UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE WILLIAMS SECURITIES LITIGATION This Document Relates To: WMB Subclass	Case No. 02-CV-72-SPF-FHM Lead Case Judge Stephen P. Friot Magistrate Judge Frank H. McCarthy **ECF Filed**

WMB LEAD PLAINTIFFS' MOTION FOR FINAL APPROVAL OF THE SETTLEMENT AND THE PLAN OF ALLOCATION AND SUPPORTING MEMORANDUM OF LAW

TABLE OF CONTENTS

TABLE OF AUTHORITIES

FEDERAL CASES

MICELLANEOUS

Lead Plaintiffs, the Ontario Teachers' Pension Plan Board ("Ontario Teachers") and Arkansas Teacher Retirement System ("Arkansas Teachers") hereby move, and respectfully submit this memorandum of law in support of their motion, for final approval of the settlement of this action for $311 million in cash (the "Settlement", and approval of the proposed Plan of Allocation of the settlement proceeds among Settlement Class Members (the "Plan of Allocation").

As set forth in detail below and in the accompanying Declaration of Chad Johnson (the "Johnson Decl."), the Declaration of Layn R. Phillips (the "Phillips Decl.")(attached as Exhibit 1 to the Johnson Decl.), and the Joint Declaration of Michael Padfield and David Malone on behalf of the Lead Plaintiffs (the "Lead Plaintiffs' Decl.")(attached as Exhibit 2 to the Johnson Decl.), Lead Plaintiffs respectfully submit that the $311 million Settlement of this action is outstanding and easily meets the "fair, reasonable and adequate" standard required for final approval by the Court.

I. PRELIMINARY STATEMENT

Concluding nearly four years of hard-fought litigation, Lead Plaintiffs and Lead Counsel have obtained this $311 million all cash Settlement for the benefit of the class. Of the Settlement amount, The Williams Companies, Inc. ("Williams" or the "Company") has paid or caused to be paid $290 million and Ernst and Young LLP ("E&Y") paid or caused to be paid $21 million into an interest bearing escrow account. This Settlement represents the largest securities class action Settlement in the history of Oklahoma and ranks among the top twenty largest securities class action recoveries of all time.

The Settlement was achieved only after Lead Counsel had: (i) reviewed over 18 million pages of documents beginning immediately after the appointment of Ontario Teachers and Arkansas Teachers as Lead Plaintiffs; (ii) took and defended 170 depositions; (iii) engaged in an

intensive investigation that involved numerous interviews with former employees of Williams throughout the country; (iv) served a total of 14 initial and rebuttal expert reports and deposed and defended 16 expert depositions over a three week period; (v) responded to defendants' 13 motions for summary judgment which together comprised over 525 pages of briefing; (vi) filed an affirmative motion for summary judgment; (vii) prepared for trial, which was less than three months away at the time the parties reached an agreement to settle this action; and (viii) engaged in lengthy and arduous settlement negotiations for over a year before the Honorable Layn R. Phillips. Accordingly, Lead Plaintiffs and Lead Counsel were well aware of the strengths and weaknesses of the case at the time of the Settlement and, based on all this information, have concluded that the Settlement is fair, adequate and reasonable, and in the best interest of the Settlement Class.

This historic recovery is particularly exceptional when considering the significant litigation risks faced by Lead Plaintiffs in establishing liability and damages. There was no restatement by Williams of its financial statements, no governmental investigation that had uncovered any wrongdoing by the Company or its officers, no admissions of any wrongdoing by the Company, and no terminations of any officers or directors of the Company for improper conduct relating to the allegations of fraud in this action. Further, defendants contended throughout the litigation, including in their summary judgment filings, that there had been no wrongdoing and that Lead Plaintiffs' claims were completely without merit. Defendants' experts similarly claimed that even if Lead Plaintiffs were able to establish liability, we would be unable to establish any recoverable damages for class members under the federal securities laws. Compounding all these risks was the fact that without a settlement Plaintiffs would have had to convince a Tulsa jury of Williams' wrongdoing. Accordingly, the risks faced by Lead Plaintiffs

were significant and complex and there was no guarantee that the members of the class would recovery anything if this case was litigated through trial and subsequent appeals.

The outstanding nature of the Settlement is further evidenced by the endorsement provided by the mediator selected by the parties, the Honorable Layn R. Phillips (Ret.). Judge Phillips' endorsement of the Settlement is particularly significant in light of his ample experience with large complex cases and his prior service as U.S. Attorney and Federal District Court Judge in Oklahoma. *See* Judge Phillips' Declaration (the "Phillips Decl.") ¶¶2-3. In addition, Judge Phillips directly oversaw the protracted and highly contentious mediation, which took over a year and involved a number of face-to-face sessions as well as innumerable discussions among Judge Phillips, the parties, and counsel. *Id.* at ¶5 *et seq.* Based on his direct involvement in mediating the Settlement of this case, Judge Phillips fully endorses the Settlement and describes it as "an excellent recovery for the class" and one that "represents a fair and reasonable settlement for all parties given the risks involved." *Id.* at ¶17.

The Court granted preliminary approval of the Settlement and granted certification of the Settlement Class for settlement purposes on October 5, 2006 ("Preliminary Approval Order").[1] *See* [Dkt. 1550.] The Court also authorized Lead Counsel to mail Notice to Settlement Class Members and to publish summary notice in *The Wall Street Journal* and *Tulsa World*. Over 460,000 Notice Packets have been mailed to potential members of the Settlement Class. *See* Declaration of Jennifer M. Keough ("Keough Decl.") ¶6, attached as Exhibit 4 to the Johnson

[1] The Settlement Class includes all persons or entities that purchased or otherwise acquired certain Williams securities between July 24, 2000 and July 22, 2002, inclusive, and were allegedly injured thereby. Certain categories of persons or entities, including, for example, defendants, are expressly excluded from the Settlement Class, as defined in the Preliminary Approval Order certifying the Settlement Class and preliminarily approving the settlement. Also excluded are those persons or entities who validly and timely requested exclusion as set forth in the notice mailed to class members.

Declaration. In addition, a Summary Notice was published in *The Wall Street Journal* and *Tulsa World* on October 26, 2006. Keough Decl. ¶2. The settlement Notice mailed to potential Settlement Class members described, among other information, the pendency of the action, the Settlement amount, the scope of the Settlement Class, the reasons for the Settlement, the Plan of Allocation, the maximum amount of attorney fees and expenses that will be requested, and the procedures that Settlement Class members must follow to opt out of, or object to, the Settlement. Information regarding the Settlement, including downloadable copies of the Notice and claim form were posted on www.wmbsettlement.com, the website dedicated to the Settlement, and was available through the claims administrator's website, www.gardencitygroup.com and Lead Counsel's website, www.blbglaw.com.

The January 19, 2007 deadline for Settlement Class Members to file objections to the Settlement, Plan of Allocation and the fee and expense application will expire in a week. To date, not a single Settlement Class Member has filed an objection to the Settlement, the Plan of Allocation, or the fees or expenses requested. *Id.* at ¶11. Moreover, while the notice was mailed to over 460,000 potential Settlement Class Members, only 40 potentially valid exclusion requests have been received by the claims administrator and no exclusion requests have been received by any institutional shareholders of Williams. *Id.* at ¶10.

II. BACKGROUND

On and after January 29, 2002, thirty (30) class actions were filed in this Court as securities class actions on behalf of persons and entities who purchased or otherwise acquired publicly traded securities of Williams. By Order dated April 15, 2002, these actions were consolidated for all purposes and styled as *In re Williams Securities Litigation*, Case No. 02-CV-72-SPF (FHM). On July 8, 2002, the Court bifurcated the action into two separate subclasses: (i) purchasers of Williams' securities (the "WMB Subclass"), and (ii) purchasers of Williams

Communications Group, Inc.'s securities (the "WCG Subclass"). This Settlement resolves only the claims of the WMB Subclass.

The operative complaint here is the Consolidated Amended Complaint (the "Complaint") filed on October 7, 2002. The Complaint asserts, among other claims, violations of Sections 11 and 12(a)(2) of the Securities Act of 1933 ("Securities Act") and Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 ("Exchange Act"), and Rule 10b-5 promulgated thereunder. According to the Complaint, between July 24, 2000 and July 22, 2002, inclusive (the "Settlement Class Period"), members of the WMB Subclass purchased or otherwise acquired Williams' common stock, 7.125% Notes due 2011 ("2011 Notes"), 7.875% Notes due 2021 ("2021 Notes"), and FELINE PACS at prices that were artificially inflated as a result of the defendants' dissemination of materially false and misleading statements and were injured thereby.

By Order dated January 18, 2005, the Court appointed Ontario Teachers and Arkansas Teachers as Lead Plaintiffs of the WMB Subclass, and appointed Bernstein Litowitz Berger & Grossmann LLP ("Bernstein Litowitz") as Lead Counsel and the Burrage Law Firm as Liaison Counsel for the WMB Subclass. (Prior to the appointment of Ontario Teachers and Arkansas Teachers as Lead Plaintiffs, a hedge fund known as HGK Asset Management had served as lead plaintiff.)

Lead Plaintiffs prosecuted the case vigorously throughout fact and expert discovery and summary judgment briefing. Lead Plaintiffs, through Lead and Liaison Counsel, (i) reviewed and organized a massive document production, which included more than 18 million pages of documents from defendants and non-parties; (ii) took and defended a 170 fact and expert depositions throughout the country; (iii) retained seven different experts to address highly technical issues relating to accounting, energy trading and telecommunications, among other

areas; (iv) moved for class certification; (v) completed class certification related discovery, including defending the depositions of the proposed class representatives; (vi) conducted extensive informal discovery, including contacting scores of Williams' former employees who Lead Counsel believed had potentially relevant information; (vii) moved for summary judgment in connection with Plaintiffs' Section 11 claims; (viii) responded to 13 separate summary judgment motions filed by defendants with approximately 500 pages of legal memoranda and over 790 exhibits; and (ix) moved to unseal Plaintiffs' summary judgment related filings, including the evidence filed by Plaintiffs in support of their legal memoranda.

In the interest of efficiency and to reduce expenses, Lead Plaintiffs and Lead Counsel also worked together with other counsel involved in the litigation whenever appropriate and possible. For instance, Lead Counsel worked closely with counsel involved in the two actions coordinated with this litigation – the WCG action and the ERISA action. Lead Counsel negotiated and entered into a Joint Prosecution Agreement with the Lead Counsel in both of those actions, and that Joint Prosecution Agreement was approved by the Court on April 25, 2005. [Dkt. 745] The Joint Prosecution Agreement facilitated the sharing of work product among counsel, which generated efficiencies in connection with the prosecution of the case. Lead Counsel also sought to work with the several firms that had been involved with the case before HGK withdrew as Lead Plaintiff in August 2004. Other than one law firm, all of those firms readily agreed to work with Lead Counsel to share their prior knowledge of the case with Lead Counsel and, in many instances, to continue working with Lead Counsel on the litigation. This helped allow Lead Counsel to push the case forward promptly upon the appointment of Ontario Teachers and Arkansas Teachers as Lead Plaintiffs.

On October 17 and 18, 2005, Judge Phillips conducted an in-person mediation in Dallas. *See* Phillips Decl. ¶6. At this mediation, it became clear that there was no realistic possibility of resolving the claims against Williams, the underwriter defendants and the individual defendants (the "Williams defendants"). *Id.* at ¶7. However, Lead Plaintiffs and E&Y were able to agree upon a structured arrangement whereby E&Y agreed to pay $10 million into an escrow account for the benefit of the class, with Judge Phillips serving as the arbitrator to decide on the additional amount that E&Y would be required to pay within an agreed upon range. *Id.* at ¶8. Judge Phillips ultimately issued an arbitration award providing that E&Y would be required to pay a total of $21 million for the benefit of the class to settle the claims against E&Y. *Id.*

After summary judgment briefing was complete and when Lead Counsel and Liaison Counsel were preparing for trial (which was scheduled to begin on August 16, 2006), Lead Plaintiffs and defendants, with the assistance of Judge Phillips, agreed in principle to a settlement for $290 million in cash to resolve all claims against the Williams defendants. *Id.* at ¶15. This settlement, together with the $21 million settlement with E&Y, brought the total recovery on behalf of the class to $311 million. As Judge Phillips states in his declaration:

> I observed first hand that this was a hard-fought litigation which resulted in an excellent recovery for the class and a fair and equitable settlement for all concerned… It is clear to me that the class could not have obtained $311 million earlier than it did....[Accordingly,] I believe it was in the best interests of all of the parties that they avoid the burdens and risks associated with taking a case of this and complexity to trial, and that they agree upon the settlement now before the Court.

Id. at ¶19.

III. THE FINAL APPROVAL ANALYSIS

A. The Proposed Settlement Is Fair, Reasonable And Adequate And Should Be Approved

At final approval, the Court's inquiry focuses on four factors in determining whether the Settlement is fair, reasonable and adequate. *See Jones v. Nuclear Pharmacy, Inc.*, 741 F.2d 322, 324 (10th Cir. 1984); *see also Gottlieb v. Wiles*, 11 F.3d 1004, 1014 (10th Cir. 1993)), *overruled in part on other grounds, Devlin v. Scardelletti*, 536 U.S. 1 (2002). These factors include: "(1) whether the proposed Settlement was fairly and honestly negotiated; (2) whether serious questions of law and fact exist, placing the ultimate outcome of the litigation in doubt; (3) whether the value of an immediate recovery outweighs the mere possibility of future relief after protracted and expensive litigation; and (4) the judgment of the parties that the settlement is fair and reasonable." *Rutter & Wilbanks Corp. v. Shell Oil Co.*, 314 F.3d 1180, 1188 (10th Cir. 2002). As Lead Plaintiffs demonstrate below, and as supported by the accompanying declarations submitted herewith, this Settlement more than satisfies each of these factors and should be finally approved.

1. The Settlement Was Fairly And Honestly Negotiated

The settlement negotiations between the parties took place over the course of more than a year, were vigorously contested, and conducted at arms-length before Judge Phillips. *See* Phillips Decl. ¶5 *et seq*. Continuing up until shortly before the scheduled trial, Lead Counsel engaged in several rounds of settlement negotiations with defendants, which broke down on numerous occasions. *Id.* The settlement negotiations, which took place throughout the hard-fought litigation among the parties, were often very contentious. Indeed, Judge Phillips has described this as one of the hardest cases to settle in his experience as a mediator and litigator. *Id.* at ¶¶2, 12-13, 18. At the first in-person mediation in October 2005, the parties exchanged

detailed mediation briefs and Lead Counsel made confidential presentations to Judge Phillips, and separately, to defendants' counsel and Judge Phillips. *Id.* at ¶6. Lead Counsel's presentations addressed the strengths of plaintiffs' claims and incorporated evidentiary support for those claims. *Id.* Williams' outside counsel also made a presentation to Lead Counsel which focused on the potential weaknesses of Lead Plaintiffs' claims and asserted that there was no basis for liability, let alone damages, against Williams or any of the other defendants. While Lead Plaintiffs and E&Y were able to agree upon a structured settlement arrangement at this mediation, Lead Plaintiffs and Lead and Liaison Counsel understood that that there was no possibility of reaching any resolution with the Williams defendants. *See* Lead Plaintiffs' Decl. ¶34.

After the October 2005 mediation, Judge Phillips continued to engage in numerous discussions with counsel in an effort to find common ground between the parties' respective positions. See Phillips Decl. ¶9 *et seq*. Despite these efforts, Judge Phillips, who has mediated numerous complex securities class actions, was often met with opposition to his proposals. *Id.* at ¶¶12-13. This was a result, in part, of the high caliber of the representation of both sides of the case and the advocates' commitment to their respective positions. As Judge Phillips states in his declaration:

> The advocacy on both sides of the case was outstanding. It is clear to me that the class could not have obtained $311 million earlier than it did or without institutional investors serving as Lead Plaintiffs or without Lead Counsel and Liaison Counsel who were able to go toe-to-toe with the top-notch defense lawyers and the savvy and sophisticated business representatives of defendants including Williams and Ernst & Young, as well as the insurance carriers involved in the mediation of this case - all of whom displayed the highest level of professionalism in carrying out their duties on behalf of their respective clients. The settlement here was the product of extensive arms-length negotiations and litigation.

Id. at ¶19.

In sum, "[b]ecause the settlement resulted from arm's length negotiations between experienced counsel after significant discovery had occurred, the Court may presume the settlement to be fair, adequate, and reasonable." *Lucas v. Kmart Corp.*, 234 F.R.D. 688, 693 (D. Colo. 2006) (citing *Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 116 (2d Cir. 2005, *cert. denied*, *Leonardo's Pizza by the Slice, Inc. v. Wal-Mart Stores, Inc.*, 544 U.S. 1044 (2005))).

2. There Are Numerous Questions Of Law And Fact, Placing The Ultimate Outcome Of The Litigation In Doubt

This case involved numerous questions of law and fact and presented significant risks to Plaintiffs, who faced a very real possibility of obtaining no recovery at all. As an initial matter, although the basis of the claims was that the Company's financial statements were materially false and misleading, those financial statements were never restated, and no governmental investigation uncovered any fraud. Moreover, no Company employees were fired and Defendants did not otherwise acknowledge that any improper conduct had occurred. Indeed, Defendants strongly asserted that there had been no wrongdoing, that no one other than Lead Plaintiffs had seriously pursued any claims of fraud (much less found a scintilla of evidence to support such claims), and that such allegations were wholly without merit. Similarly, loss causation also was seriously contested. Defendants argued that the drop in the price of Williams' stock was unrelated to the alleged fraud. Specifically, Defendants argued that there were other significant negative market events, such as the Enron bankruptcy, that caused Williams' stock price to plummet. *See* Johnson Decl. ¶114.

These substantial litigation risks were exacerbated by the difficulty and complexity of the subject matter underlying the claims relating to energy trading and accounting manipulation. In particular, the allegations that Williams' financial statements were false and misleading required

Plaintiffs, among other things, to prove that Williams' energy trading assets – which are a complex set of arcane balance sheet accounts unique to energy traders and difficult even for seasoned certified public accountants to understand – had been improperly inflated and accounted for. Lead Plaintiffs retained multiple experts to properly understand, review, and analyze the relevant documents. Those experts included an energy trading expert to recreate Williams' complex mathematical models and to assess the amount, if any, of the alleged inflation of Williams' energy assets; and an accounting expert to evaluate whether Williams should have restated its financial statements and to calculate the amount of any such restatement. The case was also complex because Lead Plaintiffs prosecuted two separate sets of allegations relating to the energy trading claims on the one hand, and the WCG-related claims on the other hand. These two sets of allegations involved very different sets of facts and were both extremely complicated. There were also more than 25 different defendants, including Williams, E&Y, underwriters, and directors of Williams' Board, and each of these defendants was subject to different standards of liability and degrees of involvement in the allegations at issue. *See* Johnson Decl. ¶43.

The risks created by the complexity of the subject matter were compounded by the volume of documents Defendants produced, which exceeded 18 million pages. Lead Plaintiffs had to enlist a team of dozens of attorneys to review and analyze the documents in preparation for fact and expert depositions and summary judgment briefing. Thereafter, Lead Counsel took or defended 170 depositions, consisting of 154 fact witness depositions and 16 expert witness depositions. These 170 were completed in under a year; and, in fact, the bulk of the depositions took place between April 2005 and January 2006. *See* Johnson Decl. ¶¶75-79.

Finally, the action's venue presented unique risks. There was substantial danger that a Tulsa jury would be disinclined to find liability against Williams. There was also significant risk that a Tulsa jury would not find the alleged fraud sufficiently compelling, and would view the lack of a restatement or wrongdoing uncovered by the government as an indication that there had been no wrongdoing. Thus, even if liability was established, a Tulsa jury may not have awarded significant damages. *See* Phillips Decl. ¶17.

It was in the face of these significant risks (and others) that Lead Plaintiffs working with Lead and Liaison Counsel achieved the $311,000,000 all cash recovery. Given these serious risks, the Settlement represents an excellent result and eliminates the risk that the Settlement Class could recover less or nothing at all from the defendants.

3. The Value Of An Immediate Recovery Outweighs The Mere Possibility Of Future Relief After Protracted And Expensive Litigation

If this case were to be litigated to a conclusion after trial and appeals, in all probability it would be many months, if not years, before it was fully resolved and the Settlement Class received any recovery. By contrast, the Settlement provides the Settlement Class with an immediate and substantial benefit from the Settlement, without the uncertainties inherent with litigating the case through trial and subsequent appeals. Indeed, as set forth above, there were extremely significant risks here for Plaintiffs, such as the possibility that the case would be dismissed at summary judgment based on Defendants' argument that loss causation was absent, or that a jury in Tulsa would find extremely difficulty to find Williams liable. In fact, even if liability and damages were established at trial, Lead Plaintiffs would face risks inherent from subsequent appeals as well as significant delays in the funding of any jury verdict.

Accordingly, there was a real possibility that Lead Plaintiffs' claims could be dismissed entirely, or in part, at summary judgment, or later, rejected at trial or on appeal. Lead Plaintiffs

considered these significant risks, the expense and time necessary to prosecute the claims through trial and appeals, and the substantial and immediate monetary recovery provided for by the Settlement. Based on these considerations, Lead Plaintiffs and Lead Counsel believe that the immediate recovery for the benefit of the class clearly outweighed the possibility of uncertain relief for the members of the class from protracted and expensive litigation.

4. The Opinions Of The Mediator, Lead Plaintiffs, Lead Counsel, And Liaison Counsel Support The Settlement

Judge Phillips fully endorses the Settlement and believes it represents a reasonable and fair outcome for all parties involved. As he concluded in his declaration:

> I observed first hand that this was a hard-fought litigation which resulted in an excellent recovery for the class....It is clear to me that the class could not have obtained $311 million earlier than it did . . . . [that] the settlement here was the product of extensive arms-length negotiations and litigation [, and that] it was in the best interests of all of the parties that they avoid the burdens and risks associated with taking a case of this size and complexity to trial, and that they agree upon the settlement now before the Court.

See Phillips Decl. ¶19. Judge Phillips is well suited to opine on the reasonableness of the Settlement. He has considerable experience in Oklahoma courts, both as a litigator and as a Federal District Court Judge. *Id.* at ¶3. He served as a United States Attorney in Oklahoma for approximately four years during which he tried numerous cases to Oklahoma juries. *Id.* He also served as a United States District Judge for the Western District of Oklahoma. *Id.* While on the bench, he presided over more than 140 federal trials, including several cases that were tried to juries in Tulsa, Oklahoma. *Id.* In addition, Judge Phillips worked closely with the parties for more than a year attempting to resolve the case. *Id.* at ¶5. Throughout this time Judge Phillips met with the parties in face-to-face mediation sessions and had innumerable separate conversations with both sides in order to try to broker a settlement. *Id.* at ¶5 *et seq*. From these numerous discussions with the parties and counsel for all sides, Judge Phillips learned not only

the dynamics of the litigation, but also the various risks faced by all parties of going to trial. *Id.* Judge Phillips observed first hand that this was a hard-fought litigation which resulted in an excellent recovery for the Settlement Class. *Id.* at ¶19. His opinion that the Settlement represents an outstanding result for the class, therefore, should be given significant weight.

Moreover, Lead Plaintiffs – two sophisticated institutional investors with prior experience as lead plaintiffs in securities class actions – actively participated in both the prosecution of the action and the settlement negotiations. Congress enacted the Private Securities Litigation Reform Act of 1995 (the "PSLRA") in large part to encourage sophisticated institutional investors to take control of securities class actions and "increase the likelihood that parties with significant holdings in issuers, whose interests are more strongly aligned with the class of shareholders, will participate in the litigation and exercise control over the selection and actions of plaintiff's counsel." H.R. CONF. REP. 104-369, at 32 (1995). This Court appointed Ontario Teachers' Pension Plan Board and Arkansas Teacher Retirement System as the Lead Plaintiffs in this case to represent the interests of the WMB Subclass. Lead Plaintiffs' direct participation and approval of the Settlement is compelling evidence that the Settlement is fair, reasonable and adequate.

The Court-appointed Lead Counsel and Liaison Counsel also endorse the Settlement. "Counsels' judgment as to the fairness of the agreement is entitled to considerable weight." *Marcus v. Kansas Dep't of Revenue*, 209 F. Supp. 2d 1179, 1183 (D. Kan. 2002). Here, experienced and top-notch counsel on both sides have been zealously litigating this case. Lead Counsel – who has substantial experience in complex securities class action litigation – recommends approval of the Settlement and believes it represents an excellent result for the Settlement Class. Liaison Counsel, Mr. Burrage – who has considerable experience in complex

litigation in this District and elsewhere as both a litigator and as a Federal District Court Judge – also recommends approval of the Settlement and believes it represents an outstanding recovery for the Settlement Class.

Finally, the positive reaction of the class to the proposed Settlement further favors approval by the Court. While the deadline for filing objections to the Settlement is January 19, 2007, to date no Settlement Class Members have objected to the Settlement. Further, out of more than 460,000 Notices mailed to proposed Settlement Class members, only 40 potentially valid opt out notices have been received, and none of the opt outs are large institutional holders of Williams securities. *See* Keough Decl. ¶10.

B. The Plan Of Allocation Is Fair And Reasonable

Lead Plaintiffs further request that the Court approve the proposed Plan of Allocation, which was prepared by Lead Plaintiffs with the assistance of their damages expert, Dr. Scott Hakala, Ph.D., CFA. The Plan of Allocation provides for a pro rata distribution of the Net Settlement Fund to each Settlement Class Member who has a Recognized Claim and is detailed in the Notice mailed to potential Settlement Class Members and available at the Williams Securities Litigation Website (http://www.wmbsettlement.com). The Plan of Allocation reflects a fair assessment of the damages that could have been recovered by the members of the Settlement Class had plaintiffs successfully established liability on all claims. *See* Declaration of Scott D. Hakala, Ph.D, CFA ("Hakala Decl."), attached as Exhibit 5 to the Johnson Decl.

A plan of allocation warrants approval if the distribution of funds is "fair and reasonable." *In re Sprint Corp. ERISA Litig.*, 443 F. Supp. 2d 1249, 1262 (D. Kan. 2006). "When formulated by competent and experienced class counsel, as is the case here, an allocation plan need only have a reasonable, rational basis." *Id. See also, Lucas v. Kmart Corp.*, 234 F.R.D. 688, 695 (D. Colo. 2006). In addition, a plan of allocation need not be perfect. Indeed,

"[a]n allocation formula need only have a reasonable, rational basis, particularly if recommended by experienced and competent class counsel." *In re WorldCom Sec. Litig.*, 388 F. Supp. 2d 319, 344 (S.D.N.Y. 2005). As set forth below, the Plan of Allocation is fair and reasonable.

Working with Plaintiffs' damages expert, Lead Counsel developed a Plan of Allocation that reflects in a simple and straightforward manner the damages theory of the case. *See* Hakala Decl. ¶¶4-11. The Plan of Allocation accounts for the degree of inflation of Williams' securities caused by Defendants' alleged misconduct at various points throughout the Class Period, and accounts for the extent to which that inflation was reduced by each of the partial disclosures of the Company's true condition made prior to the end of the Class Period. As a result, the Plan of Allocation establishes a basis for calculating the "Recognized Claim" of each Class Member whose overall transactions in Williams securities during the Class Period resulted in a loss. *Id.* at ¶4.

The Plan of Allocation further provides that a "Recognized Claim" will be calculated for each Settlement Class Member's purchase or acquisition of Williams' securities listed on the claim form and for which sufficient documentation is provided. Lead Plaintiffs' damages expert calculated a Settlement Class Member's Recognized Claim for Williams' common stock purchased or acquired on the open market pursuant to Section 10(b) of the Exchange Act of 1934 (as explained in the Plan of Allocation attached to the Notice sent to potential Settlement Class Members). *Id.* at ¶8. With respect to the FELINE PACS, the Notes, and Williams common stock issued pursuant to or traceable to the Barrett Resources Offering or the January 2001 Common Stock Offering, Lead Plaintiffs' damages expert calculated the Settlement Class Members' Recognized Claim pursuant to Section 11 of the Securities Act of 1933 (as also

explained in the Plan of Allocation attached to the notice sent to potential Settlement Class Members). *Id.* at ¶9.

As a result of Dr. Hakala's detailed statistical analysis, the Plan of Allocation presents an economically correct and consistent method for allocating the Settlement proceeds among Settlement Class Members based on the damages allegedly sustained. Hakala Decl. ¶10. The proposed plan is also consistent with the framework adopted in other plans of allocation previously proposed by Dr. Hakala and approved by courts in securities litigation cases involving both Exchange Act and Securities Act claims. *See, e.g., In re AOL Time Warner, Inc. Sec. & ERISA Litig.*, No. MDL 1500, 02 Civ. 5575(SWK), 2006 U.S. Dist. LEXIS 17588, at *59-62 (S.D.N.Y. Apr. 6, 2006). Accordingly, Lead Plaintiffs respectfully submit that the Plan of Allocation is fair and reasonable and should be approved.

In approving a plan of allocation, courts also consider the reaction of the class. *See In re Paine Webber Ltd. P'ships Litig.*, 171 F.R.D. 104, 126 (S.D.N.Y. 1997); *Maywalt v. Parker & Parsley Petroleum Co.*, No. 92 Civ. 1152 (RWS), 1997 U.S. Dist. LEXIS 97, at *11-12 (S.D.N.Y. Jan. 9, 1997), *aff'd sub nom. Olick v. Parker & Parsley Petroleum Co.*, 145 F.3d 513 (2d Cir. 1998). The Notice described the proposed Plan of Allocation in detail, and indicated that the deadline for objecting to the Plan of Allocation is January 19, 2007. No objections to the Plan of Allocation have yet been received. Accordingly and for the several reasons discussed above, the Plan of Allocation should be approved as fair, reasonable and adequate.

IV. CONCLUSION

Based on the above and the declarations submitted herewith, Lead Plaintiffs submit that the Settlement and Plan of Allocation are fair, reasonable and adequate, and respectfully request that the Court grant final approval of the Settlement and the Plan of Allocation.

Dated: January 12, 2007

Respectfully submitted,

/s/ Chad Johnson

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