Conclusions of Law:

IT IS HEREBY ORDERED:

1. This Order concludes the investigation by the Division of Securities and any other action that the Division of Securities could commence under the Delaware Securities Act (6 Del. C. Chap. 73) on behalf of the State of Delaware as it relates to Bear Stearns, relating to certain research or banking practices at Bear Stearns.
2. Bear Stearns will CEASE AND DESIST from violating the Delaware Securities Act (6 Del. C. Chap. 73) in connection with the research practices referenced by this Order and will comply with the Delaware Securities Act (6 Del. C. Chap. 73) in connection with the research practices referenced by this Order and will comply with the undertakings of Addendum A, incorporated herein by reference.
3. If payment is not made by Bear Stearns or if Bear Stearns defaults in any of its obligations set forth in this Order, the Commissioner may vacate this Order, at his sole discretion, upon 10 days notice to Bear Stearns and without opportunity for administrative hearing.
4. This Order is not intended by the Commissioner to subject any Covered Person to any disqualifications under the laws of any state, the District of Columbia or Puerto Rico (collectively, "State"), including, without limitation, any disqualifications from relying upon the State registration exemptions or State safe harbor provisions. "Covered Person" means Bear Stearns, or any of its officers, directors, affiliates, current or former employees, or other persons that would otherwise be disqualified as a result of the Orders (as defined below).
5. The SEC Final Judgment, the NYSE Stipulation and Consent, the NASD Letter of Acceptance, Waiver and Consent, this Order and the order of any other state in related proceedings against Bear Stearns (collectively, the "Orders") shall not be a ground to deny, suspend, or revoke the broker-dealer, agent, investment adviser or investment adviser representative registration of any Covered Person pursuant to 6 Del. C. sec. 7316, shall not be a ground for denial or revocation of the transactional and securities exemptions from registration under 6 Del. C. sec. 7309, and shall not be a ground to issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of any securities registration statement pursuant to 6 Del. C. sec. 7308.
6. For any person or entity not a party to this Order, this Order does not limit or create any private rights or remedies against Bear Stearns including, without limitation, the use of any e-mails or other documents of Bear Stearns or of others regarding research practices or limit or create liability of Bear Stearns or limit or create defenses of Bear Stearns to any claims.
7. Nothing herein shall preclude the State of Delaware, its departments, agencies, boards, commissions, authorities, political subdivisions and corporations, other than the Division of

Securities and only to the extent set forth in paragraph 1 above, (collectively, "State Entities") and the officers, agents or employees of State Entities from asserting any claims, causes of action, or applications for compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive relief against Bear Stearns in connection with certain research and/or banking practices at Bear Stearns.

V. MONETARY SANCTIONS

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that:

As a result of the Findings of Fact and Conclusions of Law contained in this Order, Bear Stearns shall pay a total amount of \$80,000,000.00. This total amount shall be paid as specified in the SEC Final Judgment as follows:

\$25,000,000 to the states (50 states, plus the District of Columbia and Puerto Rico) (Bear Stearns' offer to the state securities regulators hereinafter shall be called the "state settlement offer"). Upon execution of this Order, Bear Stearns shall pay the sum of \$250,000.00 of this amount to the State of Delaware, Division of Securities as a civil monetary penalty pursuant to 6 Del. C. sec. 7325 to be deposited in the Investor Protection Fund pursuant to 6 Del. C. sec. 7329. The total amount to be paid by Bear Stearns to state securities regulators pursuant to the state settlement offer may be reduced due to the decision of any state securities regulator not to accept the state settlement offer. In the event another state securities regulator determines not to accept Bear Stearns' state settlement offer, the total amount of the Delaware payment shall not be affected, and shall remain at \$250,000.00;

\$25,000,000 as disgorgement of commissions, fees and other monies as specified in the final judgment ordered in the related action filed by the SEC;

\$25,000,000, to be used for the procurement of independent research, as described in the SEC Final Judgment;

\$5,000,000, to be used for investor education, as described in Addendum A, incorporated by reference herein.

Bear Stearns agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification, including, but not limited to payment made pursuant to any insurance policy, with regard to all penalty amounts that Bear Stearns shall pay pursuant to this Order or Section II of the SEC Final Judgment, regardless of whether such penalty amounts or any part thereof are added to the Distribution Fund Account referred to in the SEC Final Judgment or otherwise used for the benefit of investors. Bear Stearns further agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal or local tax for any penalty amounts that Bear Stearns shall pay pursuant to this Order or Section II of the SEC Final Judgment, regardless of whether such penalty amounts or any part thereof are added to the Distribution Fund Account referred to in the SEC Final Judgment or otherwise used for the benefit of investors. Bear Stearns understands and acknowledges that these provisions are not intended to imply that State of Delaware would agree that any other amounts Bear Stearns shall pay pursuant to the SEC Final Judgment may be reimbursed or indemnified (whether pursuant to an insurance

1 policy or otherwise) under applicable law or may be the basis for any tax deduction or tax credit
2 with regard to any state, federal or local tax.

3 **VI. GENERAL PROVISIONS**

4 This order and any dispute related thereto shall be construed and enforced in accordance, and
5 governed by, the laws of the State of Delaware.

6 The parties represent, warrant and agree that they have received independent legal advice
7 from their attorneys with respect to the advisability of executing this Order.

8 Dated this 11th day of September, 2003.

9 Delaware Division of Securities

10 By: _____

11 James B. Ropp

12 Securities Commissioner

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CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY BEAR, STEARNS & CO. INC.

1. Bear Stearns hereby acknowledges that it has been served with a copy of this Administrative Order, has read the foregoing Order, is aware of its right to a hearing and appeal in this matter, and has waived the same.
2. Bear Stearns admits the jurisdiction of the Division of Securities, neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order; and consents to entry of this Order by the Commissioner as settlement of the issues contained in this Order.
3. Bear Stearns states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Order and that it has entered into this Order voluntarily.
4. Bear Stearns understands that the State of Delaware may make such public announcement concerning this agreement and the subject matter thereof as the State of Delaware may deem appropriate.

Mark E. Lehman represents that he/she is General Counsel of Bear Stearns and that, as such, has been authorized by Bear Stearns to enter into this Order for and on behalf of Bear Stearns.

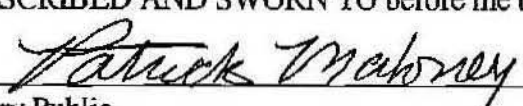
Dated this 21st day of August, 2003.

Bear, Stearns & Co. Inc.

By: 

Title: Senior Managing Director and General Counsel

SUBSCRIBED AND SWORN TO before me this 21st day of August, 2003.


Notary Public

My Commission expires: 6/15/07

PATRICK B. MALONEY
Notary Public, State of New York
No. 02MAS011777
Qualified in Westchester County
Certificate Filed in New York County
Commission Expires: 6/15/07

Addendum A

Undertakings

The firm shall comply with the following undertakings:

I. Separation of Research and Investment Banking

1. Reporting Lines. Research and Investment Banking will be separate units with entirely separate reporting lines within the firm – i.e., Research will not report directly or indirectly to or through Investment Banking. For these purposes, the head of Research may report to or through a person or persons to whom the head of Investment Banking also reports, provided that such person or persons have no direct responsibility for Investment Banking or investment banking activities.

- a. As used throughout this Addendum, the term “firm” means the Respondent, Respondent’s successors and assigns (which, for these purposes, shall include a successor or assign to Respondent’s investment banking and research operations), and their affiliates, other than “exempt investment adviser affiliates.”
- b. As used throughout this Addendum, the term “exempt investment adviser affiliate” means an investment adviser affiliate (including for these purposes, a separately identifiable department or division that is principally engaged in the provision of investment advice to managed accounts as governed by the Investment Advisers Act of 1940 or investment companies under the Investment Company Act of 1940) having no officers (or persons performing similar functions) or employees in common with the firm (which, for purposes of this Section I.1.b, shall not include the investment adviser affiliate) who can influence the activities of the firm’s Research personnel or the content of the firm’s research reports; provided that the firm (i) maintains and enforces written policies and procedures reasonably designed to prevent the firm, any controlling persons, officers (or persons performing similar functions), or employees of the firm from influencing or seeking to influence the activities of Research personnel or the content of research reports prepared by the investment adviser affiliate; (ii) obtains an annual independent assessment of the operation of such

policies and procedures; and (iii) does not furnish to its customers research reports prepared by the investment adviser affiliate or otherwise use such investment adviser affiliate to do indirectly what the firm may not do directly under this Addendum.

- c. As used throughout this Addendum, the term "Investment Banking" means all firm personnel engaged principally in investment banking activities, including the solicitation of issuers and structuring of public offering and other investment banking transactions. It also includes all firm personnel who are directly or indirectly supervised by such persons and all personnel who directly or indirectly supervise such persons, up to and including Investment Banking management.
- d. As used throughout this Addendum, the term "Research" means all firm personnel engaged principally in the preparation and/or publication of research reports, including firm personnel who are directly or indirectly supervised by such persons and those who directly or indirectly supervise such persons, up to and including Research management.
- e. As used throughout this Addendum, the term "research report" means any written (including electronic) communication that is furnished by the firm to investors in the U.S. and that includes an analysis of the common stock, any security convertible into common stock, or any derivative thereof, including American Depositary Receipts (collectively, "Securities"), of an issuer or issuers and provides information reasonably sufficient upon which to base an investment decision; provided, however, that a "research report" shall not include:
 - i. the following communications, if they do not include (except as specified below) an analysis, recommendation or rating (e.g., buy/sell/hold, under perform/market perform/outperform, underweight/market weight/overweight, etc.) of individual securities or issuers:
 - 1. reports discussing broad-based indices, such as the Russell 2000 or S&P 500 index;

2. reports commenting on economic, political or market (including trading) conditions;
 3. technical or quantitative analysis concerning the demand and supply for a sector, index or industry based on trading volume and price;
 4. reports that recommend increasing or decreasing holdings in particular industries or sectors or types of securities; and
 5. statistical summaries of multiple companies' financial data and broad-based summaries or listings of recommendations or ratings contained in previously-issued research reports, provided that such summaries or listings do not include any analysis of individual companies; and
- ii. the following communications, even if they include information reasonably sufficient upon which to base an investment decision or a recommendation or rating of individual securities or companies:
1. an analysis prepared for a current or prospective investing customer or group of current or prospective investing customers by a registered salesperson or trader who is (or group of registered salespersons or traders who are) not principally engaged in the preparation or publication of research reports; and
 2. periodic reports, solicitations or other communications prepared for current or prospective investment company shareholders (or similar beneficial owners of trusts and limited partnerships) or discretionary investment account clients, provided that such communications discuss past performance or the basis for previously made discretionary investment decisions.

2. Legal/Compliance. Research will have its own dedicated legal and

compliance staff, who may be a part of the firm's overall compliance/legal infrastructure.

3. Budget. For the firm's first fiscal year following the entry of the Final Judgment in the SEC's action against Respondent in a related proceeding ("Final Judgment") and thereafter, Research budget and allocation of Research expenses will be determined by the firm's senior management (e.g., CEO/Chairman/management committee, other than Investment Banking personnel) without input from Investment Banking and without regard to specific revenues or results derived from Investment Banking, though revenues and results of the firm as a whole may be considered in determining Research budget and allocation of Research expenses. On an annual basis thereafter, the Audit Committee of the firm's holding/parent company (or comparable independent persons/group without management responsibilities) will review the budgeting and expense allocation process with respect to Research to ensure compliance with this requirement.
4. Physical Separation. Research and Investment Banking will be physically separated. Such physical separation will be reasonably designed to prevent the intentional and unintentional flow of information between Research and Investment Banking.
5. Compensation. Compensation of professional Research personnel will be determined exclusively by Research management and the firm's senior management (but not including Investment Banking personnel) using the following principles:
 - a. Investment Banking will have no input into compensation decisions.
 - b. Compensation may not be based directly or indirectly on Investment Banking revenues or results; provided, however, that compensation may relate to the revenues or results of the firm as a whole.
 - c. A significant portion of the compensation of anyone principally engaged in the preparation of research reports (as defined in this Addendum) that he or she is required to certify pursuant to the U.S. Securities and Exchange's Regulation Analyst Certification

("Regulation AC") (such person hereinafter a "lead analyst") must be based on quantifiable measures of the quality and accuracy of the lead analyst's research and analysis, including his or her ratings and price targets, if any. In assessing quality, the firm may rely on, among other things, evaluations by the firm's investing customers, evaluations by the firm's sales personnel and rankings in independent surveys. In assessing accuracy, the firm may use the actual performance of a company or its equity securities to rank its own lead analysts' ratings and price targets, if any, and forecasts, if any, against those of other firms, as well as against benchmarks such as market or sector indices.

- d. Other factors that may be taken into consideration in determining lead analyst compensation include: (i) market capitalization of, and the potential interest of the firm's investing clients in research with respect to, the industry covered by the analyst; (ii) Research management's assessment of the analyst's overall performance of job duties, abilities and leadership; (iii) the analyst's seniority and experience; (iv) the analyst's productivity; and (v) the market for the hiring and retention of analysts.
- e. The criteria to be used for compensation decisions will be determined by Research management and the firm's senior management (not including Investment Banking) and set forth in writing in advance.
- f. Research management will document the basis for each compensation decision made with respect to (i) anyone who, in the last 12 months, has been required to certify a research report (as defined in this Addendum) pursuant to Regulation AC; and (ii) anyone who is a member of Research management (except in the case of senior-most Research management, in which case the basis for each compensation decision will be documented by the firm's senior management).

On an annual basis, the Compensation Committee of the firm's holding/parent company (or comparable independent persons/group without management responsibilities) will review the compensation process for Research personnel. Such review will be reasonably

designed to ensure that compensation decisions have been made in a manner that is consistent with these requirements.

6. Evaluations. Evaluations of Research personnel will not be done by, nor will there be input from, Investment Banking personnel.
7. Coverage. Investment Banking will have no input into company-specific coverage decisions (i.e., whether or not to initiate or terminate coverage of a particular company in research reports furnished by the firm), and investment banking revenues or potential revenues will not be taken into account in making company-specific coverage decisions; provided, however, that this requirement does not apply to category-by-category coverage decisions (e.g., a given industry sector, all issuers underwritten by the firm, companies meeting a certain market cap threshold).
8. Termination of Coverage. When a decision is made to terminate coverage of a particular company in the firm's research reports (whether as a result of a company-specific or category-by-category decision), the firm will make available a final research report on the company using the means of dissemination equivalent to those it ordinarily uses; provided, however, that no final report is required for any company as to which the firm's prior coverage has been limited to purely quantitative analysis. Such report will be comparable to prior reports, unless it is impracticable for the firm to produce a comparable report (e.g., if the analyst covering the company and/or sector has left the firm). In any event, the final research report must disclose: the firm's termination of coverage; and the rationale for the decision to terminate coverage.
9. Prohibition on Soliciting Investment Banking Business. Research is prohibited from participating in efforts to solicit investment banking business. Accordingly, Research may not, among other things, participate in any "pitches" for investment banking business to prospective investment banking clients, or have other communications with companies for the purpose of soliciting investment banking business.
10. Firewalls Between Research and Investment Banking. So as to reduce further the potential for conflicts of interest or the appearance of conflicts of interest, the firm must create and enforce firewalls between Research

and Investment Banking reasonably designed to prohibit all communications between the two except as expressly described below:

- a. Investment Banking personnel may seek, through Research management (or an appropriate designee with comparable management or control responsibilities ("Designee")) or in the presence of internal legal or compliance staff, the views of Research personnel about the merits of a proposed transaction, a potential candidate for a transaction, or market or industry trends, conditions or developments. Research personnel may respond to such inquiries on these subjects through Research management or its Designee or in the presence of internal legal or compliance staff. In addition, Research personnel, through Research management or its Designee or in the presence of internal legal or compliance staff, may initiate communications with Investment Banking personnel relating to market or industry trends, conditions or developments, provided that such communications are consistent in nature with the types of communications that an analyst might have with investing customers. Any communications between Research and Investment Banking personnel must not be made for the purpose of having Research personnel identify specific potential investment banking transactions.
- b. In response to a request by a commitment or similar committee or subgroup thereof, Research personnel may communicate their views about a proposed transaction or potential candidate for a transaction to the committee or subgroup thereof in connection with the review of such transaction or candidate by the committee. Investment Banking personnel working on the proposed transaction may participate with the Research personnel in these discussions with such committee or subgroup. However, the Research personnel also must have an opportunity to express their views to the committee or subgroup outside the presence of such Investment Banking personnel.
- c. Research personnel may assist the firm in confirming the adequacy of disclosure in offering or other disclosure documents for a transaction based on the analysts' communications with the company and other vetting conducted outside the presence of Investment Banking personnel, but to the extent communicated to Investment Banking personnel, such communication shall only be made in the presence of

underwriters' or other counsel on the transaction or internal legal or compliance staff.

- d. After the firm receives an investment banking mandate, or in connection with a block bid or similar transaction, Research personnel may (i) communicate their views on the structuring and pricing of the transaction to personnel in the firm's equity capital markets group, which group's principal job responsibility is the pricing and structuring of transactions (including by participating with the firm's equity capital markets group in the preparation of internal-use memoranda and other efforts to educate the sales force), and (ii) provide to such personnel other information obtained from investing customers relevant to the pricing and structuring of the transaction.
- e. Research personnel may attend or participate in a widely-attended conference attended by Investment Banking personnel or in which Investment Banking personnel participate, provided that the Research personnel do not participate in activities otherwise prohibited herein.
- f. Research and Investment Banking personnel may attend or participate in widely-attended firm or regional meetings at which matters of general firm interest are discussed. Research management and Investment Banking management may attend meetings or sit on firm management, risk or similar committees at which general business and plans (including those of Investment Banking and Research) and other matters of general firm interest are discussed. Research and Investment Banking personnel may communicate with each other with respect to legal or compliance issues, provided that internal legal or compliance staff is present.
- g. Communications between Research and Investment Banking personnel that are not related to investment banking or research activities may take place without restriction.

11. Additional Restrictions on Activities By Research and Investment Banking Personnel.

- a. Research personnel are prohibited from participating in company or Investment Banking-sponsored road shows related to a public offering or other investment banking transaction.

- b. Investment Banking personnel are prohibited from directing Research personnel to engage in marketing or selling efforts to investors with respect to an investment banking transaction.

12. Oversight. An oversight/monitoring committee or committees, which will be comprised of representatives of Research management and may include others (but not personnel from Investment Banking), will be created to:

- a. review (beforehand, where practicable) all changes in ratings, if any, and material changes in price targets, if any, contained in the firm's research reports;
- b. conduct periodic reviews of research reports to determine whether changes in ratings or price targets, if any, should be considered; and
- c. monitor the overall quality and accuracy of the firm's research reports;

provided, however, that Sections I.12.a and I.12.b of this Addendum shall not be required with respect to research reports limited to purely quantitative analysis.

II. Disclosure/Transparency and Other Issues

- 1. Disclosures. In addition to other disclosures required by rule, the firm must disclose prominently on the first page of any research report and any summary or listing of recommendations or ratings contained in previously-issued research reports, in type no smaller than the type used for the text of the report or summary or listing, that:
 - a. "[Firm] does and seeks to do business with companies covered in its research reports. As a result, investors should be aware that the firm may have a conflict of interest that could affect the objectivity of this report."
 - b. With respect to Covered Companies as to which the firm is required to make available Independent Research (as set forth in Section III below): "Customers of [firm] can receive independent,

third-party research on the company covered in this report, at no cost to them, where such research is available. Customers can access this independent research at [website address/hyperlink] or can call [toll-free number] to request a copy of this research.”

- c. “Investors should consider this report as only a single factor in making their investment decision.”

2. Transparency of Analysts’ Performance. The firm will make publicly available (via its website, in a downloadable format), no later than 90 days after the conclusion of each quarter (beginning with the first full calendar quarter that commences at least 120 days following the entry of the Final Judgment), the following information, if such information is included in any research report (other than any research report limited to purely quantitative analysis) prepared and furnished by the firm during the prior quarter: subject company, name(s) of analyst(s) responsible for certification of the report pursuant to Regulation AC, date of report, rating, price target, period within which the price target is to be achieved, earnings per share forecast(s), period(s) for which such forecast(s) are applicable (e.g., 3Q03, FY04, etc.), and definition/explanation of ratings used by the firm.
3. Applicability. Except as specified in the second and third sentences of this Section II.3, the restrictions and requirements set forth in Sections I [Separation of Research and Investment Banking] and Section II [Disclosure/Transparency and Other Issues] of this Addendum will only apply in respect of a research report that is both (i) prepared by the firm, and (ii) that relates to either (A) a U.S. company, or (B) a non-U.S. company for which a U.S. market is the principal equity trading market; provided, however, that such restrictions and requirements do not apply to Research activities relating to a non-U.S. company until the second calendar quarter following the calendar quarter in which the U.S. market became the principal equity trading market for such company. Notwithstanding the foregoing, Section I.7 [Coverage] of this Addendum will also apply to any research report (other than the Independent Research made available by the firm pursuant to Section III [Independent, Third-Party Research] of this Addendum) that has been *furnished* by the firm to investors in the U.S., but not prepared by the firm, but only to the extent that the report relates to either (A) a U.S. company, or (B) a non-U.S. company for which a U.S. market is the

principal equity trading market. Also notwithstanding the foregoing, Section II.1 [Disclosures] of this Addendum will also apply to any research report (other than the Independent Research made available by the firm pursuant to Section III of this Addendum) that has been *furnished* by the firm to investors in the U.S., but not prepared by the firm, including a report that relates to a non-U.S. company for which a U.S. market is not the principal equity trading market, but only to the extent that the report has been furnished under the firm's name, has been prepared for the exclusive or sole use of the firm or its customers, or has been customized in any material respect for the firm or its customers.

- a. For purposes of this Section II.3, the firm will be deemed to have furnished a research report to U.S. investors in the U.S. if the firm has made the research report available to investors in the U.S. or has arranged for someone else to make it available to investors in the U.S.
- b. For purposes of this Section II.3, a "U.S. company" means any company incorporated in the U.S. or whose principal place of business or headquarters is in the U.S.
- c. For purposes of this Section II.3, the calendar quarter in which a non-U.S. company's "principal equity trading market" becomes the U.S. market is a quarter when more than 50% of worldwide trading in the company's common stock and equivalents (such as ordinary shares or common stock or ordinary shares represented by American Depositary Receipts) takes place in the U.S. Trading volume shall be measured by publicly reported share volume.

4. General.

- a. The firm may not knowingly do indirectly that which it cannot do directly under this Addendum.
- b. The firm will adopt and implement policies and procedures reasonably designed to ensure that its associated persons (including but not limited to the firm's Investment Banking personnel) cannot and do not seek to influence the contents of a research report or the activities of Research personnel for purposes of obtaining or retaining investment banking business. The firm will adopt and

implement procedures instructing firm personnel to report immediately to a member of the firm's legal or compliance staff any attempt to influence the contents of a research report or the activities of Research personnel for such a purpose.

5. Timing. Unless otherwise specified, the restrictions and requirements of this Addendum will be effective within 120 days of the entry of the Final Judgment, except that Sections I.5 [Compensation], I.6 [Evaluations], I.7[Coverage], I.8[Termination of Coverage], I.9 [Prohibition on Soliciting Investment Banking Business], I.11 [Additional Restrictions on Activities by Research and Investment Banking Personnel], and II.4(a) [General subpart a)] and II.7 [Superseding Rules and Amendments] of this Addendum will be effective within 60 days of the entry of the Final Judgment, and Sections II.1.b [Disclosures (subpart b)] and III [Independent, Third-Party Research] of this Addendum will be effective within 270 days of the entry of the Final Judgment.

6. Review of implementation.

- a. The firm will retain, at its own expense, an Independent Monitor acceptable to the Staff of the SEC, the NYSE, the NASD, the President of NASAA, and the New York Attorney General's Office to conduct a review to provide reasonable assurance of the implementation and effectiveness of the firm's policies and procedures designed to achieve compliance with the terms of this Addendum. This review will begin 18 months after the date of the entry of the Final Judgment. The Independent Monitor will produce a written report of its review, its findings as to the implementation and effectiveness of the firm's policies and procedures, and its recommendations of other policies or procedures (or amendments to existing policies or procedures) as are necessary and appropriate to achieve compliance with the requirements and prohibitions of this Addendum. The report will be produced to the firm and the Staff of the SEC, the NYSE and the NASD within 30 days from the completion of the review, but no later than 24 months from the date of entry of the Final Judgment. (The SEC Staff shall make the report available to the President of NASAA and the New York Attorney General's Office upon request.) The Independent Monitor shall have the option to seek an extension of time by making a written request to the Staff of the SEC.

- b. The firm will have a reasonable opportunity to comment on the Independent Monitor's review and proposed report prior to its submission, including a reasonable opportunity to comment on any and all recommendations, and to seek confidential treatment of such information and recommendations set forth therein to the extent that the report concerns proprietary commercial and financial information of the firm. This report will be subject to the protections from disclosure set forth in the rules of the SEC, including the protections from disclosure set forth in 5 U.S.C. § 552(b) (8) and 17 C.F.R. § 200.80(b) (8), and will not constitute a record, report, statement or data compilation of a public office or agency under Rule 803(8) of the Federal Rules of Evidence.
- c. The firm will adopt all recommendations contained in the written report of the Independent Monitor; provided, however, that as to any recommendation that the firm believes is unduly burdensome or impractical, the firm may demonstrate why the recommended policy or procedure is, under the circumstances, unreasonable, impractical and/or not designed to yield benefits commensurate with its cost, or the firm may suggest an alternative policy or procedure designed to achieve the same objective, and submit such explanation and/or alternative policy or procedure in writing to the Independent Monitor and to the Staff of the SEC. The firm and the Independent Monitor shall then attempt in good faith to reach agreement as to any policy or procedure as to which there is any dispute and the Independent Monitor shall reasonably evaluate any alternative policy or procedure proposed by the firm. If an agreement on any issue is not reached, the firm will abide by the determinations of the Staff of the SEC (which shall be made after allowing the firm and the Independent Monitor to present arguments in support of their positions), and adopt those recommendations the Staff of the SEC deems appropriate.
- d. The firm will cooperate fully with the Independent Monitor in this review, including making such non-privileged information and documents available, as the Independent Monitor may reasonably request, and by permitting and requiring the firm's employees and agents to supply such non-privileged information and documents as the Independent Monitor may reasonably request.

- e. To ensure the independence of the Independent Monitor, the firm (i) shall not have the authority to terminate the Independent Monitor without the prior written approval of the SEC staff; and (ii) shall compensate the Independent Monitor, and persons engaged to assist the Independent Monitor, for services rendered pursuant to this Order at their reasonable and customary rates.
 - f. For the period of engagement and for a period of three years from completion of the engagement, the Independent Monitor shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with the firm, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. Any entity with which the Independent Monitor is affiliated or of which he/she is a member, and any person engaged to assist the Independent Monitor in performance of his/her duties under this Order shall not, without prior written consent of the Staff of the SEC, enter into any employment, consultant, attorney-client, auditing or other professional relationship with the firm, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of three years after the engagement.
 - g. Five years after the date of the entry of the Final Judgment, the firm shall certify to the Staff of the SEC, the NYSE, the NASD, the President of NASAA, and the New York Attorney General's Office, that the firm has complied in all material respects with the requirements and prohibitions set forth in this Addendum or, in the event of material non-compliance, will describe such material non-compliance.
7. Superseding Rules and Amendments. In the event that the SEC adopts a rule or approves an SRO rule or interpretation with the stated intent to supersede any of the provisions of this settlement, except Section IV [Investor Education] the SEC or SRO rule or interpretation will govern with respect to that provision of the settlement and such provision will be superseded. In addition, the SEC, NYSE, the NASD, the New York Attorney General's Office and any State that incorporates this Addendum into its settlement of related proceedings against the Respondent agrees that the SEC Staff may provide interpretive guidance with respect to the terms of the settlement, except for Section IV [Investor Education], as

requested by the firm and that, subject to Court approval, the SEC and the firm may agree to amend or modify any term of the settlement, except for Section IV [Investor Education], in each case, without any further action or involvement by any other regulator in any related proceeding. With respect to any term in Section I or II of this Addendum that has not been superseded (as set forth above) within five years of the entry of the Final Judgment, it is the expectation of Respondent, the SEC, NYSE, NASD, New York Attorney General's Office and the States that the SEC would agree to an amendment or modification of such term, subject to Court approval, unless the SEC believes such amendment or modification would not be in the public interest.

8. Other Obligations and Requirements. Except as otherwise specified, the requirements and prohibitions of this Addendum shall not relieve the firm of any other applicable legal obligation or requirement.

III. Independent, Third-Party Research

1. Obligation to Make Available. Each year, for the period ending five years after the effective date of this Section III (as set forth in Section II.5 [Timing] of this Addendum), the firm will be required to contract with no fewer than three independent providers of research ("Independent Research Providers") at a time in order to procure and make available Independent Research (as defined below) to the firm's customers in the U.S. as set forth below. There is, however, no requirement that there be at least three Independent Research Providers for the Common Stock of each Covered Company (as those terms are defined below):
 - a. For common stock and equivalents (such as ordinary shares or common stock or ordinary shares represented by American Depositary Receipts) listed on a U.S. national securities exchange or quoted in Nasdaq (such securities hereinafter, collectively, "Common Stock") and covered in the firm's research reports (other than those limited to purely quantitative analysis) (an issuer of such covered Common Stock hereinafter called a "Covered Company"), the firm, through an Independent Consultant (as discussed below) will use its reasonable efforts to procure, and shall make available to its customers in the U.S., Independent Research on such Covered

Company's Common Stock. (If the Independent Research Providers drop coverage or do not timely pick up coverage of the Common Stock of a Covered Company, the firm will not be in violation of any of the requirements in this Section III, and may continue to disseminate its own research reports on the Common Stock of the Covered Company without making available any Independent Research on the Common Stock of the Covered Company, if the firm takes reasonable steps to request that the Independent Consultant procure such coverage promptly.)

- i. For purposes of this Section III, the firm's research reports include research reports that have not been prepared by the firm, but only to the extent that such reports have been furnished under the firm's name, have been prepared for the exclusive or sole use of the firm or its customers, or have been customized in any material respect for the firm or its customers.
- ii. A non-U.S. company for which a U.S. market is not the principal equity trading market shall only be considered a Covered Company if in the calendar quarter ended March 31, 2003, or in any subsequent calendar quarter during the period that the firm's obligations to procure and make available Independent Research under this Section III are effective, the publicly reported, average daily dollar volume of U.S. trading in such company's Common Stock (measured by multiplying the publicly reported, average daily share volume of U.S. trading during the quarter by the closing price per share of the Common Stock on the last day of the quarter), exceeded \$2.5 million, and (b) the outstanding total public float of the Common Stock as of the last day of such calendar quarter exceeded \$150 million. Further, the firm's obligation to procure and make available Independent Research with respect to such company shall become effective at the later of: (a) 90 days after the end of the calendar quarter in which the company met the foregoing trading and public float tests; or (b) the effective date of this Section III.

- b. For purposes of this Section III, Independent Research means
 - (i) a research report prepared by an unaffiliated person or entity,
 - or (ii) a statistical or other survey or analysis of research reports (including ratings and price targets) issued by a broad range of persons and entities, including persons and entities having no association with investment banking activities, which survey or analysis has been prepared by an unaffiliated person or entity.
- c. The firm will adopt policies and procedures reasonably designed to ensure that, in connection with any solicited order for a customer in the U.S. relating to the Common Stock of a Covered Company, and if Independent Research on the Covered Company's Common Stock is available, the registered representative will have informed the customer, during the solicitation, that the customer can receive Independent Research on the Covered Company's Common Stock at no cost to the customer (the "Notice Requirement").
- d. Notwithstanding the foregoing, the Notice Requirement will not apply to (i) the solicitation of an institutional customer (an entity other than a natural person having at least \$10 million invested in securities in the aggregate in its portfolio and/or under management) unless such customer, after due notice and opportunity, has advised the firm that it wishes to have the Notice Requirement apply to it (any customer who has not so advised the firm is hereinafter referred to as a "Non-Participating Institutional Customer"); (ii) orders as to which discretion was exercised, pursuant to a written discretionary account agreement or written grant of trading authorization; or (iii) a solicitation by an entity affiliated with the Respondent if such entity does not furnish to its customers research reports under the firm's name, prepared by the firm for the exclusive or sole use of the firm or its customers, or research reports that have been customized in any material respect for the firm or its customers.
- e. Each trade confirmation sent by the Respondent to a customer with respect to an order as to which the Notice Requirement applies will set forth (or will be accompanied by a separate statement, which shall be considered part of the confirmation,

that will set forth), as of the time the trade confirmation is generated, the ratings, if any, contained in the firm's own research reports and in Independent Research procured for the firm with respect to the Common Stock of the Covered Company that is the subject of the order.

- f. Each periodic account statement sent by the Respondent to a customer in the U.S. that reflects a position in the Common Stock of a Covered Company will set forth (or will be accompanied by a separate statement, which shall be considered part of the periodic account statement, that will set forth), as of the end of the period covered by the statement, the ratings, if any, contained in the firm's own research reports and in the Independent Research made available by the firm on the Common Stock of each such Covered Company; provided, however, that this requirement will not apply to Non-Participating Institutional Customers or discretionary accounts.
- g. Notice of the availability of Independent Research on Covered Companies' Common Stock will also be included prominently in the periodic account statements of the Respondent's customers in the U.S., in the firm's research reports, and on the firm's website.
- h. The firm will make the Independent Research available to its customers in the U.S. using, for each customer, the means of dissemination equivalent to those it uses to provide the customer with the firm's own research reports, unless the firm and customer agree on another means of dissemination; provided, however, that nothing herein shall require or authorize the firm to comply with the Notice Requirement or make available or disseminate Independent Research at a time when doing so would violate Section 5 of the Securities Act of 1933 or the other provisions of the federal securities laws or the rules and regulations thereunder. If and to the extent the firm is able to make available or disseminate its own research reports on the Common Stock of a Covered Company pursuant to Rule 137, Rule 138(a) or Rule 139(a) under the Securities Act of 1933 and in reliance on Regulation M under the Securities Exchange Act of 1934, then the firm is also authorized and

required to make available or disseminate Independent Research on the Common Stock of such Covered Company (even if the Independent Research does not meet the requirements of such Rule). Notwithstanding this Section III.1.h, if the firm determines, because of legal, compliance or similar concerns, not to furnish or make available its own research reports on the Common Stock of a Covered Company for a limited period of time, it shall not be required to make available the Independent Research on such Covered Company for such period of time.

- i. If, during the period that the firm's obligations to procure and make available Independent Research under this Section III are effective, the firm terminates coverage of the Common Stock of a Covered Company, the firm, through its Independent Consultant, will make reasonable efforts to continue to procure and make available Independent Research on the Common Stock of such company for a period of at least 18 months after termination of coverage (subject to expiration of the firm's obligations under this Section III).
- j. The firm will not be responsible or liable for (i) the procurement decisions of the Independent Consultant (as discussed in Section III.2 [Appointment of Independent Consultant to Oversee the Procurement of Independent Research] of this Addendum) with respect to the Independent Research, (ii) the Independent Research or its content, (iii) customer transactions, to the extent based on the Independent Research, or (iv) claims arising from or in connection with the inclusion of Independent Research ratings in the firm's confirmations and periodic account statements, to the extent such claims are based on those ratings. The firm will not be required to supervise the production of the Independent Research procured by the Independent Consultant and will have no responsibility to comment on the content of the Independent Research. The firm may advise its customers of the foregoing in its discretion.
- k. The Independent Consultant will not be liable for (i) its procurement decisions, (ii) the Independent Research or its

content, (iii) customer transactions, to the extent based on the Independent Research, or (iv) claims arising from or in connection with the inclusion of Independent Research ratings in the firm's confirmations and periodic account statements, to the extent such claims are based on those ratings, unless the Independent Consultant has carried out such duties in bad faith or with willful misconduct. The firm will indemnify the Independent Consultant for any liability arising from the Independent Consultant's good-faith performance of its duties as such.

2. Appointment of Independent Consultant to Oversee the Procurement of Independent Research. Within 30 days of the entry of the Final Judgment, an Independent Consultant acceptable to the SEC Staff, the NYSE, the NASD, the President of NASAA, the New York Attorney General and the firm shall be named to oversee the procurement of Independent Research from Independent Research Providers. The Independent Consultant will have the final authority (following consultation with the firm and in accordance with the criteria set forth in Section III.3 [Selection of Independent Research Providers] of this Addendum) to procure the Independent Research. The Independent Consultant will not have had any significant financial relationship with the firm during the prior three years and may not have any financial relationship with the firm for three years following his or her work as the Independent Consultant. The Independent Consultant's fee arrangement will be subject to the approval of the Staff of the SEC, the NYSE, the NASD, the President of NASAA, and the New York Attorney General's Office. In the event that an Independent Consultant must be replaced, the replacement shall be acceptable to the Staff of the SEC, the NYSE, the NASD, the President of NASAA, the New York Attorney General's Office and the firm, and shall be subject to these same conditions.
3. Selection of Independent Research Providers. The Independent Consultant will seek to procure research reports on the Common Stock of all Covered Companies from Independent Research Providers. Independent Research Providers may not perform investment banking business of any kind and may not provide brokerage services in direct and significant competition with the firm. In addition, the Independent Consultant will use the following criteria in selecting and contracting with Independent Research Providers to provide Independent Research.

- a. whether and to what extent the Independent Research Provider or any of its affiliates or associated persons is engaged in activities (including, but not limited to, activities involving Covered Companies or their securities), or has a business or other relationship with the firm or any of its affiliates or associated persons, that may conflict or create the appearance of conflict with its preparation and publication of the Independent Research;
- b. the desirability of multiple coverage of certain Covered Companies (e.g., by size of company, industry sector, companies underwritten by the firm, etc.);
- c. the extent to which the Independent Research Provider has a client base and revenue stream broad enough to ensure its independence from the firm;
- d. the utility of the Independent Research Provider's Independent Research to the firm's customers, including the inclusion of ratings and price targets in such research and the extent to which the firm's customers actually use the research; and with respect to surveys or analyses described above in Section III.1.b(ii), the extent to which the Independent Research provides customers with a means of comparing the firm's research reports to those published by other persons and entities, including persons and entities having no association with investment banking activities;
- e. the quality and accuracy of the Independent Research Provider's past research, including during the term of the Independent Consultant's tenure;
- f. the experience, expertise, reputation and qualifications (including, as appropriate, registrations) of the Independent Research Provider and its personnel; and
- g. the cost of the Independent Research, especially in light of the five-year period set forth in Section III.1 above for the firm to

make Independent Research available to its investing customers.

4. Disclosure Language. Language substantially to the effect set forth below may be used by the firm and its registered representatives to inform the firm's customers of the availability of Independent Research:

- a. {Disclosure to customers as required by Section III.1.c [Obligation to Make Available subpart c] of this Addendum.}

"There is also independent, third-party research available on this company, which you can get at no cost [from our website/hyperlink] or by calling [toll-free number], or which I can arrange to send to you if you would like."

- b. {General website and periodic customer account statement disclosure as required by Section III.1.g. [Obligation to Make Available subpart g] of this Addendum].}

"Independent, third-party research on certain companies covered by the firm's research is available to customers of [firm] at no cost. Customers can access this research at [our website/hyperlink] or can call [toll-free number] to request that a copy of this research be sent to them."

5. Annual Reporting. The Independent Consultant will report annually to the Staff of the SEC, the NYSE, the NASD, the President of NASAA, and the New York Attorney General's Office on its selection of Independent Research Providers, the Independent Research it has procured, the cost of the Independent Research it has procured to date, and the Independent Consultant's fees and expenses to date.

IV. Investor Education

1. General. The firm will pay a total of \$5,000,000, payable in five equal installments on an annual basis (with the first payment to be made 90 days after the entry of the Final Judgment), to funds earmarked for investor education. Of this money, a total of \$2,500,000 shall be paid pursuant to the firm's agreement with the

SEC, NYSE and NASD. The remainder of the funds earmarked for investor education, in the amount of \$2,500,000, shall be paid to the Investor Education Fund at the Investor Protection Trust, a Wisconsin charitable trust, pursuant to agreement with the Board of Directors of NASAA, to be used for the purpose of investor education as described in Section IV.3.

2. Payments to the Investor Education Fund.

- a. As referenced in Section IV.1 above, the firm shall pay the amount of \$2,500,000 in five equal annual installment payments as designated by the NASAA Board of Directors to the Investor Education Fund ("the Fund") to be held as a separate fund by the Investor Protection Trust, 411 East Wisconsin Avenue, Milwaukee, WI 53202-4497, c/o Quarles & Brady. The amount for investor education to be paid by the firm to the Fund may be reduced due to the decision of any state(s) not to enter into a settlement with the firm.
- b. The firm shall make the first such installment payment within ninety (90) days after the entry of the Final Judgment. This payment shall be made by wire transfer to the Investor Protection Trust at US Bank NA, Milwaukee, WI, ABA #075000022 for credit for the Trust Division Account 112-950-027, for further credit to the Investor Protection Trust Account Number 000012891800 together with a cover letter identifying Bear Stearns as a respondent in this action and the payment designated for the Investor Education Fund. The firm shall simultaneously transmit photocopies of its payment and letter to the President of NASAA, 10 G Street NE, Washington, DC 20002. By making this payment, and those payments referenced in Section IV.2.c. below, the firm relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to the firm. The Fund shall be administered in accordance with the terms of the investor education plan.
- c. The firm shall make subsequent installment payments annually on or before the month and day of the entry of the Final Judgment. Such payments shall be made into the Fund at the Investor Protection Trust as described in Section IV.2(b).

3. Purpose of and Limitations on the Use of the Fund.

- a. The Fund (including all installment payments) shall be used to support programs designed for the purpose of investor education and research and education with respect to the protection of investors, and to equip investors with the knowledge and skills necessary to make informed investment decisions and to increase personal financial literacy. The Investor Protection Trust, in cooperation with NASAA, shall establish an investor education plan designed to achieve these purposes.
- b. No principal or income from the Fund shall:
 - (i) inure to the general fund or treasury of any State;
 - (ii) be utilized to pay the routine operating expenses of NASAA; or
 - (iii) be utilized to pay the compensation or expenses of state officials or state employees except such expenses as are necessary to fulfill the purposes of the Fund.
- c. Monies in the Fund may also be used to pay any taxes on income earned by such Fund. The firm shall provide the Investor Protection Trust with relevant information and otherwise cooperate with the Investor Protection Trust in fulfilling the Fund's obligations under applicable law.
- d. All fees, costs, and expenses incurred by the Investor Protection Trust in connection with and incidental to the performance of its duties under this Addendum, including the fees, costs, and expenses of any persons engaged to assist it and all administrative fees, costs, and expenses related to the investor education plan shall be paid out of the Fund.

BEFORE THE SECURITIES COMMISSIONER
OF THE STATE OF DELAWARE

In the matter of)
CITIGROUP GLOBAL MARKETS INC.)
(formerly known as Salomon Smith Barney) Case No. 03-6-3
Inc.))
388 Greenwich Street)
New York, New York 10013,)
Respondent.

ADMINISTRATIVE CONSENT ORDER

WHEREAS, SSB now known as Citigroup Global is a broker-dealer registered in the state of Delaware; and

WHEREAS, an investigation into the practices, procedures and conduct of Salomon Smith Barney Inc. ("SSB")¹ respecting: (a) the preparation and issuance by SSB's U.S. equity research analysts ("Research Analysts") of research, analysis, ratings, recommendations and communications concerning common stocks of publicly traded companies covered by such analysts ("Research Coverage"), during the period 1999 through June 2002, including without limitation, commencement and discontinuance of Research Coverage, actual or potential conflicts of interests affecting Research Coverage, Research Analysts or termination of Research Analysts, and misleading statements, opinions, representations or non-disclosure of material facts in Research Coverage; (b) the allocation by SSB and its predecessor Salomon Brothers, Inc. of stock from initial public offerings that traded at a premium in the secondary market when trading in the secondary market begins and spinning by SSB (i.e., allocating such offerings as preferential treatment to officers and directors of companies having or potentially having investment banking business with SSB), during the period 1996 through 2001 ("IPO Allocations") and; (c) any other

¹ On or about April 7, 2003, SSB changed its name to Citigroup Global Markets Inc. ("Citigroup Global"). The U.S. Equity Research of SSB continues as part of Citigroup Global. Since the matters which were the subject of the Investigations occurred prior to the name change, the Findings of Fact herein generally refer to SSB.

1 conduct referred to in the Findings of Fact set forth below in paragraphs 3 through 153 has been
2 conducted by a multi-state task force of which Delaware was a part (the "Investigation").

3 WHEREAS, the Investigation was conducted in connection with a joint task force of the
4 U.S. Securities and Exchange Commission, the New York Stock Exchange, and the National
5 Association of Securities Dealers (together, with the multi-state task force referred to above, the
6 "regulators"); and

7 WHEREAS, The New York Attorney General and Citigroup Global have previously entered
8 into an Assurance of Discontinuance, dated April 24, 2003 (the "New York Assurance of
9 Discontinuance"), a copy of which has been provided to the Securities Commissioner of the Division
10 of Securities of the State of Delaware Department of Justice ("Commissioner") concerning the
11 practices, policies and procedures of SSB which were the subject of the Investigation; and

12 WHEREAS, SSB has cooperated with regulators conducting the Investigation by
13 responding to inquiries, providing documentary evidence and other materials, and providing
14 regulators with access to facts relating to the Investigation; and

15 WHEREAS, Citigroup Global has advised regulators of its agreement to resolve the
16 Investigation; and

17 WHEREAS, Citigroup Global agrees to implement certain changes with respect to research
18 and stock allocation practices, and to make certain payments; and

19 WHEREAS, Citigroup Global elects to permanently waive any right to a hearing and
20 appeal under the Delaware Securities Act (6 Del. C. Chap. 73) with respect to this Administrative
21 Consent Order (the "Order");

22 NOW, THEREFORE, the Commissioner, as administrator of the Delaware Securities Act,
23 hereby enters this Order:
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25
26

I.

FINDINGS OF FACT

A. Summary and Jurisdiction

1. Citigroup Global is, and under its former name SSB was, at all relevant times, a registered broker-dealer with its principal place of business located at 388 Greenwich Street, New York, New York 10013. SSB has engaged and Citigroup Global continues to be engaged, in a full-service securities business, including institutional and retail sales, investment banking services, trading and research.
2. The Commissioner has jurisdiction over this matter pursuant to the 6 Del. C. § 7325.
3. In 1999, 2000, and 2001 (the "relevant period"), as described below, SSB issued research reports on two telecommunications ("telecom") companies that were fraudulent and issued research reports on several telecom companies that were misleading.
4. During the relevant period, SSB employed business practices that required research analysts to promote SSB's investment banking efforts. Research alone did not generate substantial profits for SSB; investment banking did, and it needed the services of research analysts to do so. Research analysts were expected to vet prospective investment banking deals, promote SSB's investment banking business to issuers during pitches, and market investment banking deals to SSB's customers. When SSB secured investment banking business, research analysts were expected to provide favorable coverage of SSB's investment banking clients. Important factors in evaluating an analyst's performance and determining an analyst's compensation at SSB were investment banker evaluations and investment banking revenues generated in an analyst's sector. These business practices created a culture in which investment bankers could and did pressure research analysts to maintain coverage or favorable ratings for investment banking clients and created the incentive for analysts to use research to obtain, retain and increase revenue from investment banking deals. SSB failed to manage the conflicts created by its practices.

- 1 5. Jack Grubman was the linchpin for SSB's investment banking efforts in the telecom sector.
2 He was the preeminent telecom analyst in the industry, and telecom was of critical
3 importance to SSB. His approval and favorable view were important for SSB to obtain
4 investment banking business from telecom companies in his sector. In total, SSB earned
5 more than \$790 million in investment banking revenue during the relevant period from
6 telecom companies Grubman covered. Given Grubman's key role in SSB's investment
7 banking success in the telecom sector, SSB compensated him handsomely. During the
8 relevant period, Grubman was one of the most highly paid research analysts at SSB and on
9 Wall Street. Between 1999 and August 2002, when he left the firm, Grubman's total
10 compensation exceeded \$67.5 million, including his multi-million dollar severance
11 package.
- 12 6. During the relevant period, SSB and Grubman published fraudulent research reports on
13 Focal Communications and Metromedia Fiber Networks, as set forth below. These reports
14 were contrary to the true views Grubman and another analyst on his team privately
15 expressed, presented an optimistic picture that overlooked and minimized the risk of
16 investing in these companies, predicted substantial growth in the companies' revenues and
17 earnings without a reasonable basis, did not disclose material facts about these companies,
18 and contained material misstatements about the companies.
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- 1 7. Moreover, SSB and Grubman also published certain research reports that were misleading.
2 In April 2001, Grubman expressed a need to downgrade six telecom companies (Level 3
3 Communications, Williams Communications Group, XO Communications, Focal, Adelphia
4 Business Solutions, and RCN Communications). Investment bankers pressured Grubman
5 not to downgrade these companies and Grubman did not. He continued to advise investors
6 to buy these stocks, and did not disclose the influence of investment bankers on his ratings.
7 In addition, a research report on Williams Communications lacked a reasonable basis
8 because it did not disclose the true views Grubman and others on his team privately
9 expressed at the same time about the company and certain research reports on Focal failed
10 to disclose facts as described below.
- 11 8. In November 1999, Grubman upgraded AT&T from a Neutral (3) – his longtime rating on
12 the stock -- to a Buy (1). SSB and Grubman did not disclose in the report that Grubman
13 had a conflict of interest relating to his evaluation of AT&T. Prior to the upgrade, Sanford
14 I. Weill ("Weill"), the co-CEO and Chairman of Citigroup (and a member of the AT&T
15 board of directors), had asked Grubman to take a "fresh look" at AT&T, and Grubman had
16 asked Weill for assistance in gaining admission for his children to the selective 92nd Street
17 Y preschool in New York City at the same time Grubman was conducting his "fresh look"
18 at the company. Subsequently, Grubman stated privately that he had upgraded AT&T to
19 help his children get into the 92nd Street Y preschool. After Grubman upgraded AT&T and
20 his children were admitted to the preschool, Weill arranged a pledge of \$1 million payable
21 in equal amounts over five years from Citigroup to the 92nd Street Y.

1 9. Grubman's upgrade of AT&T also helped SSB gain investment banking business from
2 AT&T. In late fall 1999, AT&T determined to make an initial public offering ("IPO") of a
3 tracking stock for its wireless unit -- the largest equity offering in the United States. In
4 February 2000, AT&T named SSB as one of the lead underwriters and joint book-runners
5 for the IPO, in large part because of Grubman's "strong buy" rating of, and "strong
6 support" for, AT&T. SSB earned \$63 million in investment banking fees from this
7 engagement.

8 10. During the period 1996 through 2000, SSB engaged in improper spinning practices by
9 allocating hot IPO shares² to executives of current or potential investment banking clients
10 and providing special treatment for these executives. The executives profited significantly
11 from selling IPO stock allocated to them. The investment banking business generated by
12 the firms for which these executives worked represented a substantial portion of SSB's
13 revenues during this period.

14 11. Additionally, SSB failed to maintain books and records sufficient to determine whether or
15 not the distribution of IPO shares had been completed prior to the initiation of secondary
16 market trading. Further, SSB failed to administer Issuer Directed Share Programs
17 appropriately and failed to establish and maintain written supervisory procedures for the
18 appropriate management of such programs.

19 B. SSB Failed to Manage Conflicts of Interest Between Research and Investment Banking
20

21 12. SSB's business practices intertwined research with investment banking, thus creating the
22 vehicle for investment banking to exert inappropriate influence over research analysts.
23 SSB failed to manage the resulting conflicts of interest in an adequate or appropriate
24 manner.

25
26 ² A "hot IPO" is one that trades at a premium in the secondary market whenever
trading in the secondary market begins.

1. SSB's Business Practices Required Research Analysts to Support Investment Bankers

13. Companies paid SSB's investment bankers to assist them with (a) capital raising activities such as IPOs, "follow on" offerings (subsequent offerings of stock to the public), and private placements of stock, and (b) other corporate transactions, such as mergers and acquisitions. During the relevant period, investment banking was an important source of revenue for SSB; revenues from investment banking grew from approximately \$3.0 billion in 1999, to approximately \$3.6 billion in 2000, and to approximately \$3.9 billion in 2001. Investment banking fees comprised over 21% of SSB's revenue in 1999, over 22% in 2000, and over 25% in 2001.

14. SSB's equity research analysts provided SSB's investing clients and the public with research reports on certain public companies. SSB held out its research analysts as providing independent, objective and unbiased information, reports, ratings, and recommendations upon which investors could rely in reaching investment decisions. SSB distributed its analysts' reports to its clients directly and by placing the reports on its website.

15. At SSB, research was a cost center. In contrast, investment banking generated substantial profits for SSB. To leverage its research, SSB required research analysts to serve, among others, investment banking. Accordingly,

- SSB expected research analysts to prepare business plans each year that, among other things, highlighted what the research analysts had done and would do to help SSB's investment bankers;
- SSB's research analysts were encouraged to develop investment banking business from issuers and private companies in their sectors;
- SSB's research analysts were expected to support investment banking by pitching business to prospective clients and marketing investment banking deals to institutional customers through roadshows;

- 1 • Investment banking concerns sometimes affected research analysts' decisions to
2 initiate coverage, rate companies, and drop coverage. SSB's research analysts were
3 generally expected to initiate coverage of SSB's investment banking clients with
4 favorable ratings;
- 5 • Investment bankers reviewed the performance of the principal research analysts in
6 their sector as part of the analysts' annual review; and
- 7 • Investment banking revenue generated in an analyst's sector and attributable to an
8 analyst was an important factor SSB used to evaluate an analyst's performance and
9 determine an analyst's compensation.

10
11 16. This integration of research analysts with investment banking was an SSB objective. In a
12 January 1998 presentation to senior management at Travelers Corporation, then the parent
13 of SSB, the head of SSB wrote: "There is a continuing shift in the realization that an
14 analyst is the key element in banking success." Underscoring the same theme two years
15 later, on December 8, 2000, the head of SSB's Global Equity Research wrote to the CEO
16 of SSB that one of his goals since becoming global head of research was "to better
17 integrate our research product with the business development plans of our constituencies,
18 particularly investment banking"

19 17. In reviewing his performance for 2000, the head of SSB's Global Equity Research stated:
20 We have become much more closely linked to investment banking this year as a result of
21 participating in their much-improved franchise review process this year. There has been a
22 yearend [sic] cross review of senior analysts and bankers particularly in the U.S. and
23 Europe and with the development of the Platinum Program in the investment bank, the
24 analyst's understanding of the relative importance of clients for IB [investment banking]
25 and GRB [global relationship bank] is much improved.
26

1 18. In January 2000, SSB held a "Best Practices Seminar" for research analysts that was
2 hosted by the head of U.S. Equity Research Management. At that seminar, a senior
3 member of Research Management stated:

4 [W]hen you look at the market share gap between us and the three
5 competitors who are trying to close. When I just eyeballed it, it
6 looked like to me there is something like roughly a billion dollars of,
7 maybe not Equity Capital Markets but Investment Banking revenues,
8 on the table for this firm. And that's a lot of money.

9 And its clear...that Research is driving a lot of this increasingly. And
10 therefore, as a [research] department our goal has to be, to be a really
11 effective partner in terms of helping drive initiation, execution and
12 everything else. Because there is a lot of money on the table for this
13 company. And we'll all benefit from it.

14 2. SSB Analysts Helped Investment Bankers Identify and Obtain Business

15 19. Research analysts at SSB helped investment banking by identifying prospective clients and
16 mandates and by participating in sales "pitches" for investment banking business. SSB
17 bankers would not pitch for investment banking business unless they knew the SSB analyst
18 who would cover the company was going to support the proposed deal.

19 20. SSB's pitchbooks to potential investment banking clients routinely highlighted the
20 experience and qualifications of the lead analyst in the company's sector and how the
21 analyst would help market the proposed deal. During the "pitch" process, SSB conveyed
22 that its research analysts would cover the company if the company gave it investment
23 banking business, and analysts frequently attended the "pitch" sessions. Once a company
24 selected SSB as the underwriter, SSB analysts worked together with investment bankers to
25 (among other things) perform due diligence on the deal and take the company executives
26 out on "roadshows" to market the potential transaction to institutional investors.

21. During the relevant period, all parties involved – the analyst, the firm, and the issuer –
understood that the analyst would initiate coverage of the company if SSB was given
investment banking business and would initially rate the company favorably.

1 3. SSB's Research Analysts Supported Investment Banking Through Their Ratings and
2 Coverage

3 22. SSB encouraged analysts to support SSB's investment banking business through their
4 ratings. Each research report SSB issued included an investment rating that purportedly
5 reflected the analyst's objective opinion of the relative attractiveness of the company to the
6 investors.

7 23. During the relevant time period, SSB advised its customers that it utilized the following
8 five-point investment rating system:

9 1 - Buy

10 2 - Outperform

11 3 - Neutral

12 4 - Underperform

13 5 - Sell

14
15 24. In addition, SSB during the relevant period included in each research report a risk rating of
16 L (low risk), M (moderate risk), H (high risk), S (Speculative), or V (Venture). Each of the
17 research reports and call notes discussed below, other than those on AT&T, rated the
18 company S (Speculative).

19 25. In practice during the relevant period, SSB's research analysts rarely rated companies a 4
20 (Underperform) and never a 5 (Sell) in part to avoid antagonizing issuers in a way that
21 would harm SSB's investment banking business. As a Director who provided Research
22 Management Support stated in a March 30, 2001 e-mail:

23
24 [W]e in U.S. Research currently have no "4" (Underperform) or "5" (Sell)
25 ratings. We use neutral rating as a statement that we are not at all
26 enthusiastic about a stock. That effectively conveys the message that
 customers should not be in the stock. If we were to use 4 or 5 ratings that
 approach would be perceived as highly antagonistic to buy side accounts . . .
 [and] company management teams.

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26. In a later e-mail, the same person suggested that the common terms SSB used to rate stocks did not mean what they said: "various people in research and media relations are very easy targets for irate phone calls from clients, reporters, etc. who make a very literal reading of the rating [I]f someone wants to read the ratings system for exactly what it says they have a perfect right to do that."
27. The head of SSB's Global Equity Research raised the issue of research integrity directly with the head of SSB in a memorandum entitled "2000 Performance Review," when he expressed a "legitimate concern about the objectivity of our analysts which we must allay in 2001." The head of Global Equity Research also addressed the nature of the research ratings at an SSB equities management meeting. He made a presentation regarding the SSB "Stock Recommendations as of 1/29/01," which showed that, out of a total of 1179 stock ratings, there were no Sell ratings and only one Underperform rating. In handwritten notes attached to this presentation, he described these ratings in the U.S. as the "worst" and "ridiculous on face." He observed that there was a "rising issue of research integrity" and a "basic inherent conflict between IB [investment banking], equities and retail." In a February 22, 2001 memo, the head of Global Equity Research told the managing directors in the U.S. equity research division that the global head of SSB's private client (i.e., retail) division said SSB's "research was basically worthless" and threatened to terminate his division's contribution to the research budget.
28. SSB did not change its rating system, however, and the de facto three-category rating system remained in place throughout 2001. As of the end of 2001, SSB covered over 1000 U.S. stocks but had no Sell ratings and only 15 Underperform ratings (1.4%).

1 4. Investment Banking Influenced SSB's Evaluation and Compensation of Research
2 Analysts

3 29. SSB established a compensation structure that linked research analysts with investment
4 banking. Research analysts were requested to draft business plans that discussed, among
5 other things, their steps to support investment banking business in the past year and their
6 plans to support investment banking in the upcoming year.

7 30. In addition, investment bankers among others evaluated the performance of research
8 analysts. Bonuses for research analysts – comprising most of their compensation – were
9 tied to several factors, one of the most important of which was the investment banking
10 revenue SSB attributed to the research analyst.

11
12 C. Grubman Supported SSB's Investment Banking Business in the Telecom Sector
13

14 31. During the relevant period, Grubman was one of the most prominent analysts on Wall
15 Street. He was a Managing Director of SSB, and the preeminent research analyst at SSB.
16 He managed a team of analysts who issued research reports ("Reports") and call notes
17 ("Notes") on telecom companies. Grubman was principally responsible for each Report
18 and Note SSB issued on these companies.

19 1. Grubman Helped Obtain Investment Banking Clients for SSB
20

21 32. Grubman helped to obtain and maintain business for SSB's investment bankers from
22 telecom companies in his sector. Grubman also vetted proposed transactions involving
23 telecom companies and vetoed those he could not view favorably. Once he determined he
24 could support a proposed transaction, he and other telecom analysts who reported to him
25 often participated in pitching the potential client to award SSB investment banking
26 business and in roadshows that marketed offerings to investors.

1
2 2. Grubman's Ratings Assisted SSB's Investment Banking Business

3 33. During the relevant period, SSB was the lead underwriter on 6 IPOs for telecom
4 companies. For each company, Grubman initiated coverage with a 1 (Buy)
5 recommendation. In virtually every instance, Grubman also issued favorable research
6 reports on telecom companies for which SSB acted as lead or co-manager of a secondary
7 offering of equity stock offering. In fact, Grubman and his group, with only one
8 exception, did not rate a stock a 4 during the relevant period and never rated a stock a 5.
9 Rather, he and the research personnel who reported to him would drop coverage
10 altogether rather than rate a stock at less than a Neutral.

11
12 3. Grubman Helped Generate Substantial Revenue for SSB's Investment Banking
13 Department and Was Highly Compensated

14 34. Grubman's efforts contributed to the telecom sector generating substantial investment
15 banking revenue for SSB. During the relevant period, as reflected in documents prepared
16 in connection with Grubman's evaluation and compensation, SSB earned more than \$790
17 million in total gross investment banking fees from telecom companies covered by
18 Grubman: approximately \$359 million in 1999, \$331 million in 2000, and \$101 million in
19 2001.

20 35. Grubman was well paid for his efforts. During the relevant period, he was one of the most
21 highly compensated research analysts at SSB. His total compensation (including deferred
22 compensation) from 1999-2001 exceeded \$48 million: over \$22 million in 1999, over
23 \$20.2 million in 2000, and over \$6.5 million in 2001. In light of the importance
24 investment banking played in SSB's annual evaluations, Grubman and two of his
25
26

1 assistants in their 2001 performance evaluation highlighted the investment banking deals
2 for which they had been responsible.

3 36. As was true of other research analysts, Grubman was evaluated by investment bankers,
4 institutional sales, and retail sales. Grubman received high scores and evaluations from
5 investment bankers in 2000 and 2001 that reflected his importance to investment banking.
6 Investment bankers rated analysts on a scale from 1 (lowest) to 5 (highest). For 2000,
7 Grubman received a 5 rating overall from investment bankers, who ranked him first
8 among all analysts. His ratings and rankings in specific investment banking categories,
9 such as pre-marketing, marketing, and follow-up were also at the top levels. For 2001,
10 Grubman's average score (the only score presented that year) from investment bankers
11 was 4.382, ranking him 23rd among the 98 analysts reviewed.

12 37. SSB's institutional sales force rated Grubman 16th out of 113 analysts in 2000 and 46th out
13 of 115 analysts in 2001.

14 38. Retail brokers ranked analysts on a scale from -1 (lowest) to 2 (highest). For 1999, the
15 retail sales force gave Grubman an average score of 1.59, ranking him 4th out of 159
16 analysts evaluated. In contrast, for 2000 and 2001, Grubman's evaluations from retail
17 were dramatically lower and well below his scores from investment bankers and the
18 institutional sales force in both years. In 2000, retail ranked Grubman last among all
19 analysts with a score of -0.64. The same was true for 2001 -- the retail force ranked
20 Grubman last among all analysts reviewed, and his score fell to -0.906.

21 39. Moreover, Grubman received scathing written evaluations from the retail sales force in
22 2000 and 2001. Hundreds of retail sales people sent negative written evaluations of
23 Grubman in both years.

- 24 • Many claimed Grubman had a conflict of interest between his role as an analyst and his
25 role assisting investment banking:
 - 26 o "poster child for conspicuous conflicts of interest";

- o "I hope Smith Barney enjoyed the investment banking fees he generated, because they come at the expense of the retail clients";
- o "Let him be a banker, not a research analyst";
- o "His opinions are completely tainted by 'investment banking' relationships (padding his business)";
- o "Investment banker, or research analyst? He should be fired";
- o "Grubman has made a fortune for himself personally and for the investment banking division. However, his investment recommendations have impoverished the portfolio of my clients and I have had to spend endless hours with my clients discussing the losses Grubman has caused them."
- Many criticized his support of companies that were SSB investment banking clients:
 - o "Grubman's analysis and recommendations to buy (1 Ranking) WCOM [Worldcom], GX [Global Crossing], Q [Qwest] is/was careless";
 - o "His ridiculously bullish calls on WCOM and GX cost our clients a lot of money";
 - o "How can an analyst be so wrong and still keep his job? RTHM [Rhythm NetConnections], WCOM, etc., etc.";
 - o "Downgrading a stock at \$1/sh is useless to us.";
 - o "How many bombs do we tolerate before we totally lose credibility with clients?"

40. The evaluations and comments from retail did not appear to affect Grubman. In a January 2001 e-mail, he stated:

I never much worry about review. For example, this year I was rated last by retail (actually had a negative score) thanks to T [AT&T] and carnage in new names. As the global head of research was haranguing me about this I asked him if he thought Sandy [Weill] liked \$300 million in trading commission and \$400 million (only my direct credit not counting things like NTT [Nippon Telecom] or KPN

[KPN Qwest] our total telecom was over \$600 million) in banking revenues. So, grin and bear it. . . .

41. When Grubman left SSB in August 2002, he signed a separation agreement that included compensation worth approximately \$19.5 million plus approximately \$13 million in deferred compensation previously accrued in 1999, 2000, and 2001.

D. Investment Bankers Successfully Pressured Grubman to Maintain Positive Ratings on Stocks

42. Investment bankers pressured Grubman to maintain positive ratings on companies in part to avoid angering the covered companies and causing them to take their investment banking business elsewhere.

43. On April 18, 2001, one of the companies Grubman covered, Winstar Communications, Inc. (a Competitive Local Exchange Carrier or CLEC), declared bankruptcy. In the aftermath of the Winstar bankruptcy, an SSB investment banker suggested that SSB's telecom investment bankers and research analysts have a conference call followed by a meeting to consider the prospects of other CLECs and similar telecom companies. Grubman agreed, but made clear that the Winstar bankruptcy had convinced him of the need to downgrade other CLECs and telecom companies, all of which he rated a Buy (1) at the time:

Also to be blunt we in research have to downgrade stocks lest our retail force (which Sandy cares about a lot which I know to [sic] well) end up having buy rated stocks that go under. So part of this call will be our view that LVLT [Level 3], WCG [Williams Communication Group], XOXO [XO Communications], FCOM [Focal], ABIZ [Adelphia Business Solutions], RCN [RCN Communications] must not remain buys.

44. Thereafter, the then-head of investment banking for SSB and the head of telecom investment banking called Grubman separately. The head of investment banking told him not to downgrade the stocks because doing so would anger these companies and hurt SSB's investment banking business. The head of telecom investment banking told him

1 that they should discuss his proposed downgrades because some of the names were more
2 sensitive than others. SSB and Grubman did not downgrade these stocks until months
3 thereafter, continued to advise investors to buy these stocks and, in the weeks and months
4 following, merely lowered the target prices for each of these companies.

- 5 45. Grubman acknowledged that investment banking influenced his publicly expressed views
6 about the companies he covered. He stated in a May 2001 e-mail to an analyst who
7 reported to him:

8 . . . If anything the record shows we support our banking clients too
9 well and for too long.

- 10 46. The analyst agreed and stated that Grubman had helped SSB's investment banking
11 business by using his influence to sell securities for questionable companies:

12 . . . I told [an investment banker] that you get the good and the bad
13 with you [Grubman] and to look at all the bad deals we sold for them
in the past. He agreed.

- 14 47. On May 31, 2001, Merrill Lynch downgraded XO, one of the stocks Grubman had wanted
15 to downgrade in April. Merrill's actions caused Grubman to consider again whether he
16 should have downgraded XO:

17 Another one. *I hope we were not wrong in not downgrading. Try to*
18 *talk to folks to see what they think of these downgrades. Maybe we*
19 *should have done like I wanted to. Now it's too late. (Emphasis*
added.)

- 20 48. A research analyst who reported to Grubman responded to this e-mail by reiterating a
21 negative view of XO and Level 3:

22 . . . XOXO is a lost cause, its [sic] never too late to do the call, we
23 could downgrade XO, LVLT, etc.

- 24 49. Later the same day, the same analyst e-mailed Grubman, warning him that an institutional
25 investor thought downgrading XO would:
26 definitely get the Lame-O award on CNBC & wouldn't help anyone
out, it would just call attention to our negligence on not downgrading
sooner.

1 50. A few weeks later, Grubman was invited to a dinner with the head of U.S. Equity
2 Research and two senior investment bankers. Grubman anticipated discussing banking's
3 displeasure with his commentary on telecom stocks. Grubman e-mailed one of his
4 research colleagues:

5 . . . I have dinner with [a senior investment banker and the head of
6 U.S. Equity Research] I bet to discuss banking's displeasure with our
7 commentary on some names. *Screw [the investment bankers]. We
8 should have put a Sell on everything a year ago.* (Emphasis added.)

9 51. The next day, Grubman e-mailed the head of U.S. Equity Research, stating that the
10 pressure from investment banking had caused him not to downgrade stocks he covered:

11 See you at dinner. If [a senior investment banker] starts up I will
12 lace into him. . . . most of our banking clients are going to zero and
13 you know I wanted to downgrade them months ago but got huge
14 pushback from banking.

15 52. SSB and Grubman maintained Buy ratings on Level 3, WCG, XO, RCN, Adelphia, and
16 Focal for months after April 2001. SSB and Grubman did not downgrade Level 3 until
17 June 18, 2001; RCN until August 2, 2001; Focal and Adelphia until August 13, 2001; and
18 WCG and XO until November 1, 2001. In each instance, SSB downgraded these stocks to
19 a 3 (Neutral). None of the Notes published between April 18 and the date of each
20 downgrade disclosed the pressure investment bankers had exerted on Grubman and
21 Grubman's yielding to such pressure. These Notes were inconsistent with the
22 views Grubman had expressed, as reflected in the emails above, concerning these stocks.

23 E. SSB and Grubman Published Fraudulent Research That Promoted Focal Communications
24 and Metromedia Fiber, Two of SSB's Investment Banking Clients

25 53. SSB and Grubman published certain fraudulent research reports on Focal
26 Communications and Metromedia Fiber, two investment banking clients of SSB. As
described below, certain research reports on these companies were contrary to Grubman's
private views and those of his team. Moreover, certain research reports on these two

1 companies presented an optimistic picture that overlooked or minimized the risk of
2 investing in these companies and predicted substantial growth in the companies' revenues
3 and earnings without a reasonable basis.

4 1. SSB and Grubman Published Fraudulent Research Reports on Focal

5 54. Focal was a CLEC – a broadband telecommunications provider of limited reach. As of
6 December 31, 1999 it operated in 16 locations nationwide and as of December 31, 2000 it
7 operated in 20 locations nationwide. Focal was never profitable. Focal's net loss was
8 approximately \$500,000 in 1996, \$3 million in 1997, \$8 million in 1998, \$22 million in
9 1999, and \$105 million in 2000.

10 55. Focal was an investment banking client for SSB. SSB underwrote Focal's initial public
11 offering in July 1999. It also assisted the company in other investment banking
12 transactions. In total, SSB earned approximately \$11.8 million in investment banking fees
13 from Focal.

14 56. Shortly after SSB underwrote Focal's initial public offering, it initiated coverage with a
15 Buy (I) rating and maintained that rating until August 12, 2001. Grubman was
16 responsible for SSB's Reports and Notes on the company.

17 57. SSB and Grubman published two Notes on Focal that were fraudulent – one issued on
18 February 21, 2001 and one issued on April 30, 2001. The February 21 Note "reiterated" a
19 Buy recommendation. It left the target price unchanged from \$30 (approximately twice
20 the stock price of \$15.50). The Note reported overall results that were "in line" with
21 expectations, and a revenue mix that "continues to improve." It also reported that Focal
22 "continues to gain a stronger foothold in the large business market and continues to grow
23 sales of existing customers with existing and new products and also into multiple
24 markets." The February 21 Note reported EBITDA (earnings before interest, taxes,
25 depreciation, and amortization) that improved over the previous quarter and was in line
26 with estimates; it advised investors that Focal expected to be EBITDA breakeven

1 sometime in 2001. Finally, the Note thought the company could continue to perform well
2 and grow and, if it did, the target price and estimates would be increased:

3 The quarter's results were in line with our expectations. The revenue
4 and line mix is improving but the fact remains that FCOM still has
5 exposure to recip comp and exposure to ISPs, which are areas of
6 concern for investors. While FCOM is collecting recip comp and is
7 good at reviewing its customer credit profiles with ISPs, which are
8 areas of concern for investors, we believe it is prudent to see a few
9 more quarters of good execution and growth before we change
10 numbers. We continue to remain prudent and thus, we don't think
11 we should raise our price target to above \$30 when the stock is only
12 trading at \$15. But, as we stated in our 3Q note, if [Focal]
13 management continues to execute and also delivers on its data
14 strategy, we believe this will be reflected in its stock price, and thus,
15 we will be in a better position to raise numbers.

16 58. The same day as the February 21 Note, however, Grubman stated that he believed Focal
17 should be rated an Underperform (4) rather than a Buy(1), that "every single smart
18 buysider" believed its stock price was going to zero, and that the company was a "pig."
19 Focal apparently complained about the February 21 Note. When Grubman heard of the
20 complaint, he e-mailed two investment bankers:

21 I hear company complained about our note. I did too. I screamed at
22 [the analyst] for saying "reiterate buy." If I so much as hear one
23 more fucking peep out of them we will put the proper rating (ie 4 not
24 even 3) on this stock which every single smart buysider feels is going
25 to zero. We lose credibility on MCLD and XO because we support
26 pigs like Focal.

27 59. Also on February 21, an institutional investor e-mailed a research analyst who worked for
28 Grubman, "Mclld [McLeod USA, Inc.] and Focal are pigs aren't they?" and asked whether
29 Focal was "a short." The analyst responded to the e-mail: "Focal definitely"

30 60. Grubman continued to express his true view of Focal in a subsequent communication. As
31 described in Section D above, he stated on April 18, 2001 that the company needed to be
32 downgraded in the aftermath of the Winstar bankruptcy.

- 1 61. Contrary to these negative views of Grubman and his colleague, the April 30 Note on
2 Focal again advised investors to buy Focal. By April 30, the stock price had fallen to
3 \$6.48. Although the April 30 Note lowered the target price to \$15, calling the previous
4 target price of \$30 "stale," the new target price was still more than twice the stock price.
5 The April 30 Note stated that the company had reported quarterly results in line with
6 estimates, repeated that Focal's "revenue mix is improving towards telecom," and noted
7 the "line mix" continued to improve.
- 8 62. Neither the February 21 Note nor the April 30 Note disclosed the actual views of
9 Grubman and his colleague about Focal. Indeed, both Notes contradicted such views.
10 Neither Note described the company as a "pig" or a "short," disclosed that "smart
11 buysiders" were predicting that Focal's stock price was going to zero, or indicated that the
12 proper rating for Focal was an Underperform (4). The February 21 Note and the April 30
13 Note did not provide any other reason the stock should be downgraded. To the contrary,
14 both Notes advised investors to buy the stock, predicted that the company's stock price
15 could at least double over the next 12 to 18 months, and indicated that the company's
16 numbers were "in line" and in some respects improving. Accordingly, the Notes issued
17 on February 21, 2001 and April 30, 2001 were fraudulent.

18
19 2. SSB and Grubman Issued Fraudulent Research Reports on Metromedia Fiber

- 20
21 63. Metromedia Fiber built and operated fiber optic systems nationally and in Europe. It
22 intended to provide telecom services to CLECs and large telecom companies, cable
23 companies, internet service providers, and Fortune 500 companies in large metropolitan
24 areas. As of the end of 2000, Metromedia Fiber was increasingly unprofitable, spent
25 substantial amounts of cash to construct its fiber optic systems and required even more
26 capital to complete its planned network.

- 1 64. Metromedia Fiber was an investment banking client for SSB. SSB underwrote
2 Metromedia Fiber's IPO in 1997 and a secondary offering in November 1999. In
3 addition, SSB engaged in other investment banking transactions for the company. In total,
4 SSB earned approximately \$49 million in investment banking fees in Metromedia Fiber
5 deals. After Metromedia Fiber's IPO, SSB and Grubman initiated coverage of the
6 company with a Buy (1) rating and maintained that rating until July 25, 2001.
- 7 65. In 2001, the company entered into an agreement with Citicorp USA, Inc. (an SSB
8 affiliate) to provide it with a credit facility that it needed to fund its operations. The
9 deadline for closing on the facility was extended twice and, in the end, the facility was
10 completed for less than half its full amount. The Notes on Metromedia Fiber issued
11 between April 2001 and July 2001 did not adequately disclose the red flags concerning the
12 credit facility or Grubman's view that the company might not get the funding. Moreover,
13 in June 2001, a research analyst working for Grubman told him that while the company
14 had funds through the end of 2001, thereafter the company's fundamentals would
15 deteriorate. This contradicted the ratings and price targets SSB and Grubman published
16 on the stock in a Note dated June 28, 2001. For these reasons, the Notes dated April 30,
17 2001, June 6, 2001, and June 28, 2001 were fraudulent and misleading.
- 18 66. Metromedia Fiber announced on January 8, 2001 that it had "obtained a commitment for a
19 fully underwritten credit facility for \$350 million from Citicorp USA, Inc., which it
20 expects will fully fund its current business plan of building 3.6 million fiber miles . . . by
21 the end of 2004."
- 22 67. As of March 2001, Metromedia Fiber faced a risk of not obtaining financing for its
23 operations, had sufficient funds for its operations through the end of 2001, and may not
24 have had sources for additional capital to finance its operations after the end of 2001. In
25 particular, the company stated at the time that it may not be able to close on the pending
26 \$350 million credit facility from Citicorp USA.

1 68. In an April 18, 2001 e-mail to a senior investment banker, Grubman indicated he was
2 aware that Metromedia Fiber might not close the credit facility and would downgrade the
3 company should it not obtain the additional funding: "If MFNX [Metromedia Fiber] does
4 not get credit facility they too get downgraded [from a buy]."

5 69. Nevertheless, on April 30, 2001, SSB and Grubman issued a Note that reiterated a Buy (1)
6 rating for Metromedia Fiber, stating: "We want to make it very clear that [Metromedia
7 Fiber] remains one of our favorite names." Regarding funding for the company, the Note
8 stated:

9 As noted in our previous note, MFN has obtained a commitment for
10 a fully underwritten credit facility for \$350 million from Citicorp
11 USA, Inc., which it expects will fully fund its current business
plan....

12 70. The April 30 Note failed to disclose that the company believed it might not consummate
13 the credit facility and that Grubman had expressed doubt that the company might get
14 funding.

15 71. Metromedia Fiber subsequently announced that the deadline for closing on the credit
16 facility had been extended from May 15 to June 30, 2001.

17 72. In a June 6, 2001 Note, SSB and Grubman continued to state that the stock was
18 "exceptionally inexpensive" and opined that the company had "good visibility in its core
19 fiber business." Grubman began and ended the Note with: "We strongly reiterate our
20 Buy . . . and we would be aggressive at current prices." Regarding the funding for the
21 company, Grubman wrote:

22 We continue to believe the \$350 million bank loan, which will bring MFNX to fully-
23 funded status, will close by the end of June.

24 * * *

25 ...The lack of available capital for MFNX-lookalikes only strengthens MFNX's
26 position. Most recently private companies, such as OnFiber and other metro builders,

1 have failed in getting private financing and other companies in the metro space have
2 an extremely difficult time.

3 * * *

4 MFNX has a business plan that is fully funded and many "would-be" competitors are
5 never getting to the market.

6 73. The Note did not disclose that (a) the deadline for consummating the bank loan had been
7 extended from May 15 to the end of June; or (b) after announcing the funding
8 commitment, the company had determined that it may not be able to successfully
9 consummate the senior credit facilities. The Note also did not reflect Grubman's opinion
10 that Metromedia Fiber might not secure the financing. As described above, the Note
11 emphasized and recognized the importance of Metromedia Fiber's fully-funded position.

12 74. In its June 28, 2001 Note, two days before the expiration of the funding commitment, SSB
13 and Grubman disclosed that Metromedia Fiber had not consummated the bank loan and
14 that the deadline had been extended from May 15 to June 30. SSB and Grubman
15 minimized the funding problem by advising investors that the company had other options
16 for financing, but added that they "can only guess on the nature or terms of the alternative
17 financing [Metromedia Fiber] would agree to." Nevertheless, the Note analyzed the
18 company's financing needs assuming the company could secure the \$350 million in
19 additional funds under the loan or by other means and therefore would be fully funded
20 through 2003. The Note continued to project a positive EBITDA for 2003 and reiterated
21 its Buy (1) rating.

22 75. The Notes published from April to July 2001 on Metromedia Fiber minimized the risks
23 facing the company, assumed the company was going to be fully funded, and estimated
24 that the company would enjoy explosive growth in revenues and earnings. The \$25 price
25 target issued on April 30, 2001 assumed that the company would have estimated revenue
26 in 2010 of \$10.6 billion and EBITDA of \$4.4 billion. The June 6, 2001 target price of \$15

1 assumed the company would have \$8.7 billion in revenue nine years out and EBITDA of
2 \$3.2 billion. The June 28, 2001 target price of \$10 maintained the estimate of future
3 revenue and EBITDA.

- 4 76. These reports, and the ratings and price targets included in them, reflected SSB's and
5 Grubman's publicly expressed opinion that the company's future was secure. This view
6 was contrary to the actual views of SSB's analysts, which were expressed privately and
7 not disclosed. On June 21, 2001, a research analyst who reported to Grubman discounted
8 the prospects of the company, telling Grubman in an e-mail that while the company had
9 funding through the end of 2001, its fundamentals would deteriorate thereafter:

10 I have received over 50 calls today on MFNX (its down \$0.20 again
11 to \$1.51). . . . Most people have written off this stock saying that it
12 will go bankrupt, even if they could get an equity infusion here it
13 would be massively dilutive. At lease [sic] they have some cash
14 through the end of the year but I doubt the fundamentals recover
15 which is actually the important thing. I think downgrading right now
16 is not advisable since everyone would say "gee thanks." I think we
17 need an excuse [sic] from the company, we should have done it the
18 day they lowered guidance but of course we were restricted.

- 16 77. SSB did not downgrade Metromedia Fiber until July 25, 2001 and even then only
17 downgraded the stock to a Neutral (3) rating. By then, the company's stock price had
18 sunk to 98 cents, more than a 33 percent drop from its price on June 21, 2001, when the
19 analyst who reported to Grubman disparaged the company's future.

20 F. SSB Issued Misleading Research Reports on Level 3, Focal, RCN, Adelphia, WCG, and
21 XO

- 22 78. Research reports must not contain misleading statements, analysts must have a reasonable
23 basis for their recommendations, and reports must present a fair, balanced picture of the
24 risks and benefits of investing in the covered companies and avoid exaggerated or
25 unwarranted claims regarding the covered companies. As described below, certain
26

1 research reports issued on Level 3, Focal, RCN, Adelphia, WCG, and XO violated these
2 requirements.

3 1. SSB Issued Misleading Research on Focal

4
5 79. As stated above, on February 21, 2001 and April 30, 2001, SSB and Grubman published
6 fraudulent research reports on Focal. In addition to those reports, SSB and Grubman
7 published four misleading research reports on Focal, dated April 10, 2000, April 18, 2000,
8 April 26, 2000, and July 31, 2000.

9 80. In April 2000, Focal selected SSB to be the joint book runner for a secondary offering of
10 its stock. Focal also announced a major expansion of its business plan. At the time, the
11 company had significant capital expenditures and required additional capital to complete
12 its new business plan. It faced the risks that it could not raise such capital and could not
13 complete its new plan, and that, because of its capital expenditures, it would potentially
14 have substantial negative operating cash flow and substantial net operating losses for the
15 foreseeable future, including through 2000 and 2001. Nevertheless, the Notes SSB and
16 Grubman published on April 10, 2000, April 18, 2000, April 26, 2000, and July 31, 2000
17 either did not disclose these risks or did not fully address them. In addition, these Notes
18 published a target price that did not have a reasonable basis.

19 81. On April 10, 2000 SSB and Grubman issued a Note that reiterated a Buy (1)
20 recommendation on Focal and increased the target price for Focal from \$60 to \$110. The
21 Note discussed Focal's planned expansion, describing it as "sexy" and "providing the
22 sizzle in this story." Based on Focal's expanded business plan, SSB and Grubman
23 predicted that the company's revenue within 10 years would increase to \$6 billion and
24 EBITDA would increase to \$2.4 billion. The Note described Focal management as
25 "stellar." The Note did not disclose the additional capital expenditures that would be
26 necessary to fund Focal's expanded business plan or the risk the company may not be able

1 to obtain such capital. It did not disclose the likelihood that the expanded business plan
2 would increase the company's substantial negative operating cash flow and substantial net
3 operating losses.

4 82. On April 18, 2000, SSB and Grubman issued a Note reiterating the \$110 price target and
5 Buy rating. The April 18 Note stated that "[Focal] is expanding its business plan to 24
6 markets and aggressively pursuing data opportunities . . . The name of the game in value
7 creation is to drive geographic footprint & service capabilities. Focal is dramatically
8 increasing the latter w/its data initiative while increasing its geographic footprint by 15-
9 20% . . . We reiterate our Buy rating & \$110 target & would be aggressive buyers." The
10 April 18, 2000 Note did not disclose the additional capital expenditures that would be
11 necessary to fund Focal's expanded business plan or the risk the company may not be able
12 to obtain such capital. It did not disclose the likelihood that the expanded business plan
13 would increase the substantial negative operating cash flow and substantial net operating
14 losses the company faced in the foreseeable future.

15 83. On April 26, 2000, SSB and Grubman issued a Note that reiterated a Buy
16 recommendation, the \$110 target price, and Grubman's predictions of substantial growth
17 in the company's revenues and EBITDA. By this time, Focal's share price had dropped to
18 \$34.00. The Note repeated Grubman's earlier comments that Focal's new data initiative
19 "is the real sizzle in this story . . . we believe that [Focal's] recent geographic & data
20 expansion will enable [Focal] to become one of the critical path points in what is the next
21 evolution in the Internet." The Note stated:

22
23 From a liquidity standpoint, no matter what happens with the capital
24 markets, between the money [Focal] has on hand and its bank
25 facilities commitments, we believe that [Focal] will be fully funded
26 through mid- to late-2001. During the first quarter, [Focal]
completed a \$275 million offering of 11 7/8% senior notes due 2010
through a private placement.

1 84. The Note concluded with another recommendation for investors to buy the stock: "We
2 continue to be very bullish on [Focal] and believe the stock is undervalued at current
3 levels." The Note did not disclose the additional capital expenditures that would be
4 necessary to fund Focal's expanded business plan or the risk the company may not be able
5 to obtain such capital. It did not disclose the likelihood that the expanded business plan
6 would increase the substantial negative operating cash flow and substantial net operating
7 losses the company faced in the foreseeable future.

8 85. The Note SSB and Grubman published on July 31, 2000 left the rating and target price
9 unchanged. The Note extolled the virtues of Focal's management, stating that the
10 reported strong earnings for second quarter 2000 "highlights the execution abilities of
11 FCOM management" It repeated earlier advice to investors that "the stock is
12 undervalued at current levels." The July 31 Note stated:

13 From a liquidity standpoint, [Focal] received a commitment for \$300
14 million of senior secured credit facilities during the quarter. Capital
15 expenditures totaled \$77 million this quarter and we still expect
16 [Focal] to spend \$300 million and \$305 million in 2001. We
estimate that with the cash on hand of \$342 million and the available
credit, [Focal] will be fully funded through 2001.

17 86. Missing from the July 31 Note, however, were sufficient risk disclosures adequate to warn
18 investors of the funding needs facing Focal. The Note did not disclose the additional
19 capital expenditures that would be necessary to fund Focal's expanded business plan or
20 the risk that the company may not be able to obtain such capital. It did not disclose the
21 likelihood that the expanded business plan would increase the substantial negative
22 operating cash flow and substantial net operating losses the company faced in the
23 foreseeable future.

24 87. By October 17, 2000, Focal's stock price had plummeted to \$18. That day, SSB and
25 Grubman issued a Report on Focal and other CLECs entitled "CLECs: Clean Up of
26 Ratings, Price Targets & DCFs." In this Report, SSB and Grubman maintained a Buy (1)

1 rating on Focal, but lowered Focal's target price from \$110 to \$30, noting that the
2 previous target price was "a clearly stale number." Despite advising investors for months
3 prior to October that Focal's new business strategy was "sexy" and "the sizzle to the
4 story" and would raise Focal's stock price by \$50, Grubman decreased Focal's price target
5 in part by substantially reducing the revenue expected from the new business strategy.
6

7 2. Level 3, Focal, RCN, Adelphia, WCG and XO
8

9 88. As described above in Section D, in April 2001 Grubman expressed the need to
10 downgrade Level 3, Focal, RCN, Adelphia, WCG, and XO in the aftermath of the Winstar
11 bankruptcy. Investment bankers pressured Grubman not to change the Buy ratings on
12 these stocks and he did not downgrade them until months later.

13 89. None of the following Notes for these companies issued between April 18, 2001 and the
14 date the stocks were downgraded disclosed the pressure the investment bankers had
15 exerted on Grubman or the fact that he had acceded to it; these Notes were inconsistent
16 with the views Grubman had expressed, as reflected in the e-mails described in Section D.
17 above, concerning these stocks:³
18

19 Level 3: Report issued on April 18, 2001.

20 WCG: Reports issued on May 1, 2001, August 1, 2001, and September 21, 2001.

21 XO: Reports issued on April 26, 2001, and July 25, 2001.

22 Adelphia: Report issued on May 14, 2001.

23 RCN: Report issued on May 3, 2001.

24 3. WCG
25

26 ³ For the additional reasons set forth in Section E, the Note on Focal for April 30, 2001 was fraudulent.

1 90. The May 1, 2001 Note on WCG lacked a reasonable basis because it did not disclose the
2 contrary private views of Grubman and a member of his team. On May 1, 2001, SSB and
3 Grubman issued a Note that failed adequately to disclose the views of Grubman and
4 another analyst of the funding risks facing WCG. Before the issuance of that Note,
5 Grubman and the analyst commented privately that the company "need[s] money." These
6 funding concerns were so acute that the analyst warned an institutional investor to "be
7 careful with WCG." Similarly, Grubman explained to a SSB retail broker who
8 complained about Grubman's target price for WCG that WCG was a "tough one. They
9 still need money. I think business is ok"

10 91. The May 1 Note, however, reiterated a Buy recommendation on the stock. It noted that
11 "visibility on funding better vs. 6 mos. ago." It reassured investors that WCG had
12 adequate funds "into 2003." The Note stated that the company had reduced capital
13 expenditures and "has made steps to improve its funding situation since the beginning of
14 the year and have [sic] raised additional liquidity of more than \$2 billion." While
15 predicting that the company may need \$1 billion to fund its operations in 2003, the Note
16 stated "frankly, if the second tranche of the bank facility gets fully syndicated out, and
17 WCG does perform as it expects . . . then our funding gap will be cut dramatically."

18 92. The May 1 Note failed to accurately describe the negative view of Grubman and the
19 analyst who reported to him of the company's funding concerns. Rather than informing
20 investors that WCG's business was merely "ok" or a "tough one," the May 2001 Note
21 advised investors to "be more aggressive on [WCG]." The Note did not warn investors to
22 "be careful" with WCG and did not fully reflect the analysts' views on the company's
23 funding needs.
24
25
26

1 G. Undisclosed Conflicts of Interest Pervaded Grubman's Upgrade of AT&T in November
2 1999

3 1. AT&T Complained About Grubman's Views of the Company

4 93. From 1995 through November 1999, Grubman maintained a Neutral (3) rating on AT&T.
5 Though at times he offered qualified approval of AT&T's strategy, he also repeatedly
6 disparaged the company in his research and his public comments.

7 94. Beginning in July 1998 and continuing through the relevant period, Sanford Weill, then
8 co-CEO and Chairman of Citigroup, was a member of the AT&T Board of Directors.
9 Prior to November 1999, AT&T management complained to Weill and other SSB
10 representatives about the tone of Grubman's comments. In particular, the AT&T CEO
11 told Weill that Grubman's unprofessional tone and comments about AT&T made it
12 difficult for AT&T to do business with SSB.

13 95. At an October 1998 industry trade show, Grubman failed to mention AT&T as one of the
14 important telecommunications companies of the future. AT&T complained to Weill, and
15 Weill relayed the complaint to senior SSB investment bankers. As a result, Grubman
16 wrote a letter of apology dated October 9, 1998 to Weill and the heads of SSB's
17 investment banking and equities departments. Before it was finalized, the letter was
18 reviewed and approved by Weill and several members of senior management. Grubman's
19 apology stated, in part:

20 It has come to my attention that a speech I made offended AT&T. I
21 want to make it perfectly clear that the last thing I want to do is
22 embarrass the firm or myself or for that matter have AT&T put in an
23 awkward position in dealing with Salomon Smith Barney. To the
24 extent I have done so, I apologize to you and to the firm. I will also
25 find the appropriate time and place to apologize directly to AT&T.
26 Despite our current investment stance on AT&T, I view AT&T as
one of the most significant companies in this industry, a company
that I hope we can build a long and valued relationship with and one
where I truly am open-minded about changes in investment views.

1 96. In his cover memo to the head of SSB investment banking, and the SSB investment
2 banker covering AT&T, Grubman indicated that his letter was suitable to send to AT&T.
3 On October 12, Weill and the investment banker covering AT&T traveled to AT&T's
4 Basking Ridge, NJ headquarters and met with AT&T's CEO.

5 2. Weill Asked Grubman to "Take a Fresh Look" at AT&T

6
7 97. A few months later, in late 1998 or early 1999, Weill asked Grubman to "take a fresh
8 look" at AT&T in the hope that Grubman might change his opinion of the company.
9 Weill had a positive view of AT&T and its CEO whom Weill had known personally for
10 years. AT&T's CEO was a member of Citigroup's Board of Directors during the relevant
11 period and, prior to the merger of Citicorp and Travelers Corporation (SSB's corporate
12 parent), had been a member of the Travelers' Board of Directors since 1993.

13 98. Thereafter, on April 5, 1999, Grubman sent AT&T a seven-page questionnaire seeking
14 further information about its business. On June 11, 1999 Grubman sent Weill a
15 memorandum noting that AT&T had not responded to his questionnaire. Weill apparently
16 then spoke to AT&T's CEO about the questionnaire. AT&T asked Grubman to re-send
17 the questionnaire, and Grubman wrote Weill: "Maybe this time we can actually make
18 some progress in closing the deal with [AT&T's CEO]." On July 19, 1999, AT&T sent an
19 eleven-page response to Grubman.

20 99. On August 5, 1999 Grubman and Weill traveled to AT&T's headquarters for a meeting
21 with AT&T's CEO that Weill had arranged. On August 19, 1999, Grubman wrote to
22 AT&T's CEO:

23 I am writing to follow up on our meeting with Sandy. . . . I thought it
24 was important to write to you directly to lay-out what I think we
25 agreed to in order to get this process going. . . . I need to get to a
26 level of specificity well beyond what's on the street today and I will
need your help getting to the right people. . . . Wall Street is lacking
analysis that comes remotely close to answering the detailed
economic, technical, and operational questions that investors are

1 demanding answers to regarding the roll-out of the bundled service
2 platform using the cable plant When my analysis is complete
3 and if the results are in line with what you and I are both anticipating,
4 once I'm on board there will be no better supporter than I. . . . As I
5 indicated to you at our meeting, I would welcome the role of being a
6 "kitchen cabinet" member to you.

7 100. Grubman sent a copy of his August 19, 1999 letter to Weill, SSB's head of investment
8 banking, and the SSB investment banker covering AT&T.

9 3. Grubman Requested Weill's Assistance to Get His Children Accepted to the 92nd
10 St. Y Preschool and AT&T Considered Issuing a Tracking Stock for Its Wireless
11 Unit

12 101. In September 1999, Grubman began his efforts to get his children admitted to the
13 prestigious and competitive preschool at the 92nd Street Y in New York City.

14 102. On October 20, 1999, the AT&T Board of Directors began discussing whether to issue a
15 tracking stock for its wireless unit. That day, Weill attended an all-day meeting of the
16 AT&T Board, at which AT&T's management presented a number of strategic
17 alternatives, including issuing a tracking stock for AT&T's wireless business.

18 103. On October 29, 1999, Weill and Grubman had a 14 minute telephone conversation during
19 which they discussed the status of Grubman's "fresh look" at AT&T. In that conversation
20 or one shortly thereafter, they also discussed Grubman's desire to send his children to the
21 92nd Street Y preschool in New York City.

22 104. By November 2, AT&T had taken its first steps towards issuing a tracker stock for its
23 wireless unit. That day, an investment banking firm advising AT&T on financial
24 strategies met with AT&T's outside counsel to discuss a proxy statement for AT&T
25 shareholder approval of the wireless tracker.

26 105. On November 5, 1999, Grubman sent a memo to Weill entitled "AT&T and 92nd Street
 Y." In it, Grubman updated Weill on his progress in "taking a fresh look" at AT&T and
 outlined the future steps he would take to reexamine the company. He referred to his
 earlier meeting with AT&T's CEO and to his scheduled meetings in Denver with the head

1 of AT&T's cable operations and in Basking Ridge with AT&T's network operations
2 personnel. Grubman also sought Weill's assistance in getting his children admitted to the
3 92nd Street Y preschool. Noting the difficulty in getting into the school, Grubman stated
4 that "there are no bounds for what you do for your children. . . . it comes down to 'who
5 you know.'" In the last paragraph of his memo, Grubman concluded: "Anyway, anything
6 you could do Sandy would be greatly appreciated. As I mentioned, I will keep you posted
7 on the progress with AT&T which I think is going well."

8 4. Grubman Kept Weill Apprised of His Reevaluation of AT&T in November 1999;
9 AT&T Management Recommended That AT&T Issue a Tracking Stock

10 106. During November 1999, Grubman intensified his "fresh look" at AT&T. He met and
11 spoke by telephone with AT&T's CEO and traveled to AT&T's Denver and New Jersey
12 offices to meet with company officials and view AT&T's operations. Grubman reported
13 on his efforts to Weill during an unprecedented number of telephone calls on November 3,
14 11, 17, 22, 24 and 30.

15 107. On the morning of November 17, Weill attended an AT&T board meeting at which senior
16 AT&T management recommended that the board approve the issuance of a tracking stock
17 for the wireless business. Grubman called Weill from Milan, Italy late that night and the
18 two discussed the status of Grubman's "fresh look" at AT&T. During a call on November
19 22 or November 24, Grubman informed Weill that he soon would be issuing a report
20 upgrading AT&T.

21 5. Grubman Upgraded AT&T and Subsequently Stated He Did So to Get His Children
22 Into the 92nd St. Y Preschool

23
24 108. Grubman announced on November 29, 1999 that he was upgrading AT&T from a Neutral
25 (3) to a Buy (1) rating. The same day, Grubman sent an e-mail to the SSB publications
26 department, with a copy to Research Management, stating:

1 The AT&T Report must be edited and mailed out to the printers
2 today so that it can be distributed in time to meet Sandy Weill's
3 deadline (before the AT&T meeting.)

4 109. The next day, Grubman issued a 36-page Report setting forth his new rating and rationale.

5 In his November 30 Report, Grubman wrote that his upgrade rested largely on two points:
6 (1) the "real economics" of AT&T's cable strategy and (2) AT&T's ability to upgrade its
7 cable technology to deliver a range of different services to consumers' homes. Grubman
8 commented positively in his report about the widely-reported wireless tracking stock but
9 denied upgrading because of the possible IPO.

10 110. After issuing the report, Grubman told an analyst who reported to him and an institutional
11 investor, in separate conversations, that he upgraded AT&T to help get his children into
12 the 92nd St. Y preschool.

13 111. Roughly a year after the upgrade, on January 13, 2001, in an e-mail to a friend, Grubman
14 stated:

15 You know everyone thinks I upgraded T [AT&T] to get lead for
16 AWE [AT&T Wireless tracker]. Nope. I used Sandy to get my kids
17 into 92nd St Y pre-school (which is harder than Harvard) and Sandy
18 needed [the AT&T's CEO's] vote on our board to nuke [John] Reed
19 in showdown. Once coast was clear for both of us (ie Sandy clear
20 victor and my kids confirmed) I went back to my normal negative
21 self on T. [AT&T's CEO] never knew that we both (Sandy and I)
22 played him like a fiddle.

23 112. The following day, Grubman e-mailed the same friend: "I always viewed T [AT&T] as a
24 business deal between me and Sandy."

25 6. After the AT&T Upgrade, Weill Helped Facilitate the Admission of Grubman's
26 Children to the 92nd St. Y Preschool

113. After Grubman issued his November 1999 report on AT&T, Weill helped gain admission
for Grubman's children to the 92nd St. Y preschool. On or about December 17, 1999,
Weill called a member of the 92nd St. Y board and told her he would be "very
appreciative" if she would help Grubman, a "valued employee" at Citigroup. Weill did

1 not explicitly offer a donation to the Y during this phone call. By indicating that he would
2 be "very appreciative," he understood that he was implicitly offering such assistance.

3 114. In March 2000, Grubman's children were admitted to the Y preschool. Subsequently, the
4 board member called Weill, suggested a donation be made to the Y, and may have
5 suggested the amount. Weill agreed. Weill was one of three corporate officers who
6 approved charitable donations from Citigroup or the Citigroup Foundation. During a
7 subsequent conversation with the president of the Citigroup Foundation, Weill indicated
8 that the Foundation should make a \$1 million donation to the Y and instructed the
9 Foundation president to work with the Y to develop a suitable program with the donation.
10 The program that was subsequently developed consisted of a series of 10 events per year
11 that had cultural, artistic, and educational aims. Weill, the president of the Foundation,
12 and another Citigroup corporate officer approved the donation on July 24, 2000⁴ and the
13 first installment of the donation (\$200,000) was sent to the Y in September 2000. The
14 president of the Foundation understood the donation was a "thank you" for the admission
15 of the Grubman children to the preschool at the 92nd St. Y.

16 7. After Grubman's Upgrade of AT&T, AT&T Selected SSB as a Lead Underwriter in
17 the AT&T Wireless IPO

18 115. Grubman's upgrade of AT&T assisted SSB in being selected as a lead underwriter and
19 joint book-runner for the IPO of a tracking stock for AT&T's wireless subsidiary.

20 116. The AT&T Board approved the IPO during its December 5, 1999 Board meeting. AT&T
21 announced its plans at a meeting with analysts the following day.

22 117. In January 2000, SSB competed to be named a lead underwriter and book-runner for the
23 offering. In its pitch book, it highlighted the experience, prominence, and support for
24

25 ⁴ Because of certain tax considerations, and in light of benefits Citigroup employees
26 received from the program supported by the donation, Citigroup, not Citigroup Foundation, made
the donation to the Y. The \$1 million donation was payable in equal amounts over five years.

1 AT&T of Grubman and the SSB wireless analyst. Among other things, SSB's pitch book
2 contained numerous statements about Grubman's views regarding the positive impact the
3 wireless tracking stock would have on AT&T's shares, as well as promises about the role
4 he would play in marketing the deal to investors.

5 118. In evaluating the various proposals from SSB and other investment banks, AT&T
6 assigned significant weight (55%) to its views of each investment bank's wireline and
7 wireless telecommunications analysts. Because Grubman was a highly rated and highly
8 respected analyst, had a "strong buy" on AT&T stock, and was a "strong supporter" of the
9 company, AT&T gave him the highest possible score in the internal matrix it used to rank
10 the competing investment banks. In February 2000, based in large part on this positive
11 evaluation of Grubman, AT&T named SSB as one of three joint book-runners for the
12 AT&T Wireless IPO. The IPO occurred on April 27, 2000. It was the largest equity
13 offering ever in the United States, and SSB earned \$63 million in fees as lead underwriter
14 for the offering.

15 8. Grubman Downgraded AT&T
16

17 119. On May 17, 2000, three weeks after the IPO, two months after his children were admitted
18 to the 92nd St. Y preschool, and after AT&T announced disappointing earnings, Grubman
19 issued a research report in which he compared AT&T with WorldCom. While Grubman
20 did not change his Buy ratings on the two companies, he lowered his target price for
21 AT&T from \$75 to \$65 per share and made a number of negative comments about AT&T.

22 120. Institutional investors viewed Grubman's report as a "virtual downgrade" because of his
23 unfavorable comparisons of AT&T to WorldCom. An internal AT&T document also
24 reported that Grubman was privately making comments to investors that were
25 considerably more critical than those in his written reports.
26

1 121. Grubman subsequently downgraded AT&T twice in October 2000: on October 6 he
2 downgraded the stock to an Outperform (2) and on October 25 he downgraded it to a
3 Neutral (3), citing what he described as negative news from the company.

4 9. SSB's Policies Were Not Reasonably Designed To Prevent The Potential Misuse Of
5 Material, Non-Public Information

6 122. During the relevant period, SSB had general policies in place requiring its employees to
7 obtain approval before becoming a director of another company and to keep non-public
8 information about that company confidential. SSB did not, however, have adequate
9 policies and procedures in place to ensure that communications between a person
10 associated with SSB who served as a director of another company and the SSB research
11 analyst who covered that company would not result in the misuse of material, non-public
12 information by the research analyst. For example, one such step SSB could have taken
13 would have been to require that a company be placed on its watch list if a person
14 associated with SSB served as a director of that company. Such a procedure would have
15 helped SSB to monitor whether a research analyst, before publishing research on a
16 company, had received material non-public information on it from a person associated
17 with SSB who also served as one of the company's outside directors.

18 H. SSB Failed to Supervise Adequately the Activities of Its Research Analysts

19 I. SSB Failed to Respond Adequately to Red Flags Regarding Research

20
21 123. Members of research management received copies of research reports and call notes when
22 they were issued and routinely reviewed research. Based on this review, complaints from
23 SSB employees and customers, and otherwise, SSB was aware of problems with its
24 research. Indeed, as described in Section B above, members of research management
25 themselves expressed reservations about SSB's research. Nevertheless, SSB did not take
26 steps to supervise the activities of research analysts adequately.

1 124. By early 2001, one of Grubman's supervisors believed that Grubman's ratings were
2 inconsistent with the performance and prospects of the some of the companies he covered.

3 125. Moreover, on July 2, 2001, a Director who provided Research Management Support sent
4 an e-mail to all research personnel, and others, warning that the models SSB analysts,
5 including Grubman, used to predict future revenues and earnings and generate target
6 prices "must make sense" (emphasis in original) and must be "smell tested." He criticized
7 these models for using "aggressive inputs to arrive at a predetermined
8 valuation/outcome." He concluded by noting that, "Clearly, projected long-term growth
9 rates for many of our companies are too high and would benefit from a thoughtful
10 reappraisal." (Emphasis in original.) At least one recipient of this e-mail thought he was
11 referring to Grubman ("Amen! You should have cc'd this to Grubman just to make
12 sure.") The author of the e-mail did not disabuse the recipient of this assumption: "No
13 comment on that, at least not in writing."

14 126. The same person specifically criticized Grubman's research in a later e-mail to a senior
15 member of research management, implying that the research had been compromised by
16 investment banking concerns and acknowledging that SSB's lax supervision of Grubman
17 was at least partly to blame. He focused in particular on Grubman's coverage of
18 Metromedia Fiber and the June 6, 2001 Note (discussed above). He stated:

19 Explaining this isn't easy. My candid opinion is that, until quite
20 recently, Jack Grubman's team had not yet come to terms with the
21 debacle in this sector. While share prices plummeted, they remained
22 convinced of the longer-term potential of their group and were
23 unwilling to cut ratings and adopt a more cautious stance. *When you
add the heavy layer of banking involvement into the mix this very
problematic situation gets easier to understand.* (Emphasis added.)

24 127. He criticized Grubman's coverage of Metromedia Fiber in particular. He noted that
25 Grubman's

26 [e]xcessive optimism led to unattainable target prices that should
have been brought down much more quickly and earlier, than they

1 had been. . . . [T]he target prices were cut again and again, but never
2 enough to bring them into a more rational alignment with the share
3 price. The 6/6/01 note talks about reducing projected 2010 revenue
4 and EBITDA to \$8.7BB and \$3.2BB from \$10.68BB and \$4.4BB
5 respectively. *How anyone could think those levels could be attained*
6 *I cannot explain.* This only underscores the absurd assumptions
7 pervading many [discounted cash flow] models. (Emphasis added.)

8 128. He concluded by acknowledging that SSB's supervision of Grubman had been inadequate:

9 What could have prevented this? . . . Even with all notes going
10 through an SA [supervising analyst] and many being scrutinized by
11 research legal as well, we clearly rely on senior analysts to do careful
12 work, disclose all important data and denote all material risks. In the
13 case of MFNX, and in other telecom situations that I could name, our
14 approach was inadequate. There was a failure of analysis and, it
15 pains me to confess, *a failure of management.* This is the only
16 explanation I can offer. (Emphasis added.)

17 2. SSB Knew SSB Investment Bankers Pressured Research Analysts

18 129. SSB knew that its business practices, which intertwined research and investment banking,
19 created a conflict of interest between investment banking and research, that investment
20 banking pressured research analysts, and that investment banking concerns had the
21 potential to affect, and, as described above with respect to Grubman, did affect, the
22 decisions of research analysts on ratings and coverage. Nevertheless, SSB failed to take
23 adequate steps to prevent such pressure or ensure that SSB's research was independent
24 and objective.

25 130. SSB was aware that investment bankers pressured Grubman to maintain positive ratings
26 or change negative ratings on companies. Moreover, on November 17, 2000, shortly after
SSB was named in a private securities action relating to the AT&T Wireless IPO,
Grubman e-mailed the head of Global Equity Research:

I think all legal stuff on ATT should be forwarded to Sandy [Weill]
and [the head of SSB Investment Banking] as Exhibit A on why
research needs to be left alone. These guys never understand the
lingering consequences.

I. SSB Engaged in Improper Spinning and IPO Distribution Practices

131. SSB engaged in improper spinning practices whereby it provided preferential access to valuable IPO shares to the executives of corporations from which SSB sought or had obtained investment banking business. During the years 1999 and 2000, SSB earned over \$6.6 billion in investment banking revenue. Obtaining this investment banking business was critical to SSB's success. For example, investment banking fees comprised over 21% of SSB's revenue in 1999, and over 22% in 2000.

132. SSB failed to appropriately administer numerous Issuer Directed Share Programs ("DSPs") it managed during this same period. Further, SSB engaged in significant "as of" trading in IPOs and failed to ensure that its distribution of IPO shares, both through DSPs and its branch offices, was timely and accurately reflected in its books and records.

1. SSB Established a Special Branch to Facilitate Its Spinning Practices

133. SSB employed two registered representatives ("RRs") whose primary function was to open and service accounts for high net worth individuals who were founders, officers or directors of current and potential banking clients ("Executive Accounts"). The two RRs had begun servicing these types of accounts at Salomon Brothers and continued to perform this function after Salomon merged with Travelers in 1997 to create SSB. SSB took steps and entered into written agreements to provide these two RRs with preferential, special, and unusual treatment including the following:

- SSB gave each of these two RRs special compensation, including a draw of \$1 million for the first 6 months of their employment and a minimum of \$500,000 for the second 6 months;
- SSB provided office space for one of the two RRs on SSB's equities trading floor in New York;

- 1 • SSB treated the business of the two RRs, designated "Private Wealth Management,"
2 as if it were a separate SSB branch office ("PWM Branch") for the purpose of
3 determining IPO allocations, when it was actually only 2 brokers;⁵
4
5 • SSB provided the two RRs with unique access to hot IPO shares to distribute to the
6 Executive Accounts that was far above and beyond that of any other broker or branch;
7 and
8 • SSB provided the two RRs with access to IPO shares for distribution to the Executive
9 accounts from (i) the SSB Branch retail allocation, with PWM being treated as a
10 "branch office"; and (ii) the institutional pot. In some cases, the two RRs were able to
11 obtain access to DSP shares from issuers for distribution to the Executive Accounts.

12 2. SSB Provided Preferential Treatment to Executive Accounts in the Allocation of Hot IPOs

13
14 134. SSB distributed its IPO shares by dividing the firm's allocation between its retail and
15 institutional clients. Generally, SSB allocated to its retail clients, as a group,
16 approximately 20-30% of the firm's allotment in any specific IPO, with a majority of the
17 remaining shares designated for allocations to institutional clients. Those shares set aside
18 for retail clients were designated as the "retail retention," and the remaining shares were
19 designated as the "institutional pot."

20 135. The retail shares were distributed to specific accounts through SSB's branch managers.
21 For every IPO, SSB gave each branch manager a specific number of shares, and the
22 manager determined which retail brokers received shares and how many shares each retail
23 24

25 ⁵ The two RRs ended their partnership in 1999 after which each operated as a separate branch and
26 the practices described herein continued. However, the two RRs are referred to as the "PWM
 Branch."

1 broker received. The retail broker then determined the allocation of shares among his or
2 her retail accounts, subject to the branch manager's final approval.

3
4 136. The PWM Branch and its clients, however, were treated differently. As noted, the two
5 RRs' client base consisted primarily of high net worth individuals whose companies were
6 potential investment banking clients or had provided investment banking business to SSB,
7 and these two individual brokers were designated as a special branch with a separate profit
8 and loss assessment. The PWM Branch received favorable treatment in the allocation of
9 hot IPO shares. Although SSB's written procedures for the distribution of IPO shares
10 specifically prohibited favoritism for the personal accounts of corporate executives, SSB
11 in fact provided preferential treatment to Executive Accounts in connection with the
12 distribution of hot IPO shares throughout the relevant period.

13 a. Special Access to Retail and Institutional Shares

14 137. While other SSB retail branches were ordinarily limited to receiving IPO shares for clients
15 from the retail retention, in many instances the two RRs in the PWM Branch obtained
16 shares from both the retail retention and the institutional pot. This arrangement enabled
17 them to consistently provide the Executive Accounts with larger numbers of shares in
18 lucrative hot IPOs than were allocated to other retail accounts.

19
20 138. For example, from June 1996 through August 2000, WorldCom's then-President and CEO
21 received IPO allocations in 9 offerings from Salomon and 12 offerings from SSB. He
22 made profits of \$10,612,680 and \$923,360 respectively, totaling \$11,536,041 on these
23 IPO allocations. From 1996 through 2000, WorldCom paid \$75,955,000 in investment
24 banking fees to SSB.

25 139. During 1999 and 2000, the two RRs in the PWM Branch received 35% of the total IPO
26 shares allocated for distribution to SSB's ten largest branches and PWM combined.

1 During this same period, these two brokers generated less than 3% of this combined
2 group's commission revenue and had less than 5% of the group's assets under
3 management. In 5.3% of the IPOs during this period, the two PWM brokers alone
4 received a greater IPO allocation than the total shares distributed to SSB's ten largest
5 branches.

6 b. PWM's Solicitation of Syndicate for Additional IPO Shares

7
8 140. In addition to the arrangement that provided the two PWM brokers with special access to
9 large numbers of IPO shares for its client base, these two RRs aggressively solicited the
10 Syndicate Department for additional shares in order to give preferential treatment to
11 founders, officers, and directors of investment banking clients. PWM brokers regularly
12 requested additional shares from Syndicate, while retail brokers did so rarely. This
13 occurred as early as 1996 and continued throughout the relevant period. For example, in a
14 June 7, 1996 facsimile to the Syndicate Department, one of the RRs requested shares in
15 the McLeod USA IPO for "Salomon Brothers Investment Banking Relationships to
16 receive preferential treatment."

17 c. Special Access to DSP Shares

18 141. As well as obtaining hot IPO shares for Executive Accounts from the retail retention and
19 institutional pot, a PWM broker sought access, on at least one occasion, to shares reserved
20 for an Issuer's Directed Share Program for allocation to Executive Accounts.⁶

21
22 142. In a July 6, 1999 letter, one of the two PWM Branch RRs solicited the President and CEO
23 of Focal for the inclusion of various favored Executive Accounts in Focal's DSP. Of the

24
25 ⁶ In each IPO, shares were set aside for distribution to a group of individuals designated by the
26 Issuer through its Directed Share Program, sometimes referred to as the "friends and family"
program.

1 seventeen listed PWM clients who were Focal bondholders requesting equity shares, at
2 least thirteen were telecom company executives. One of these seventeen PWM clients, the
3 former CEO of McLeod USA, received 100,000 shares through Focal's DSP.

4
5 143. SSB also directly allocated issuers' DSP shares to the Executive Accounts. When trades
6 through an Issuer's DSP program could not be confirmed, SSB used those shares for its
7 own clients and distributed them to its favored accounts. For example, one of the PWM
8 RRs was assigned by SSB to administer the KQIP DSP. KQIP began trading in the
9 aftermarket on November 9, 1999. Several days later, the issuer's CFO contacted the
10 PWM RR and stated that 20,000 shares of IPO stock were left over from the DSP, and
11 asked if the RR would like to allocate the shares to one of his clients. The RR took the
12 DSP shares and in turn gave them to another broker who had assisted him with the KQIP
13 DSP for allocation to that broker's favored customers. On November 12, 1999, the
14 second broker allocated 5,000 shares of KQIP IPO stock to a customer, who was able to
15 purchase them at the IPO price. On November 16, 1999, the broker allocated the
16 remaining 15,000 shares of KQIP IPO stock to the same customer at the IPO price. On
17 December 24, 1999 the customer sold all 20,000 shares of KQIP for a profit of \$832,540.

18 144. Additionally, several Executive Accounts serviced by the PWM brokers received IPO
19 shares from a significant number of DSPs. For example, DSP shares were allocated in
20 more than one-third of the SSB IPOs awarded to the former Executive Vice President of
21 Qwest Communications International from May 1998 through September 2000.
22 Likewise, DSP shares were allocated in half of the SSB IPOs awarded to the President of
23 Qwest Communications International from June 1999 through September 2000.

24
25 3. Both SSB and Executives of the Firm's Investment Banking Clients Profited
26 Significantly From SSB's Spinning Practices

145. The spinning practices engaged in by Salomon before the merger with Citigroup, and then by SSB after the merger through the PWM Branch proved very lucrative to both the firm and the executives of the firm's investment banking clients. Executives of five telecom companies made approximately \$40 million in profits from approximately 3.4 million IPO shares allocated from 1996 – 2001, and SSB earned over \$404 million in investment banking fees from those companies during the same period.

Company	IPO Shares to Company Executives Pre-Merger (1/96-11/97)	IPO Shares to Company Executives Post-Merger (12/97-12/01)	Net Profits of Executives on Pre-Merger IPO Shares (1/96 – 11/97) (to nearest 000)	Net Profits of Executives on Post-Merger IPO Shares (12/97 – 12/01) (to nearest 000)	Investment Banking Fees Paid to SSB, Pre-Merger (1/96 – 11/97) (to nearest 000)	Investment Banking Fees Paid to SSB, Post-Merger (12/97 – 12-01) (to nearest 000)
Global Crossing	0	37,000	\$ 0	\$254,000	\$0	\$121,049,000
Metromedia Fiber Network	3,000	98,300	\$11,000	\$1,511,000	\$5,243,000	\$43,865,000
McLeodUSA	198,500	459,500	\$4,849,000	\$4,582,000	\$23,071,000	\$48,810,000
Qwest	254,654	838,822	\$1,272,000	\$7,763,000	\$13,998,000	\$32,810,000
WorldCom	1,236,400	262,000	\$20,146,000	(\$273,000)	\$17,631,000	\$97,857,000
Totals	<u>1,692,554</u>	<u>1,695,622</u>	<u>\$26,278,000</u>	<u>\$13,837,000</u>	<u>\$59,943,000</u>	<u>\$344,391,000</u>

4. SSB Could Not Rely on Its Records to Determine if IPOs Were Fully Distributed

146. SSB's record keeping and its system of assessing whether the IPO distribution was completed were totally inadequate. The records failed to timely and accurately record the firm's distribution of IPO shares to its clients. As a result, the firm could not rely on these records to ensure that the distribution was complete. This faulty record keeping was particularly evident in the areas of "as of" trades and the distribution of DSP shares. These "as of" trades frequently provided immediate profits to the recipients.

a. "As Of" Trades

147. In the Metromedia Fiber offering, SSB booked approximately 68% of all allocations on an "as of" basis two days or more after the IPO date and well after secondary market trading had begun in each stock. In the Juniper Networks offering, over 80% of all allocations booked by SSB were booked on an "as of" basis two days or more after the IPO date. In at least 10 offerings, over 10% of the offering was booked on an "as of" basis two or more days after the IPO date.

148. SSB placed a number of these "as of" IPO trades in Executive Accounts. In addition, SSB's inadequate record keeping led to the appearance that certain IPO allocations were sold short in violation of industry regulations. For example, Juniper Networks ("JNPR") IPO stock went public on Thursday, June 24, 1999 at \$34 per share. Trade tickets for the purchase of 5000 shares by WorldCom's former President and CEO were marked on the day after the IPO, Friday, June 25 at 3:12 p.m., and the shares were not booked into the account until the following Tuesday, June 29. SSB recorded this transaction on an "as of" basis. Though the shares had not yet been booked into the client's account and the tickets for the IPO trades were not yet written and time stamped, the CEO sold 4,000 JNPR shares on June 25 at 12:03 p.m., at prices of \$100 and \$100.31 per share, for a profit of \$264,125. The CEO sold the remaining 1,000 shares of JNPR on April 4, 2000 at \$210 per share, following a 3:1 stock split, for a total profit of \$860,125.

149. Similarly, the former Chairman of Qwest Communications also received several "as of" IPO allocations that traded at a substantial profit in the aftermarket. For example, SSB booked 5000 JNPR IPO shares into the account of the Qwest Chairman on June 29, 1999, even though the IPO trade tickets were time stamped at 3:12 p.m. on June 25, one day after the IPO date. At 11:59 a.m. on June 25, the Qwest Chairman sold 2000 shares of JNPR for a profit of \$132,063, even though the tickets for the IPO trades had not yet been

1 written and time stamped, once again giving the appearance that the IPO shares were sold
2 short. In addition, on June 5, 2000, SSB booked 10,000 shares of ONI Systems Corp.
3 ("ONIS") IPO stock into this same client's account at the IPO price, even though ONIS
4 had begun trading in the aftermarket on June 1, 2000. The Qwest Chairman ultimately
5 sold the ONIS IPO stock for a profit of more than \$562,000.

6 b. Directed Share Programs

7
8 150. In many instances in which SSB was retained to administer the issuer's DSP, a large
9 number of allocations were booked into customers' accounts after the stock began trading
10 in the secondary market, resulting in a substantial number of "as of" trades. Some of
11 these instances resulted directly from SSB's failure to ensure that orders for DSP shares
12 were confirmed prior to the start of secondary market trading. In fact, one of the PWM
13 brokers acknowledged that, if he could not confirm a DSP allocation with a program
14 participant, he would continue to attempt to contact participants even after secondary
15 market trading had begun in the stock. SSB's inadequate record keeping left the firm
16 unable to ensure that the distribution of DSP shares had been completed before the stock
17 began trading in the secondary market.

18 151. Moreover, SSB did not appropriately administer DSPs. For example, SSB relied upon
19 branch offices and their staff to manage these labor-intensive programs without adequate
20 central supervision and coordination. Further, despite managing numerous DSPs, SSB
21 had no written procedures or supervisory system in effect to ensure the appropriate
22 administration of these programs and the complete and timely distribution of DSP shares.

23 5. SSB Failed to Supervise Reasonably the Activities of the PWM Branch and Others
24 to Prevent Spinning

25 152. SSB failed to have supervisory procedures and systems in place to (i) prevent spinning;
26 (ii) create records it could reasonably rely upon to assess whether or not the distribution of

1 IPO shares was completed in compliance with applicable law; and (iii) ensure that issuers'
2 DSP programs were managed in conformance with all applicable industry rules and
3 regulations.

4
5 153. By establishing the PWM Branch and providing the two RRs with several special
6 considerations, including the ability to obtain significantly larger hot IPO allocations than
7 other brokers, SSB ensured favorable treatment for the Executive Accounts. Moreover,
8 SSB management failed to adequately supervise the allocation process and specifically
9 failed to take steps to ensure that the PWM Branch complied with SSB's policy
10 prohibiting favoritism for the personal accounts of corporate executives. SSB also failed
11 to accurately and timely record its distribution of IPO shares and failed to have a system
12 to ensure that IPO distributions were completed, and recorded as completed, prior to the
13 initiation of aftermarket trading. Finally, SSB failed to adopt written supervisory
14 procedures and a supervisory system sufficient to ensure that the firm appropriately
15 administered DSPs.

16 II.

17 CONCLUSIONS OF LAW

- 18 1. The Commissioner has jurisdiction over this matter pursuant to 6 Del. C. § 7325.
19 2. SSB Published Fraudulent Research on Focal and Metromedia Fiber

20 As described in the Findings of Fact above, SSB publicly issued the following fraudulent
21 reports on Focal Communications and Metromedia Fiber that contained misstatements and
22 omissions of material facts about the companies covered, contained recommendations that
23 were contrary to the actual views of its analysts, overlooked or minimized the risk of
24 investing in these companies and predicted substantial growth in the companies' revenues
25 and earnings without a reasonable basis:

- 26 • Focal: Reports issued on February 21, 2001 and April 30, 2001; and

- Metromedia Fiber: Reports issued on April 30, 2001, June 6, 2001, and June 28, 2001.

As a result, SSB violated 6 Del. C. § 7303.

3. SSB Published Exaggerated, Unbalanced or Unwarranted Statements and Made Recommendations Without a Reasonable Basis

As described in the Findings of Fact above, SSB issued certain research reports for Focal, RCN Communications, Level 3 Communications, XO Communications, Adelphia Business Solutions, and Williams Communications Group that did not disclose the pressure exerted by investment banking on Grubman not to downgrade those stocks, did not disclose other relevant facts, and did not provide a sound basis for evaluating facts regarding these companies business prospects. In addition, certain of the reports for Williams and Focal contained exaggerated or unwarranted statements or claims about these companies, and opinions for which there was no reasonable basis. The treatment of risks and potential benefits in the reports also was not adequately balanced. As a result, SSB violated 6 Del. C. § 7316(a)(7) in publishing the following misleading reports, as described in paragraphs 78 - 92:

- Focal: Reports issued on April 10, 2000, April 18, 2000, April 26, 2000, and July 31, 2000.
- Level 3: Report issued on April 18, 2001.
- WCG: Reports issued on May 1, 2001, August 1, 2001, and September 21, 2001.
- XO: Reports issued on April 26, 2001, and July 25, 2001.
- Adelphia: Report issued on May 14, 2001.
- RCN: Report issued on May 3, 2001.

4. SSB Published a Misleading Recommendation on AT&T

As described in the Findings of Fact above, SSB did not, in the November 1999 research report upgrading AT&T, disclose that Grubman's objectivity had been compromised by

1 the facts described above in paragraphs 93 - 122. This would have been material to
2 investors. As a result, such report was misleading and SSB violated 6 Del. C.
3 § 7316(a)(7).

4 5. SSB's Business Practices Created Conflicts of Interest

5 As described in the Findings of Fact above, SSB's business practices allowed investment
6 bankers to wield inappropriate influence over research analysts. SSB failed to manage, in
7 an adequate or appropriate manner, the conflicts of interest these practices generated.
8 These SSB business practices fostered the flawed research reports described in Sections
9 I.E. and I.F. above. Accordingly, SSB violated 6 Del. C. § 7316(a)(7).

10 6. SSB's Policies Were Not Reasonably Designed To Prevent The Potential Misuse Of
11 Material, Non-Public Information

12 As described in the Findings of Fact above, during the relevant period SSB did not
13 maintain written policies and procedures reasonably designed to prevent the sharing and
14 misuse of material, non-public information between an affiliated person of SSB who
15 served as a director of another company and an SSB research analyst covering that
16 company. By reason of the foregoing, SSB violated 6 Del. C. § 7316(a)(7).

17 7. SSB Engaged in Spinning

18 As described in the Findings of Fact above, SSB provided favorable and profitable
19 allocations of hot IPO shares to officers of existing or potential investment banking clients
20 who were in a position to direct their companies' investment banking business to SSB.
21 The officers sold the shares provided to them for substantial profit. Subsequently, the
22 companies for which the officers worked provided SSB with investment banking business.
23 As a result of these actions, SSB violated 6 Del. C. § 7316(a)(7).

24 8. SSB Maintained Inaccurate Books and Records in Connection with its Spinning Activities
25 and IPO Distribution Practices
26

1 As described in the Findings of Fact above, SSB allowed its employees to engage in “as
2 of” trading and otherwise failed to maintain accurate books and records with respect to
3 spinning. SSB also failed to maintain adequate books and records to ensure that its
4 distributions of IPO shares were completed prior to the initiation of secondary market
5 trading. As a result, SSB violated 6 Del. C. § 7316(a)(7).

6 9. SSB Failed to Supervise

7 As described in the Findings of Fact above, SSB failed to establish and maintain adequate
8 procedures to protect research analysts from conflicts of interest from its investment
9 banking operation. Moreover, SSB failed adequately to supervise the activities of its
10 research analysts: it failed to respond to indications that SSB research was misleading and
11 failed to have a system to provide reasonable assurances that its research reports complied
12 with applicable law. SSB also failed adequately to supervise the employees engaged in
13 spinning. Finally, SSB failed to establish and maintain adequate procedures to ensure the
14 proper administration of Issuer Directed Share Programs. As a result, SSB violated 6 Del.
15 C. § 7316(a)(10).

16 10. The Commissioner finds the following sanctions appropriate and in the public interest.

17 III.

18 ORDER

19 On the basis of the Findings of Fact, Conclusions of Law, and Respondent Citigroup Global’s
20 consent to the entry of this Order, for the sole purpose of settling this matter, prior to a hearing and
21 without admitting or denying any of the Findings of Fact or Conclusions of Law,

22 IT IS HEREBY ORDERED:

- 23
- 24 1. This Order concludes the Investigation by the Commissioner and any other action that the
25 Commissioner could commence under the Delaware Securities Act on behalf of the State of
26 Delaware as it relates to Respondent Citigroup Global or its entity affiliates, arising from or

1 relating to the subject of the Investigation, provided however, that excluded from and not
2 covered by this paragraph 1 are any claims by the Commissioner arising from or relating to
3 enforcement of the "Order" provisions contained herein.

- 4 2. Respondent Citigroup Global will CEASE AND DESIST from engaging in acts in violation
5 of 6 Del. C. § 7303, 6 Del. C. § 7316(a)(7), and 6 Del. C. § 7316(a)(10) of the Delaware
6 Securities Act in connection with the research practices referenced in this Order and will
7 comply with 6 Del. C. § 7303, 6 Del. C. § 7316(a)(7), and 6 Del. C. § 7316(a)(10) of the
8 Delaware Securities Act in connection with the research practices referenced in this Order and
9 will comply with the undertakings of Addendum A, incorporated herein by reference.

10
11 3. IT IS FURTHER ORDERED that:

12 As a result of the Findings of Fact and Conclusions of Law contained in this Order,
13 Respondent Citigroup Global shall pay a total amount of \$400,000,000.00. This total amount
14 shall be paid as specified in the final judgment in the related action by the Securities and
15 Exchange Commission against Respondent Citigroup Global ("SEC Final Judgment") as
16 follows:

- 17 a) \$150,000,000 to the states (50 states, plus the District of Columbia and Puerto Rico)
18 (Respondent Citigroup Global's offer to the state securities regulators hereinafter shall
19 be called the "state settlement offer"). Upon execution of this Order, Respondent
20 Citigroup Global shall pay the sum of \$1,500,000 of this amount to the Commissioner
21 as a civil monetary penalty pursuant to 6 Del. C. § 7325, to be deposited in the
22 Investor Protection Fund, 6 Del. C. § 7329. The total amount to be paid by
23 Respondent Citigroup Global to state securities regulators pursuant to the state
24 settlement offer may be reduced due to the decision of any state securities regulator
25 not to accept the state settlement offer. In the event another state securities regulator
26 determines not to accept Respondent Citigroup Global's state settlement offer, the

1 total amount of the Delaware payment shall not be affected, and shall remain at
2 \$1,500,000;

3 b) \$150,000,000 as disgorgement of commissions, fees and other monies as specified in
4 the SEC Final Judgment;

5 c) \$75,000,000, to be used for the procurement of independent research, as described in
6 the SEC Final Judgment;

7 d) \$25,000,000, to be used for investor education, as described in Addendum A,
8 incorporated by reference herein.

9 Respondent Citigroup Global agrees that it shall not seek or accept, directly or indirectly,
10 reimbursement or indemnification, including, but not limited to payment made pursuant to
11 any insurance policy, with regard to all penalty amounts that Respondent Citigroup Global
12 shall pay pursuant to this Order or Section II of the SEC Final Judgment, regardless of
13 whether such penalty amounts or any part thereof are added to the Distribution Fund
14 Account referred to in the SEC Final Judgment or otherwise used for the benefit of
15 investors. Respondent Citigroup Global further agrees that it shall not claim, assert, or
16 apply for a tax deduction or tax credit with regard to any state, federal or local tax for any
17 penalty amounts that Respondent Citigroup Global shall pay pursuant to this Order or
18 Section II of the SEC Final Judgment, regardless of whether such penalty amounts or any
19 part thereof are added to the Distribution Fund Account referred to in the SEC Final
20 Judgment or otherwise used for the benefit of investors. Respondent Citigroup Global
21 understands and acknowledges that these provisions are not intended to imply that the
22 Commissioner would agree that any other amounts Respondent Citigroup Global shall pay
23 pursuant to the SEC Final Judgment may be reimbursed or indemnified (whether pursuant
24 to an insurance policy or otherwise) under applicable law or may be the basis for any tax
25 deduction or tax credit with regard to any state, federal or local tax.
26

1 No portion of the payments for independent research or investor education shall be
2 considered disgorgement or restitution, and/or used for compensatory purposes.

3 4. If payment is not made by Respondent Citigroup Global or if Respondent Citigroup Global
4 defaults in any of its obligations set forth in this Order, the Commissioner may vacate this
5 Order, at its sole discretion, upon 10 days notice to Respondent Citigroup Global and
6 without opportunity for administrative hearing and Respondent Citigroup Global agrees that
7 any statute of limitations applicable to the subject of the Investigation and any claims
8 arising from or relating thereto are tolled from and after the date of this Order.

9 5. This Order is not intended by the Commissioner to subject any Covered Person to any
10 disqualifications under the laws of any state, the District of Columbia or Puerto Rico
11 (collectively, "State"), including, without limitation, any disqualifications from relying
12 upon the State registration exemptions or State safe harbor provisions. "Covered Person"
13 means Respondent Citigroup Global, or any of its officers, directors, affiliates, current or
14 former employees, or other persons that would otherwise be disqualified as a result of the
15 Orders (as defined below).

16 6. The SEC Final Judgment, the NYSE Stipulation and Consent, the NASD Letter of
17 Acceptance, Waiver and Consent, this Order and the order of any other State in related
18 proceedings against Respondent Citigroup Global (collectively, the "Orders") shall not
19 disqualify any Covered Person from any business that they otherwise are qualified, licensed
20 or permitted to perform under the applicable law of the State of Delaware and any
21 disqualifications from relying upon this state's registration exemptions or safe harbor
22 provisions that arise from the Orders are hereby waived.

23 7. For any person or entity not a party to this Order, this Order does not prohibit, limit or
24 create: (1) any private rights or remedies against Respondent Citigroup Global; (2) liability
25 of Respondent Citigroup Global; or (3) defenses of Respondent Citigroup Global to any
26

1 claims. Nothing herein shall be construed to prohibit the use of any e-mails or other
2 documents of Respondent Citigroup Global or of others.

3 8. Nothing herein shall preclude the State of Delaware, its departments, agencies, boards,
4 commissions, authorities, political subdivisions and corporations, other than the
5 Commissioner and only to the extent set forth in paragraph 1 above, (collectively, "State
6 Entities") and the officers, agents or employees of State Entities from asserting any claims,
7 causes of action, or applications for compensatory, nominal and/or punitive damages,
8 administrative, civil, criminal, or injunctive relief against Respondent Citigroup Global
9 arising from or relating to the subject of the Investigation.

10 9. This Order and any dispute related thereto shall be construed and enforced in accordance
11 with, and governed by, the laws of the State of Delaware without regard to any choice of
12 law principles.

13 10. Respondent Citigroup Global agrees not to take any action or to make or permit to be made
14 any public statement denying, directly or indirectly, any finding in this Order or creating the
15 impression that this Order is without factual basis. Nothing in this Paragraph affects
16 Respondent Citigroup Global's: (i) testimonial obligations, or (ii) right to take legal or
17 factual positions in defense of litigation or in defense of other legal proceedings in which
18 the Commissioner is not a party.

19 11. Respondent Citigroup Global, through its execution of this Consent Order, voluntarily waives
20 their right to a hearing on this matter and to judicial review of this Consent Order under the
21 Delaware Securities Act.

22 12. Respondent Citigroup Global enters into this Consent Order voluntarily and represents that
23 no threats, offers, promises, or inducements of any kind have been made by the
24 Commissioner or any member, officer, employee, agent, or representative of the
25 Commissioner to induce Respondent Citigroup Global to enter into this Consent Order.
26

1 13. This Order shall be binding upon Respondent Citigroup Global and its successors and
2 assigns. Further, with respect to all conduct subject to Paragraph 2 above and all future
3 obligations, responsibilities, undertakings, commitments, limitations, restrictions, events,
4 and conditions, the terms "Citigroup Global" and "Citigroup Global's" as used herein shall
5 include Respondent Citigroup Global's successors and assigns (which, for these purposes,
6 shall include a successor or assign to Respondent Citigroup Global's investment banking
7 and research operations, and in the case of an affiliate of Respondent Citigroup Global, a
8 successor or assign to Respondent Citigroup Global's investment banking or research
9 operations).

10 14. This Consent Order shall become final upon entry.

11
12 Dated this 22nd day of October, 2003.

13
14 BY ORDER OF THE SECURITIES COMMISSIONER OF THE STATE OF DELAWARE

15
16 
17 _____
18 James B. Ropp
19 Securities Commissioner
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CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY CITIGROUP GLOBAL

Respondent Citigroup Global hereby acknowledges that it has been served with a copy of this Administrative Order, has read the foregoing Order, is aware of its right to a hearing and appeal in this matter, and has waived the same.

Respondent Citigroup Global admits the jurisdiction of the Securities Commissioner of the Division of Securities of the State of Delaware Department of Justice ("Commissioner"), neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order; and consents to entry of this Order by the Commissioner as settlement of the issues contained in this Order.

Respondent Citigroup Global states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Order and that it has entered into this Order voluntarily.

Richard Ketchum represents that he/she is General Counsel of Respondent Citigroup Global and that, as such, has been authorized by Respondent Citigroup Global to enter into this Order for and on behalf of Respondent Citigroup Global.

Dated this 10th day of October, 2003.

Citigroup Global

By: [Signature]
Title: General Counsel

SUBSCRIBED AND SWORN TO before me this 10th day of October, 2003.

[Signature]
Notary Public

My Commission expires:

May 13, 2006

MARK A. RHODES
Notary Public, State of New York
No. 31-4964241
Qualified in New York County
Commission Expires March 26, 1994
May 13, 2006

Addendum A

Undertakings

The firm shall comply with the following undertakings:

I. Separation of Research and Investment Banking

1. Reporting Lines. Research and Investment Banking will be separate units with entirely separate reporting lines within the firm – i.e., Research will not report directly or indirectly to or through Investment Banking. For these purposes, the head of Research may report to or through a person or persons to whom the head of Investment Banking also reports, provided that such person or persons have no direct responsibility for Investment Banking or investment banking activities.

- a. As used throughout this Addendum, the term “firm” means Citigroup Global Markets Inc., formerly known as Salomon Smith Barney Inc. (“Citigroup Global”), Citigroup Global’s successors and assigns (which, for these purposes, shall include a successor or assign to Citigroup Global’s investment banking and research operations), and their affiliates, other than “exempt investment adviser affiliates.”
- b. As used throughout this Addendum, the term “exempt investment adviser affiliate” means an investment adviser affiliate (including for these purposes, a separately identifiable department or division that is principally engaged in the provision of investment advice to managed accounts as governed by the Investment Advisers Act of 1940 or investment companies under the Investment Company Act of 1940) having no officers (or persons performing similar functions) or employees in common with the firm (which, for purposes of this Section I.1.b, shall not include the investment adviser affiliate) who can influence the activities of the firm’s Research personnel or the content of the firm’s research reports; provided that the firm (i) maintains and enforces written policies and procedures reasonably designed to prevent the firm, any controlling persons, officers (or persons performing similar functions), or employees of the firm from influencing or seeking to influence the activities of Research personnel

of, or the content of research reports prepared by, the investment adviser affiliate; (ii) obtains an annual independent assessment of the operation of such policies and procedures; and (iii) does not furnish to its customers research reports prepared by the investment adviser affiliate or otherwise use such investment adviser affiliate to do indirectly what the firm may not do directly under this Addendum.

- c. As used throughout this Addendum, the term "Investment Banking" means all firm personnel engaged principally in investment banking activities, including the solicitation of issuers and structuring of public offering and other investment banking transactions. It also includes all firm personnel who are directly or indirectly supervised by such persons and all personnel who directly or indirectly supervise such persons, up to and including Investment Banking management.
- d. As used throughout this Addendum, the term "Research" means all firm personnel engaged principally in the preparation and/or publication of research reports, including firm personnel who are directly or indirectly supervised by such persons and those who directly or indirectly supervise such persons, up to and including Research management.
- e. As used throughout this Addendum, the term "research report" means any written (including electronic) communication that is furnished by the firm to investors in the U.S. and that includes an analysis of the common stock, any security convertible into common stock, or any derivative thereof, including American Depositary Receipts (collectively, "Securities"), of an issuer or issuers and provides information reasonably sufficient upon which to base an investment decision; provided, however, that a "research report" shall not include:
 - i. the following communications, if they do not include (except as specified below) an analysis, recommendation or rating (e.g., buy/sell/hold, under perform/market perform/outperform, underweight/market weight/overweight, etc.) of individual securities or issuers:
 - 1. reports discussing broad-based indices, such as the Russell 2000 or S&P 500 index;
 - 2. reports commenting on economic, political or market

- (including trading) conditions;
 - 3. technical or quantitative analysis concerning the demand and supply for a sector, index or industry based on trading volume and price;
 - 4. reports that recommend increasing or decreasing holdings in particular industries or sectors or types of securities; and
 - 5. statistical summaries of multiple companies' financial data and broad-based summaries or listings of recommendations or ratings contained in previously-issued research reports, provided that such summaries or listings do not include any analysis of individual companies; and
 - ii. the following communications, even if they include information reasonably sufficient upon which to base an investment decision or a recommendation or rating of individual securities or companies:
 - 1. an analysis prepared for a current or prospective investing customer or group of current or prospective investing customers by a registered salesperson or trader who is (or group of registered salespersons or traders who are) not principally engaged in the preparation or publication of research reports; and
 - 2. periodic reports, solicitations or other communications prepared for current or prospective investment company shareholders (or similar beneficial owners of trusts and limited partnerships) or discretionary investment account clients, provided that such communications discuss past performance or the basis for previously made discretionary investment decisions.
- 2. Legal/Compliance. Research will have its own dedicated legal and compliance staff, who may be a part of the firm's overall compliance/legal infrastructure.
- 3. Budget. For the firm's first fiscal year following the entry of the final judgment in the action by the Securities and Exchange Commission ("SEC") against Citigroup Global in a related proceeding ("final judgment") and thereafter, Research budget and allocation of Research

expenses will be determined by the firm's senior management (e.g., CEO/Chairman/management committee, other than Investment Banking personnel) without input from Investment Banking and without regard to specific revenues or results derived from Investment Banking, though revenues and results of the firm as a whole may be considered in determining Research budget and allocation of Research expenses. On an annual basis thereafter, the Audit Committee of the firm's holding/parent company (or comparable independent persons/group without management responsibilities) will review the budgeting and expense allocation process with respect to Research to ensure compliance with this requirement.

4. Physical Separation. Research and Investment Banking will be physically separated. Such physical separation will be reasonably designed to prevent the intentional and unintentional flow of information between Research and Investment Banking.
5. Compensation. Compensation of professional Research personnel will be determined exclusively by Research management and the firm's senior management (but not including Investment Banking personnel) using the following principles:
 - a. Investment Banking will have no input into compensation decisions.
 - b. Compensation may not be based directly or indirectly on Investment Banking revenues or results; provided, however, that compensation may relate to the revenues or results of the firm as a whole.
 - c. A significant portion of the compensation of anyone principally engaged in the preparation of research reports (as defined in this Addendum) that he or she is required to certify pursuant to the SEC's Regulation Analyst Certification ("Regulation AC") (such person hereinafter a "lead analyst") must be based on quantifiable measures of the quality and accuracy of the lead analyst's research and analysis, including his or her ratings and price targets, if any. In assessing quality, the firm may rely on, among other things, evaluations by the firm's investing customers, evaluations by the firm's sales personnel and rankings in independent surveys. In assessing accuracy, the firm may use the actual performance of a company or its equity securities to rank its own lead analysts' ratings and price targets, if any, and

forecasts, if any, against those of other firms, as well as against benchmarks such as market or sector indices.

- d. Other factors that may be taken into consideration in determining lead analyst compensation include: (i) market capitalization of, and the potential interest of the firm's investing clients in research with respect to, the industry covered by the analyst; (ii) Research management's assessment of the analyst's overall performance of job duties, abilities and leadership; (iii) the analyst's seniority and experience; (iv) the analyst's productivity; and (v) the market for the hiring and retention of analysts.
 - e. The criteria to be used for compensation decisions will be determined by Research management and the firm's senior management (not including Investment Banking) and set forth in writing in advance.
 - f. Research management will document the basis for each compensation decision made with respect to (i) anyone who, in the last 12 months, has been required to certify a research report (as defined in this Addendum) pursuant to Regulation AC; and (ii) anyone who is a member of Research management (except in the case of senior-most Research management, in which case the basis for each compensation decision will be documented by the firm's senior management).
 - g. On an annual basis, the Compensation Committee of the firm's holding/parent company (or comparable independent persons/group without management responsibilities) will review the compensation process for Research personnel. Such review will be reasonably designed to ensure that compensation decisions have been made in a manner that is consistent with these requirements.
6. Evaluations. Evaluations of Research personnel will not be done by, nor will there be input from, Investment Banking personnel.
7. Coverage. Investment Banking will have no input into company-specific coverage decisions (i.e., whether or not to initiate or terminate coverage of a particular company in research reports furnished by the firm), and investment banking revenues or potential revenues will not be taken into account in making company-specific coverage decisions; provided, however, that this requirement does not apply to category-by-category

coverage decisions (e.g., a given industry sector, all issuers underwritten by the firm, companies meeting a certain market cap threshold).

8. Termination of Coverage. When a decision is made to terminate coverage of a particular company in the firm's research reports (whether as a result of a company-specific or category-by-category decision), the firm will make available a final research report on the company using the means of dissemination equivalent to those it ordinarily uses; provided, however, that no final report is required for any company as to which the firm's prior coverage has been limited to purely quantitative analysis. Such report will be comparable to prior reports, unless it is impracticable for the firm to produce a comparable report (e.g., if the analyst covering the company and/or sector has left the firm). In any event, the final research report must disclose: the firm's termination of coverage; and the rationale for the decision to terminate coverage.
9. Prohibition on Soliciting Investment Banking Business. Research is prohibited from participating in efforts to solicit investment banking business. Accordingly, Research may not, among other things, participate in any "pitches" for investment banking business to prospective investment banking clients, or have other communications with companies for the purpose of soliciting investment banking business.
10. Firewalls Between Research and Investment Banking. So as to reduce further the potential for conflicts of interest or the appearance of conflicts of interest, the firm must create and enforce firewalls between Research and Investment Banking reasonably designed to prohibit all communications between the two except as expressly described below:
 - a. Investment Banking personnel may seek, through Research management (or an appropriate designee with comparable management or control responsibilities ("Designee")) or in the presence of internal legal or compliance staff, the views of Research personnel about the merits of a proposed transaction, a potential candidate for a transaction, or market or industry trends, conditions or developments. Research personnel may respond to such inquiries on these subjects through Research management or its Designee or in the presence of internal legal or compliance staff. In addition, Research personnel, through Research management or its Designee or in the presence of internal legal or compliance staff, may initiate communications with

Investment Banking personnel relating to market or industry trends, conditions or developments, provided that such communications are consistent in nature with the types of communications that an analyst might have with investing customers. Any communications between Research and Investment Banking personnel must not be made for the purpose of having Research personnel identify specific potential investment banking transactions.

- b. In response to a request by a commitment or similar committee or subgroup thereof, Research personnel may communicate their views about a proposed transaction or potential candidate for a transaction to the committee or subgroup thereof in connection with the review of such transaction or candidate by the committee. Investment Banking personnel working on the proposed transaction may participate with the Research personnel in these discussions with such committee or subgroup. However, the Research personnel also must have an opportunity to express their views to the committee or subgroup outside the presence of such Investment Banking personnel.
- c. Research personnel may assist the firm in confirming the adequacy of disclosure in offering or other disclosure documents for a transaction based on the analysts' communications with the company and other vetting conducted outside the presence of Investment Banking personnel, but to the extent communicated to Investment Banking personnel, such communication shall only be made in the presence of underwriters' or other counsel on the transaction or internal legal or compliance staff.
- d. After the firm receives an investment banking mandate, or in connection with a block bid or similar transaction, Research personnel may (i) communicate their views on the structuring and pricing of the transaction to personnel in the firm's equity capital markets group, which group's principal job responsibility is the pricing and structuring of transactions (including by participating with the firm's equity capital markets group in the preparation of internal-use memoranda and other efforts to educate the sales force), and (ii) provide to such personnel other information obtained from investing customers relevant to the pricing and structuring of the transaction.
- e. Research personnel may attend or participate in a widely-attended

conference attended by Investment Banking personnel or in which Investment Banking personnel participate, provided that the Research personnel do not participate in activities otherwise prohibited herein.

- f. Research and Investment Banking personnel may attend or participate in widely-attended firm or regional meetings at which matters of general firm interest are discussed. Research management and Investment Banking management may attend meetings or sit on firm management, risk or similar committees at which general business and plans (including those of Investment Banking and Research) and other matters of general firm interest are discussed. Research and Investment Banking personnel may communicate with each other with respect to legal or compliance issues, provided that internal legal or compliance staff is present.
- g. Communications between Research and Investment Banking personnel that are not related to investment banking or research activities may take place without restriction.

11. Additional Restrictions on Activities By Research and Investment Banking Personnel.

- a. Research personnel are prohibited from participating in company or Investment Banking-sponsored road shows related to a public offering or other investment banking transaction.
- b. Investment Banking personnel are prohibited from directing Research personnel to engage in marketing or selling efforts to investors with respect to an investment banking transaction.

12. Oversight. An oversight/monitoring committee or committees, which will be comprised of representatives of Research management and may include others (but not personnel from Investment Banking), will be created to:

- a. review (beforehand, where practicable) all changes in ratings, if any, and material changes in price targets, if any, contained in the firm's research reports;
- b. conduct periodic reviews of research reports to determine whether

changes in ratings or price targets, if any, should be considered; and

c. monitor the overall quality and accuracy of the firm's research reports;

provided, however, that Sections I.12a and I.12b of this Addendum shall not be required with respect to research reports limited to purely quantitative analysis.

II. Disclosure/Transparency and Other Issues

1. Disclosures. In addition to other disclosures required by rule, the firm must disclose prominently on the first page of any research report and any summary or listing of recommendations or ratings contained in previously-issued research reports, in type no smaller than the type used for the text of the report or summary or listing, that:
 - a. "Smith Barney is a division of Citigroup Global Markets Inc. (the "Firm"), which does and seeks to do business with companies covered in its research reports. As a result, investors should be aware that the Firm may have a conflict of interest that could affect the objectivity of this report."
 - b. With respect to Covered Companies as to which the firm is required to make available Independent Research (as set forth in Section III below): "Customers of the Firm can receive independent, third-party research on the company covered in this report, at no cost to them, where such research is available. Customers can access this independent research at [website address/hyperlink] or can call [toll-free number] to request a copy of this research."
 - c. "Investors should consider this report as only a single factor in making their investment decision."
2. Transparency of Analysts' Performance. The firm will make publicly available (via its website, in a downloadable format), no later than 90 days after the conclusion of each quarter (beginning with the first full calendar quarter that commences at least 120 days following the entry of the final judgment), the following information, if such information is included in any research report (other than any research report limited to purely quantitative analysis) prepared and furnished by the firm during the prior quarter: subject company, name(s) of analyst(s) responsible for

certification of the report pursuant to Regulation AC, date of report, rating, price target, period within which the price target is to be achieved, earnings per share forecast(s), period(s) for which such forecast(s) are applicable (e.g., 3Q03, FY04, etc.), and definition/explanation of ratings used by the firm.

3. Applicability. Except as specified in the second and third sentences of this Section II.3, the restrictions and requirements set forth in Sections I [Separation of Research and Investment Banking] and Section II [Disclosure/Transparency and Other Issues] of this Addendum will only apply in respect of a research report that is both (i) prepared by the firm, and (ii) that relates to either (A) a U.S. company, or (B) a non-U.S. company for which a U.S. market is the principal equity trading market; provided, however, that such restrictions and requirements do not apply to Research activities relating to a non-U.S. company until the second calendar quarter following the calendar quarter in which the U.S. market became the principal equity trading market for such company. Notwithstanding the foregoing, Section I.7 [Coverage] of this Addendum will also apply to any research report (other than the Independent Research made available by the firm pursuant to Section III [Independent, Third-Party Research] of this Addendum) that has been *furnished* by the firm to investors in the U.S., but not prepared by the firm, but only to the extent that the report relates to either (A) a U.S. company, or (B) a non-U.S. company for which a U.S. market is the principal equity trading market. Also notwithstanding the foregoing, Section II.1 [Disclosures] of this Addendum will also apply to any research report (other than the Independent Research made available by the firm pursuant to Section III of this Addendum) that has been *furnished* by the firm to investors in the U.S., but not prepared by the firm, including a report that relates to a non-U.S. company for which a U.S. market is not the principal equity trading market, but only to the extent that the report has been furnished under the firm's name, has been prepared for the exclusive or sole use of the firm or its customers, or has been customized in any material respect for the firm or its customers.
 - a. For purposes of this Section II.3, the firm will be deemed to have furnished a research report to investors in the U.S. if the firm has made the research report available to investors in the U.S. or has arranged for someone else to make it available to investors in the U.S.
 - b. For purposes of this Section II.3, a "U.S. company" means any

company incorporated in the U.S. or whose principal place of business or headquarters is in the U.S.

- c. For purposes of this Section II.3, the calendar quarter in which a non-U.S. company's "principal equity trading market" becomes the U.S. market is a quarter when more than 50% of worldwide trading in the company's common stock and equivalents (such as ordinary shares or common stock or ordinary shares represented by American Depositary Receipts) takes place in the U.S. Trading volume shall be measured by publicly reported share volume.

4. General.

- a. The firm may not knowingly do indirectly that which it cannot do directly under this Addendum.
- b. The firm will adopt and implement policies and procedures reasonably designed to ensure that its associated persons (including but not limited to the firm's Investment Banking personnel) cannot and do not seek to influence the contents of a research report or the activities of Research personnel for purposes of obtaining or retaining investment banking business. The firm will adopt and implement procedures instructing firm personnel to report immediately to a member of the firm's legal or compliance staff any attempt to influence the contents of a research report or the activities of Research personnel for such a purpose.

5. Timing. Unless otherwise specified, the restrictions and requirements of this Addendum will be effective within 120 days of the entry of the final judgment, except that Sections I.5 [Compensation], I.6 [Evaluations], I.7[Coverage], I.8[Termination of Coverage], I.9 [Prohibition on Soliciting Investment Banking Business], I.11 [Additional Restrictions on Activities by Research and Investment Banking Personnel], and II.4(a) [General (subpart a)] and II.7 [Superseding Rules and Amendments] of this Addendum will be effective within 60 days of the entry of the final judgment, and Sections II.1.b [Disclosures (subpart b)] and III [Independent, Third-Party Research] of this Addendum will be effective within 270 days of the entry of the final judgment.

6. Review of implementation.

- a. The firm will retain, at its own expense, an Independent Monitor acceptable to the Staff of the SEC, the NYSE, the NASD, the

President of NASAA, and the New York Attorney General's Office to conduct a review to provide reasonable assurance of the implementation and effectiveness of the firm's policies and procedures designed to achieve compliance with the terms of this Addendum.

This review will begin 18 months after the date of the entry of the final judgment. The Independent Monitor will produce a written report of its review, its findings as to the implementation and effectiveness of the firm's policies and procedures, and its recommendations of other policies or procedures (or amendments to existing policies or procedures) as are necessary and appropriate to achieve compliance with the requirements and prohibitions of this Addendum. The report will be produced to the firm and the Staff of the SEC, the NYSE and the NASD within 30 days from the completion of the review, but no later than 24 months from the date of entry of the final judgment. (The SEC Staff shall make the report available to the President of NASAA and the New York Attorney General's Office upon request.) The Independent Monitor shall have the option to seek an extension of time by making a written request to the Staff of the SEC.

- b. The firm will have a reasonable opportunity to comment on the Independent Monitor's review and proposed report prior to its submission, including a reasonable opportunity to comment on any and all recommendations, and to seek confidential treatment of such information and recommendations set forth therein to the extent that the report concerns proprietary commercial and financial information of the firm. This report will be subject to the protections from disclosure set forth in the rules of the SEC, including the protections from disclosure set forth in 5 U.S.C. § 552(b) (8) and 17 C.F.R. § 200.80(b) (8), and will not constitute a record, report, statement or data compilation of a public office or agency under Rule 803(8) of the Federal Rules of Evidence.
- c. The firm will adopt all recommendations contained in the written report of the Independent Monitor; provided, however, that as to any recommendation that the firm believes is unduly burdensome or impractical, the firm may demonstrate why the recommended policy or procedure is, under the circumstances, unreasonable, impractical and/or not designed to yield benefits commensurate with its cost, or the firm may suggest an alternative policy or procedure designed to achieve the same objective, and submit such explanation and/or alternative policy or procedure in writing to the Independent Monitor and to the Staff of the SEC. The firm and the Independent Monitor

shall then attempt in good faith to reach agreement as to any policy or procedure as to which there is any dispute and the Independent Monitor shall reasonably evaluate any alternative policy or procedure proposed by the firm. If an agreement on any issue is not reached, the firm will abide by the determinations of the Staff of the SEC (which shall be made after allowing the firm and the Independent Monitor to present arguments in support of their positions), and adopt those recommendations the Staff of the SEC deems appropriate.

- d. The firm will cooperate fully with the Independent Monitor in this review, including making such non-privileged information and documents available, as the Independent Monitor may reasonably request, and by permitting and requiring the firm's employees and agents to supply such non-privileged information and documents as the Independent Monitor may reasonably request.
- e. To ensure the independence of the Independent Monitor, the firm (i) shall not have the authority to terminate the Independent Monitor without the prior written approval of the SEC staff; and (ii) shall compensate the Independent Monitor, and persons engaged to assist the Independent Monitor, for services rendered pursuant to this Order at their reasonable and customary rates.
- f. For the period of engagement and for a period of three years from completion of the engagement, the Independent Monitor shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with the firm, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. Any entity with which the Independent Monitor is affiliated or of which he/she is a member, and any person engaged to assist the Independent Monitor in performance of his/her duties under this Order shall not, without prior written consent of the Staff of the SEC, enter into any employment, consultant, attorney-client, auditing or other professional relationship with the firm, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of three years after the engagement.
- g. Five years after the date of the entry of the final judgment, the firm shall certify to the Staff of the SEC, the NYSE, the NASD, the President of NASAA, and the New York Attorney General's Office, that the firm has complied in all material respects with the requirements and prohibitions set forth in this Addendum or, in the event of material non-compliance, will describe such material non-

compliance.

7. Superseding Rules and Amendments. In the event that the SEC adopts a rule or approves an SRO rule or interpretation with the stated intent to supersede any of the provisions of this settlement set forth in this Addendum, except Section IV [Investor Education] the SEC or SRO rule or interpretation will govern with respect to that provision of the settlement and such provision will be superseded. In addition, each of the SEC, NYSE, the NASD, the New York Attorney General's Office and any State that incorporates this Addendum into its settlement of related proceedings against Citigroup Global agrees that the SEC Staff may provide interpretive guidance with respect to the terms of the settlement set forth in this Addendum, except for Section IV [Investor Education], as requested by the firm and that, subject to Court approval, the SEC and the firm may agree to amend or modify any term of the settlement set forth in this Addendum, except for Section IV [Investor Education], in each case, without any further action or involvement by any other regulator in any related proceeding. With respect to any term in Section I or II of this Addendum that has not been superseded (as set forth above) within five years of the entry of the final judgment, it is the expectation of Citigroup Global, the SEC, NYSE, NASD, New York Attorney General's Office and the States that the SEC would agree to an amendment or modification of such term, subject to Court approval, unless the SEC believes such amendment or modification would not be in the public interest.
8. Other Obligations and Requirements. Except as otherwise specified, the requirements and prohibitions of this Addendum shall not relieve the firm of any other applicable legal obligation or requirement.

III. Independent, Third-Party Research

1. Obligation to Make Available. Each year, for the period ending five years after the effective date of this Section III (as set forth in Section II.5 [Timing] of this Addendum), the firm will be required to contract with no fewer than three independent providers of research ("Independent Research Providers") at a time in order to procure and make available Independent Research (as defined below) to the firm's customers in the U.S. as set forth below. There is, however, no requirement that there be at least three Independent Research Providers for the Common Stock of each Covered Company (as those terms are defined below):

a. For common stock and equivalents (such as ordinary shares or common stock or ordinary shares represented by American Depositary Receipts) listed on a U.S. national securities exchange or quoted in Nasdaq (such securities hereinafter, collectively, "Common Stock") and covered in the firm's research reports (other than those limited to purely quantitative analysis) (an issuer of such covered Common Stock hereinafter called a "Covered Company"), the firm, through an Independent Consultant (as discussed below) will use its reasonable efforts to procure, and shall make available to its customers in the U.S., Independent Research on such Covered Company's Common Stock. (If the Independent Research Providers drop coverage or do not timely pick up coverage of the Common Stock of a Covered Company, the firm will not be in violation of any of the requirements in this Section III, and may continue to disseminate its own research reports on the Common Stock of the Covered Company without making available any Independent Research on the Common Stock of the Covered Company, if the firm takes reasonable steps to request that the Independent Consultant procure such coverage promptly.)

- i. For purposes of this Section III, the firm's research reports include research reports that have not been prepared by the firm, but only to the extent that such reports have been furnished under the firm's name, have been prepared for the exclusive or sole use of the firm or its customers, or have been customized in any material respect for the firm or its customers.
- ii. A non-U.S. company for which a U.S. market is not the principal equity trading market shall only be considered a Covered Company if in the calendar quarter ended March 31, 2003, or in any subsequent calendar quarter during the period that the firm's obligations to procure and make available Independent Research under this Section III are effective, the publicly reported, average daily dollar volume of U.S. trading in such company's Common Stock (measured by multiplying the publicly reported, average daily share volume of U.S. trading during the quarter by the closing price per share of the Common Stock on the last day of the quarter), exceeded \$2.5 million, and (b) the outstanding total public float of the Common Stock as of the last day of such

calendar quarter exceeded \$150 million. Further, the firm's obligation to procure and make available Independent Research with respect to such company shall become effective at the later of: (a) 90 days after the end of the calendar quarter in which the company met the foregoing trading and public float tests; or (b) the effective date of this Section III.

- b. For purposes of this Section III, Independent Research means (i) a research report prepared by an unaffiliated person or entity, or (ii) a statistical or other survey or analysis of research reports (including ratings and price targets) issued by a broad range of persons and entities, including persons and entities having no association with investment banking activities, which survey or analysis has been prepared by an unaffiliated person or entity.
- c. The firm will adopt policies and procedures reasonably designed to ensure that, in connection with any solicited order for a customer in the U.S. relating to the Common Stock of a Covered Company, and if Independent Research on the Covered Company's Common Stock is available, the registered representative will have informed the customer, during the solicitation, that the customer can receive Independent Research on the Covered Company's Common Stock at no cost to the customer (the "Notice Requirement").
- d. Notwithstanding the foregoing, the Notice Requirement will not apply to (i) the solicitation of an institutional customer (an entity other than a natural person having at least \$10 million invested in securities in the aggregate in its portfolio and/or under management) unless such customer, after due notice and opportunity, has advised the firm that it wishes to have the Notice Requirement apply to it (any customer who has not so advised the firm is hereinafter referred to as a "Non-Participating Institutional Customer"); (ii) orders as to which discretion was exercised, pursuant to a written discretionary account agreement or written grant of trading authorization; or (iii) a solicitation by an entity affiliated with Citigroup Global if such entity does not furnish to its customers research reports under the firm's name, prepared by the firm or for the exclusive or sole use of the firm or its customers, or research reports that have been customized in any material respect for the firm or its customers.

- e. Each trade confirmation sent by Citigroup Global to a customer with respect to an order as to which the Notice Requirement applies will set forth (or will be accompanied by a separate statement, which shall be considered part of the confirmation, that will set forth), as of the time the trade confirmation is generated, the ratings, if any, contained in the firm's own research reports and in Independent Research procured for the firm with respect to the Common Stock of the Covered Company that is the subject of the order.
- f. Each periodic account statement sent by Citigroup Global to a customer in the U.S. that reflects a position in the Common Stock of a Covered Company will set forth (or will be accompanied by a separate statement, which shall be considered part of the periodic account statement, that will set forth), as of the end of the period covered by the statement, the ratings, if any, contained in the firm's own research reports and in the Independent Research made available by the firm on the Common Stock of each such Covered Company; provided, however, that this requirement will not apply to Non-Participating Institutional Customers or discretionary accounts.
- g. Notice of the availability of Independent Research on Covered Companies' Common Stock will also be included prominently in the periodic account statements of Citigroup Global's customers in the U.S., in the firm's research reports, and on the firm's website.
- h. The firm will make the Independent Research available to its customers in the U.S. using, for each customer, the means of dissemination equivalent to those it uses to provide the customer with the firm's own research reports, unless the firm and customer agree on another means of dissemination; provided, however, that nothing herein shall require or authorize the firm to comply with the Notice Requirement or make available or disseminate Independent Research at a time when doing so would violate Section 5 of the Securities Act of 1933 or the other provisions of the federal securities laws or the rules and regulations thereunder. If and to the extent the firm is able to make available or disseminate its own research reports on the Common Stock of a Covered Company pursuant to Rule 137, Rule 138(a) or Rule 139(a) under the Securities Act of 1933 and in reliance on Regulation M under the Securities Exchange Act of 1934, then the

firm is also authorized and required to make available or disseminate Independent Research on the Common Stock of such Covered Company (even if the Independent Research does not meet the requirements of such Rule). Notwithstanding this Section III.1.h, if the firm determines, because of legal, compliance or similar concerns, not to furnish or make available its own research reports on the Common Stock of a Covered Company for a limited period of time, it shall not be required to make available the Independent Research on such Covered Company for such period of time.

- i. If, during the period that the firm's obligations to procure and make available Independent Research under this Section III are effective, the firm terminates coverage of the Common Stock of a Covered Company, the firm, through its Independent Consultant, will make reasonable efforts to continue to procure and make available Independent Research on the Common Stock of such company for a period of at least 18 months after termination of coverage (subject to expiration of the firm's obligations under this Section III).
- j. The firm will not be responsible or liable for (i) the procurement decisions of the Independent Consultant (as discussed in Section III.2 [Appointment of Independent Consultant to Oversee the Procurement of Independent Research] of this Addendum) with respect to the Independent Research, (ii) the Independent Research or its content, (iii) customer transactions, to the extent based on the Independent Research, or (iv) claims arising from or in connection with the inclusion of Independent Research ratings in the firm's confirmations and periodic account statements, to the extent such claims are based on those ratings. The firm will not be required to supervise the production of the Independent Research procured by the Independent Consultant and will have no responsibility to comment on the content of the Independent Research. The firm may advise its customers of the foregoing in its discretion.
- k. The Independent Consultant will not be liable for (i) its procurement decisions, (ii) the Independent Research or its content, (iii) customer transactions, to the extent based on the Independent Research, or (iv) claims arising from or in connection with the inclusion of Independent Research ratings in the firm's confirmations and periodic account statements, to the extent such claims are based on those ratings, unless

the Independent Consultant has carried out such duties in bad faith or with willful misconduct. The firm will indemnify the Independent Consultant for any liability arising from the Independent Consultant's good-faith performance of its duties as such.

2. Appointment of Independent Consultant to Oversee the Procurement of Independent Research. Within 30 days of the entry of the final judgment, an Independent Consultant acceptable to the SEC Staff, the NYSE, the NASD, the President of NASAA, the New York Attorney General and the firm shall be named to oversee the procurement of Independent Research from Independent Research Providers. The Independent Consultant will have the final authority (following consultation with the firm and in accordance with the criteria set forth in Section III.3 [Selection of Independent Research Providers] of this Addendum) to procure the Independent Research. The Independent Consultant will not have had any significant financial relationship with the firm during the prior three years and may not have any financial relationship with the firm for three years following his or her work as the Independent Consultant. The Independent Consultant's fee arrangement will be subject to the approval of the Staff of the SEC, the NYSE, the NASD, the President of NASAA, and the New York Attorney General's Office. In the event that an Independent Consultant must be replaced, the replacement shall be acceptable to the Staff of the SEC, the NYSE, the NASD, the President of NASAA, the New York Attorney General's Office and the firm, and shall be subject to these same conditions.
3. Selection of Independent Research Providers. The Independent Consultant will seek to procure research reports on the Common Stock of all Covered Companies from Independent Research Providers. Independent Research Providers may not perform investment banking business of any kind and may not provide brokerage services in direct and significant competition with the firm. In addition, the Independent Consultant will use the following criteria in selecting and contracting with Independent Research Providers to provide Independent Research.

- a. whether and to what extent the Independent Research Provider or any of its affiliates or associated persons is engaged in activities (including, but not limited to, activities involving Covered Companies or their securities), or has a business or other relationship with the firm or any of its affiliates or associated persons, that may conflict or create the appearance of conflict with its preparation and publication of the Independent Research;
 - b. the desirability of multiple coverage of certain Covered Companies (e.g., by size of company, industry sector, companies underwritten by the firm, etc.);
 - c. the extent to which the Independent Research Provider has a client base and revenue stream broad enough to ensure its independence from the firm;
 - d. the utility of the Independent Research Provider's Independent Research to the firm's customers, including the inclusion of ratings and price targets in such research and the extent to which the firm's customers actually use the research; and with respect to surveys or analyses described above in Section III.1.b(ii), the extent to which the Independent Research provides customers with a means of comparing the firm's research reports to those published by other persons and entities, including persons and entities having no association with investment banking activities;
 - e. the quality and accuracy of the Independent Research Provider's past research, including during the term of the Independent Consultant's tenure;
 - f. the experience, expertise, reputation and qualifications (including, as appropriate, registrations) of the Independent Research Provider and its personnel; and
 - g. the cost of the Independent Research, especially in light of the five-year period set forth in Section III.1 above for the firm to make Independent Research available to its investing customers.
4. Disclosure Language. Language substantially to the effect set forth below may be used by the firm and its registered representatives to inform the

firm's customers of the availability of Independent Research:

- a. Disclosure to customers as required by Section III.1.c [Obligation to Make Available subpart c] of this Addendum.

"There is also independent, third-party research available on this company, which you can get at no cost [from our website/hyperlink] or by calling [toll-free number], or which I can arrange to send to you if you would like."

- b. General website and periodic customer account statement disclosure as required by Section III.1.g. [Obligation to Make Available subpart g] of this Addendum.

"Independent, third-party research on certain companies covered by the firm's research is available to customers of the Firm at no cost. Customers can access this research at [our website/hyperlink] or can call [toll-free number] to request that a copy of this research be sent to them."

5. Annual Reporting. The Independent Consultant will report annually to the Staff of the SEC, the NYSE, the NASD, the President of NASAA, and the New York Attorney General's Office on its selection of Independent Research Providers, the Independent Research it has procured, the cost of the Independent Research it has procured to date, and the Independent Consultant's fees and expenses to date.

IV. Investor Education

1. General. The firm will pay a total of \$25,000,000, payable in five equal installments on an annual basis (with the first payment to be made 90 days after the entry of the final judgment), to funds earmarked for investor education. Of this money, a total of \$12,500,000 shall be paid pursuant Citigroup Global's agreement with the SEC, NYSE and NASD. The remainder of the funds earmarked for investor education, in the amount of \$12,500,000, shall be paid to the Investor Education Fund at the Investor Protection Trust, a Wisconsin charitable trust, pursuant to agreement with the Board of Directors of NASAA, to be used for the purpose of investor education as described in Section IV.3.

2. Payments to the Investor Education Fund.

- a. As referenced in Section IV.1 above, Citigroup Global shall pay the amount of \$12,500,000 in five equal annual installment payments as designated by the NASAA Board of Directors to the Investor Education Fund ("the Fund") to be held as a separate fund by the Investor Protection Trust, 411 East Wisconsin Avenue, Milwaukee, WI 53202-4497, c/o Quarles & Brady. The amount for investor education to be paid by Citigroup Global to the Fund may be reduced due to the decision of any state(s) not to enter into a settlement with Citigroup Global in a related proceeding.
- b. Citigroup Global shall make the first such installment payment within ninety (90) days after the entry of the final judgment. This payment shall be made by wire transfer to the Investor Protection Trust at US Bank NA, Milwaukee, WI, _____ for credit for the Trust Division Account _____, for further credit to the Investor Protection Trust Account Number _____ together with a cover letter identifying Citigroup Global as a party resolving the Investigation and the payment designated for the Investor Education Fund. Citigroup Global shall simultaneously transmit photocopies of its payment and letter to the President of NASAA, 10 G Street NE, Washington, DC 20002. By making this payment, and those payments referenced in Section IV.2.c. below, Citigroup Global relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Citigroup Global. The Fund shall be administered in accordance with the terms of the investor education plan.
- c. Citigroup Global shall make subsequent installment payments annually on or before the month and day of the entry of the final judgment. Such payments shall be made into the Fund at the Investor Protection Trust as described in Section IV.2(b).

3. Purpose of and Limitations on the Use of the Fund.

- a. The Fund (including all installment payments) shall be used to support programs designed for the purpose of investor education and research and education with respect to the protection of investors, and to equip investors with the knowledge and skills necessary to make informed

investment decisions and to increase personal financial literacy. The Investor Protection Trust, in cooperation with NASAA, shall establish an investor education plan designed to achieve these purposes.

- b. No principal or income from the Fund shall:
 - (i) inure to the general fund or treasury of any State;
 - (ii) be utilized to pay the routine operating expenses of NASAA; or
 - (iii) be utilized to pay the compensation or expenses of state officials or state employees except such expenses as are necessary to fulfill the purposes of the Fund.
- c. Monies in the Fund may also be used to pay any taxes on income earned by such Fund. Citigroup Global shall provide the Investor Protection Trust with relevant information and otherwise cooperate with the Investor Protection Trust in fulfilling the Fund's obligations under applicable law.
- d. All fees, costs, and expenses incurred by the Investor Protection Trust in connection with and incidental to the performance of its duties under this Addendum, including the fees, costs, and expenses of any persons engaged to assist it and all administrative fees, costs, and expenses related to the investor education plan, shall be paid out of the Fund.