EXHIBIT 3

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE WILLIAMS SECURITIES LITIGATION	Case No. 02-CV-72-SPF-FHM
	Lead Case
This Document Relates To: WMB Subclass	
	Judge Stephen P. Friot

DECLARATION OF JOSEPH C. LONG IN SUPPORT OF PROPOSED AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES

I, JOSEPH C. LONG, hereby declare as follows:

I submit this declaration in connection with the application of Bernstein Litowitz Berger & Grossmann LLP ("BLBG" or "Lead Counsel") For An Award of Attorneys' Fees and Reimbursement of Litigation Expenses. The expert's role in this context is limited and the decision, as always, remains with the Court. However, I respectfully offer my expertise in placing the settlement and the requested fee in this case in the context of analogous cases.

I. Summary of Experience and Qualifications

1. Since 2001, I have been Professor Emeritus at the University of Oklahoma College of Law after serving on that faculty for 31 years. I have taught at four different law schools, the University of South Dakota, University of Virginia (while in graduate school), Stetson University, and the University of Oklahoma.

2. Since joining the University of Oklahoma law faculty in 1970, I have instructed courses on agency and partnerships, corporations, and state and federal

securities regulation.

3. During my 35 year teaching career, I have developed expertise on a number of topics, including, in particular, corporate law and state and federal securities regulation and litigation.

4. One of my principal areas of academic focus, and a continuing area of expertise, is securities regulation at the federal and state level. In the securities field, I am the author of two nationally-recognized books published by Westlaw: 12 and 12A Joseph C. Long, *Blue Sky Law* (2006), and Seth E. Lipner and Joseph C. Long, *Securities Arbitration Desk Reference* (2006).

5. In addition to my teaching, during the last twenty-five years, I maintained a part-time private practice involving securities litigation. Since my retirement in 2001, I have been engaged in the full-time practice of securities law, either as investor counsel or an expert witness for investors. In this practice, I have served as counsel and as an expert witness in state and federal courts and in arbitration, throughout the United States.

6. I also have been active in the public sector of securities regulation, serving as an associate general counsel and consultant for the Oklahoma Securities Commission. For fifteen years, I also served as special counsel for the North American Securities Administration Association, Inc., an international organization of state securities agencies, of which the Oklahoma Securities Commission is a member. Finally, I served as a co-reporter (draftsman) for the Revised Uniform Securities Act (1985) promulgated by the National Conference of Commissions on Uniform State Laws.

7. Most importantly for the present case, I have been involved in class action

securities litigation as both plaintiff's counsel and an expert witness for both plaintiffs and defendants.

8. Finally, I was lead co-counsel in the early Tenth Circuit common fund securities case of *Uselton v. Commercial Lovelace Motor Freight, Inc.*, 9 F.3d 849 (10th Cir. 1993). A copy of my current resume is attached as Exhibit A.

II. Issue Asked to Address

9. I have been asked to address the issue of whether the attorneys' fees claim by counsel in the present case are reasonable and fair under the standards set out by the Tenth Circuit.

III. Summary of Conclusion

10. Based on the standards outlined by the Tenth Circuit in *Goettlieb v. Barry*, 43 F.3d 478 (10th Cir. 1994); *Uselton v. Commercial Lovelace Motor Freight, Inc.*, 9 F.3d 849 (10th Cir. 1993), and this Court in *Millsap v. McDonnell Douglas Corp.*, 2003 WL 21277124 (N.D. Okla. May 28, 2003) (Judge Holmes) and *Lewis v. Wal-Mart Stores, Inc.*, 2006 WL 3505851 (N.D. Okla. Dec. 4, 2006)(Chief Judge Eagan), I believe that the twenty-five percent attorneys' fees requested are reasonable and fair.

IV. Discussion

A. General

11. The $311 million settlement achieved for the SMB Subclass in this case (the "Settlement") is exceptional by any standard. Based on a review of publicly available data, I believe the Settlement represents the single largest recovery of any class action securities suit filed in either the federal or state courts in Oklahoma and the second largest

such recovery within the Tenth Circuit. It also appears to be the twentieth largest securities class action recovery nationwide. Securities Class Action Services (Dec. 31, 2006).

12. Lead Counsel deserves significant credit for achieving the recovery for the Class. The subject matter of this case was extremely complex. Lead Counsel was required to make an unusually large investment of time and resources to the effective prosecution of the case, while the contingent nature of the case left Lead Counsel exposed to significant risk of little or no recovery for the Class, and therefore, no recovery to Lead Counsel on that commitment.

13. In securities class action litigation, especially after the passage of the Private Securities Litigation Reform Act of 1995, recovery by investors is never assured. Absent the willingness and ability of class counsel working on a contingency basis to invest resources at these levels, the exceptional recovery represented by the Settlement likely would not have been possible. Compensating and rewarding counsel for assuming such high levels of risk is important to ensuring that investors can obtain relief of this magnitude through the class action device. Further, it assures that such investors will be able to secure competent counsel to undertake similar difficult and risky cases in the future. *See e.g., In re Bioscience Se. Lit.*, 1994 WL 485935 (E.D.Pa. 1994). *See generally*, 4 Herbert B. Newberg and Alba Conte, Class Actions §14:6 (4th ed. 2002).

14. While there is substantial authority for basing the attorney fee award on the **gross** settlement fund, here $311 million, **as well as** awarding counsel for litigation costs

and expenses,[1] counsel in the present case have elected to seek only an attorneys' fee of 25 percent of the **net settlement fund**,[2] for a total attorney fee award of approximately $75 million.

15. This fee request of 25 percent of the **net settlement fund** is well within the range of recent fee awards for similar recoveries in analogous circumstances. Traditionally, in securities common fund cases, the attorney fee awards have generally ranged between 20 and 30 percent. *See e.g., Goettlieb v. Barry*, 43 F.3d 478 (10th Cir. 1994). *See generally*, Herbert B. Newberg and Alba Conte, Attorney Fee Awards §§2:08 and 2:32 (2d ed. 1993), cited therein with approval. Newberg and Conte is presently in a Third Edition 2006.

16. Further, both the Nine and Tenth Circuits have established a 25 percent attorneys' fee as a "benchmark." *Millsap v. McDonell Douglas Corp.*, 2003 WL 21277124 (N.D. Okla. May 28, 2003)(Judge Holmes); *Ramah Navajo Chapter v. Norton*, 250 F. Supp.2d 1303 (D.N.M.2002); *Great-West Life & Annuity Ins. Co. v. Clingenpeel*, 996 F. Supp. 1348 (W.D. Okla. 1998)(Judge Alley). This benchmark will be altered by the Court, up or down, when justified by the particular facts.

17. The requested fee is all the more reasonable considering the unique

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[1] *See e.g. Carnegie v. Household Int'l Inc.*, 445 F. Supp.2d 1032 (N.D. Ill. 2006); *In re Arm Fin. Group, Inc. Sec. Lit.*, 2006 WL 2570339 (W.D.Ky Aug. 31, 2006); *In re Crazy Eddie Sec. Lit.*, 824 F. Supp. 320 (E.D.N.Y. 1993). *Cf. Masters v. Willhelmia Model Agency, Inc.*, 2007 WL 28983 (2d Cir. Jan. 4, 2007)("An allocation of fees by percentage should be awarded on the basis of the total funds available."). *See also* PSLRA, 15 U.S.C.§78u-4(a)(6).

[2] They also seek approximately $10.5 million in expenses separate from their attorney fees. These figures are described as approximate numbers because I understand that one law firm, the Seymour Law Firm, will provide its figures after I have finalized this declaration.

challenges of this case.

18. While the Tenth Circuit has held it to be error to base attorney fee awards in a common fund case, **solely on the lodestar method**, *Goettlieb v. Barry*, 43 F.3d 478, 487 (10th Cir. 1994), it has approved the use of the lodestar method, including the use of a multiplier, in a hybrid approach. This hybrid approach was used by this Court in *Lewis v. Wal-Mart Stores, Inc.*, 2006 WL 3505851 (N.D. Okla. Dec. 4, 2006)(Chief Judge Eagan). This enhanced lodestar method has also been used as a cross-check to the percentage of fund awards. *Goettlieb v. Barry, supra*.

19. The time submitted by Lead Counsel and the law firms that supported Lead Counsel's efforts is 140,483.37 hours. At their customary billing rates, this generates a lodestar of $47,654,162.41. The 25 percent common fund fee of approximately $75 million calculates out to result in a multiplier of less than 1.7.[3]

20. As further detailed below, both the lodestar and the multiplier are well below historical averages.

B. The *Gottlieb* Standard and Its Application in Securities Class Actions

21. The Supreme Court in *Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984), recognized that in a common fund action "a reasonable [attorney] fee is based on a percentage of the fund bestowed on the class." This standard was later adopted by Congress for securities class actions when it passed the attorney fee provision in the Private Securities Litigation Reform Act of 1995. 15 U.S.C. §78u-4(a)(6).

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[3] The multiplier will necessarily be even lower once the hours of the Seymour firm are included in the calculations.

22. Following the lead of the Supreme Court, the Tenth Circuit in *Goettlieb v. Barry*, 43 F.3d 478 (10th Cir. 1994); *Uselton v. Commercial Lovelace Motor Freight, Inc.*, 9 F.3d 849 (10th Cir. 1993), and this Court in *Millsap v. McDonnell Douglas Corp.*, 2003 WL 21277124 (N.D. Okla. May 28, 2003) (Judge Holmes) and *Lewis v. Wal-Mart Stores, Inc.*, 2006 WL 3505851 (N.D. Okla. Dec. 4, 2006)(Chief Judge Eagan), have followed the percentage of the common fund method or a hybrid thereof.

23. The leading Tenth Circuit case on the topic of attorney fee awards in the common fund context is *Gottlieb v. Barry*, 43 F.3d 474 (10th Cir. 1994). In *Gottlieb*, the Court ruled that, although either the percentage of the fund method or the lodestar method may be acceptable in certain instances, the percentage approach is more widely accepted and is preferred in the common fund context. *Id.* at 483.

24. The *Gottlieb* Court listed with approval numerous reasons that support the use of the percentage approach, including that it matches real-world market forces closer than does the lodestar method, which it provides counsel with desirable incentives, that it is less subjective than the lodestar method and properly focuses on the results obtained by class counsel.

25. Consistent with *Gottlieb*, the percentage of recovery method has been expressly adopted in the vast majority of circuits (including the First, Third, Sixth, Seventh, Ninth, Eleventh and District of Columbia Circuits) as the preferred method for determining an award of attorneys' fees in common fund cases.[4]

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[4] *See In re Thirteen Appeals Arising Out of the San Juan Dupont Plaza Hotel Fire Litig.*, 56 F.3d 295, 305 (1st Cir. 1995)("Contrary to popular belief, it is the lodestar method, not the [percentage] method, that breaks from precedent."); *In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768,

26. In evaluating a reasonable fee based upon a percentage of the common fund, *Gottlieb*, 43 F.3d at 483 ("whichever method is used, the court must consider the twelve *Johnson* factors"), and the other circuits have considered the twelve-factor test adopted by the Fifth Circuit in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974).

27. This court, as late as last December, applied the *Johnson* factors in a common fund case. *Lewis v. Wal-Mart Stores, Inc.*, 2006 WL 3505851 (N.D. Okla. Dec. 4, 2006)(Chief Judge Eagan).

28. The *Johnson* factors are: (1) the time and labor involved; (2) the novelty and difficulty of the questions; (3) the skill requisite to perform the legal service properly; (4) the preclusion of other employment by the attorneys due to acceptance of the case; (5) the customary fee; (6) a prearranged fee, if any; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation and ability of the attorneys; (10) the undesirability of the case, *i.e.*, the level of risk involved in accepting the case on a contingency basis; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases. For a detailed analysis of these factors, *see e.g., Ramah Navajo Chapter v. Norton*, 250 F. Supp.2d 1303 (D.N.M.2002).

821-22 (3d Cir. 1995); *Florin v. Nationsbank of Georgia, N.A.*, 34 F.3d 560, 564-65 (7th Cir. 1994)(percentage approach is appropriate in common fund cases); *Torrisi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1376-77 (9th Cir. 1993)(percentage approach appropriate); *Rawlings v. Prudential-Bache Props., Inc.*, 9 F.3d 513, 515-16 (6th Cir. 1993); *Swedish Hosp. Corp. v Shalala*, 1 F.3d 1261, 1271 (D.C. Cir. 1993) ("a percentage-of-the-fund method is the appropriate mechanism for determining the attorney fees award in common fund cases"); *Camden I Condo. Ass'n. v Dunkle*, 946 F.2d 768, 774 (11th Cir. 1991).

29. Notably, the *Gottlieb* Court held that the fee awarded was clearly appropriate "because the 22.5% selected by the [special] master is well within the range of permissible reasonable fee awards, and is reasonable in this case." *Id.* at 487-88. In support of that conclusion, the *Gottlieb* Court cited, among other things, *Torrisi v. Tucson Elec. Power Co.*, for the proposition that 25% of a common fund "is the 'benchmark' award...." 8 F.3d 1370, 1376 (9th Cir. 1993), *Aff'd sub. Nom. Reilly v. Tucson Elec. Power Co.*, 512 U.S. 1220, 114 S.Ct. 2707, 129 L.Ed.2d 834 (1994). As described below, Lead Counsel's request of 25% clearly falls within the "benchmark" approved in *Gottlieb*.

30. Also notable is the fact that this Court last month upheld a common fund fee request of 33 1/3 percent in *Lewis v. Wal-Mart Stores, Inc.*, 2006 WL 3505851 (N.D. Okla. Dec. 4, 2006)(Chief Judge Eagan). Earlier, this court in *Millsap v. McDonnell Douglas Corp.*, 2003 WL 21277124 (N.D. Okla. May 28, 2003)(Judge Holmes) awarded 25% of the net recovery fund.

C. Application Of The Significant Johnson Factors In The Present Case

31. The application of the *Johnson* elements in this particular case requires a weighing of the various factors. Some factors will obviously be more important than others in this weighing process. Obviously, in the final analysis, the weighing process is for the Court. However, the following is an analysis of the factors I believe should be given the most weight.

1. Risk To Counsel.

32. It is obvious that any contingency-based engagement necessarily poses some degree of risk to the prosecuting attorneys. Based on my review of the securities

case landscape, Lead Plaintiffs and Lead Counsel plainly faced exceptional risks in prosecuting this case, which makes the result obtained all the more impressive, even as compared with other complex securities suits. Among other things, Lead Counsel had to contend with the fact that: (1) none of the defendants had admitted the existence of any misstatement or improper conduct; (2) no senior executives involved in the alleged fraud were fired for the conduct at issue; (3) government investigations had not uncovered underlying misstatements or fraud; and (4) the subject matter of the case was particularly complex and challenging.

33. This last point is especially important. This case actually involved two alleged frauds: one involving Williams' energy business and another involving its telecommunications subsidiary.

34. Further, Lead Counsel faced numerous motions for summary judgment, which could have ended or significantly curtailed the scope the Class's claims that could be brought to a jury. Even then, Lead Plaintiffs and Lead Counsel had to face the risk that an Oklahoma jury may be hesitant to rule against Williams. Beyond that, even a favorable verdict for the Class faced prolonged appellate review. *See generally, Masters v. Wilhimna Model Agency, Inc.*, 2007 WL 28983 (2d Cir. Jan. 4, 2007).

35. The public policy considerations supporting fee awards in cases of this sort were summarized by United States District Judge Denise Cote in her decision in *In re WorldCom, Inc. Sec. Litig.*, 388 F.Supp.2d 319, 359 (S.D.N.Y. 2005):

> Public policy also supports the approval of this fee request. The size of the recovery achieved for the class which has been praised even by several objectors – could not have been achieved without the unwavering commitment of Lead Counsel to this litigation. Several of the lead attorneys

> for the Class essentially devoted years of their lives to this litigation, with the personal sacrifices that accompany such a commitment. If the Lead Plaintiff had been represented by less tenacious and competent counsel, it is by no means clear that it would have achieved the success it did her on behalf of the Class. In order to attract well-qualified plaintiffs, counsel who are able to take a case to trial, and who defendants understand are able and willing to do so, it is necessary to provide appropriate financial incentives. After all, this litigation was conducted on an entirely contingent fee basis, and Lead Counsel paid millions of dollars to fund the litigation. While some significant recovery in a case of this magnitude may seem a foregone conclusion now, the recovery achieved here was never certain.

36. The above analysis applies in the present case with great force. As described above, Lead Counsel did not have the benefit of any statements or similar admissions that false statements were made to investors, no government investigations or inquiries provided a roadmap to Lead Counsel to the evidence setting forth the alleged fraud, and no current or former Williams executives were charged with violating the securities laws. Lead Counsel thus deserves major credit for achieving this recovery on behalf of the Class.

37. In sum, the level of risk facing Lead Plaintiffs and the Class, which could not have been borne but for Lead Counsel's willingness to invest significant time, resources and capital in the prosecution of this case, was unusually high in this case.

2. Comparative Analysis of Attorney Fee Awards in Other Class Action Cases

38. The fee Lead Counsel seeks is lower than the attorney fee requests in a common fund case in this Court. *Lewis v. Wal-Mart Stores, Inc.*, 2006 WL 3505851 (N.D. Okla. Dec. 4, 2006)(Chief Judge Eagan)(33 1/3 percent award).

39. It is also lower than awards given by other District Courts within the Tenth

Circuit. *See e.g., In re United Telecommunications, Inc.*, 1994 WL 326007 (D. Kan. 1994)(fee award of 33% on a recovery of $28 million); *Cimarron Pipeline Constr. Inc. v. National Council on Compensation Ins.*, 1993 WL 355466 (W.D. Okla. 1993)(fee award of 33.6% on a recovery of $35 million). *See also In re Sun Healthcare Group, Inc. Lit.*, 95-7005 JC/WWD (D.N.M. 1997)(fee award of 30% on a recovery of $24 million), case cited in *Ramah Navajo Chapter, supra*.

40. The request is also in line with common fund awards in comparable securities class actions that settled in the $100 million to the mid $300 million range. Table I sets forth the attorney fee awards and multipliers (where applicable).

TABLE 1: Fees Awarded in Securities Class Actions Settling Between $100 million and $400 million

Case	Recovery	Fees as a Percentage of Class Recovery	Lodestar Multiplier
In re Prison Realty Sec. Litig., CA No. 3:99-0458, 2001 U.S. Dist. LEXIS 21942 (M.D. Tenn. Feb. 12, 2001)	$104 million	30%	*No lodestar cross check*
In re Sunbeam Sec. Litig., 176 F.Supp.2d 1323 (S.D. Fla. 2001)	$110 million	25%	1.07
In re DPL Inc. Sec. Litig., 307 F.Supp.2d 947 (S.D. Ohio 2004)	$110 million	20%	*No lodestar cross check*
In re Ikon Office Solutions, Inc. Sec. Litig., 194 F.R.D. 166 (E.D. Pa. 2000)	$111 million	30%	2.46
In re Conseco, Inc. Sec. Litig., IP 00-585-c-4/5 (S.D. Inc., Aug. 7, 2002)	$120 million	15%	5.8

In re Deutsche Telekom AG Sec. Litig., Civ. Action No. 00-CV-9475 (NRB)(S.D.N.Y. 2005)	$120 million	28%	*No lodestar check*
Informix Corp. Sec. Litig., Master File No. C-97-1289-CRB (N.D. Cal. Nov. 2, 1999)	$136 million	30%	*No lodestar cross check*
In re Electronic Data Sys. Corp. Sec. Litig., 6:03-MD-1512 (E.D. Tex. Mar. 7, 2006)	$137.5 million	17.48	1.13

In re Charter Communications, Inc. Sec. Litig., MDL Dkt. No. 1506, Case No. 4-02-Civ. 1186 (E.D. Mo. 2005)	$146.25 million	20%	5.61
In re Microstrategy Inc. Sec. Litig., 172 F.Supp.2d 778 (E.D. Va. 2001)	$153.5 million	18%	2.6
In re Dollar General Corp. Sec. Litig., Civ. No. 3:01-0388 (MD. Tenn., May 24, 2002)	$162 million	20.9%	*No lodestar cross check*
In re Global Crossing Sec. and ERISA Litig., 225 F.R.D. 436 (S.D.N.Y. 2004)	$205 million	18-19%[5]	2.16
Waste Management Inc. Sec. Litig., No. 97C7709 (N.D. Ill. Oct. 18, 1999)	$220 million	20%	*No lodestar cross check*
In re 3Com Corp. Sec. Litig., No. C-97-21083 (N.D. Cal. Mar. 9, 2001)	$259 million	18%	6.7
In re DaimlerChrysler AG Sec. Litig., No. 00-0093 (KAJ)(D. Del. Feb. 5, 2004)	$300 million	22.5%	*No lodestar cross check*
In re Bristol-Myers Squibb Sec. Litig., 361 F.Supp.2d 229 (S.D.N.Y. 2005)	$300 million	3.67%	2.29
In re Oxford Health Plans, Inc. Sec. Litig., MDL 1222 (S.D.N.Y. June 2003)	$300 million	28%	*No lodestar cross check*
In re Rite Aid Corp. Sec. Litig., 396 F.3d 294 (3d Cir. 2005), *on remand to*, 362 F.Supp.2d 587	$320 million	25%	*6.96*[6]

5 Case settled after a motion to dismiss was granted and before any discovery took place.

6 No lodestar cross check for first $193 million partial settlement and 6.96 multiplier for the subsequent $126.6 million settlement.

(E.D. Pa. 2005)			

41. The general accepted percentage of common fund attorneys' fee awards is in the 20%-33% range. *See e.g., Great-West Life & Annuity Ins. Co. v. Clingenpeel*, 996 F. Supp. 1348 (W.D. Okla. 1998)(Judge Alley).

42. For example, Table 2 outlines the common fund attorneys' fees which have been awarded in antitrust cases that settled between $100 million and approximately $1 billion since 2000.

TABLE 2: Sampling of Fees Awarded In the Largest Post-2000 Antitrust Class Actions

Case	Recovery	Fees as a Percentage of Class Recovery
In re Methionine Antitrust Litig.	$107 million	23.3%
In re Sumitomo Copper Litig.	$132 million	28.3%
In re Buspirone Patent Litig.	$220 million	33.3%
In re Vitamins Antitrust Litig.	$365 million	33.7%
Prescription Drug Antitrust Litig.	$696 million	25.4%
Exxon Mobil Corp. V. Allapath Svcs. Antitrust Litig.	$1.075 billion	31 1/3%

D. Lodestar Cross Check

43. While the *Gottlieb* Court expressed its clear preference for the percentage-of-recovery method for awarding attorney's fees, it also recognized the utility of considering lodestar in certain cases. *Gottlieb*, 43 F.3d at 483-88; *see also Goldberger v. Integrated Resources*, 209 F.3d 43 (2d Cir. 2000)(approving use of a lodestar cross-check to the

percentage-of-recovery method).

44. As shown in the column in Table 1, *supra*, not all cases assess the lodestar and multiplier, likely because a cross-check is not always appropriate or necessary.

45. In this case, however, because creating the benefit for the Class required such extensive investment of time and resources, consideration of the lodestar points decidedly to the conservative nature and reasonableness of the fee requested.

46. In this case, Lead Counsel and counsel acting at Lead Counsel's direction invested some 140,483.37 hours, and their cumulative lodestar at the normal hourly rates of the participating plaintiff's counsel comes to $47,654,162.41.[7]

47. The resulting lodestar multiplier is less than 1.70.

48. These numbers are well below the multipliers in many cases. Indeed, numerous cases have held that multipliers in the range of 3 to over 5 have become quite common.

49. Similar large multipliers have been used in so-called "mega-fund" cases with recoveries comparable or even higher than the Settlement recovery in this case. *See e.g., In re Charter Comms. Inc., Sec. Litig.*, 4:02-cv-1186, 2005 WL 4045741, at *18 (E.D. Mo. June 30, 2005)(settled during discovery, before depositions; finding that a multiplier of 5.61 "falls within the range of multipliers found reasonable ... and is fully justified here given the effort required, the hurdles faced and overcome, and the results achieved"); *In re*

[7] I understand that this figure includes all firms seeking a portion of the fee award, except for a former co-lead counsel, which will submit its own figures after I have finalized this declaration. Naturally, the former lead counsel's hours will increase the overall lodestar and cause a corresponding reduction of the multiplier.

Rite Aid Corp. Sec. Litig., 362 F.Supp.2d 587 (E.D. Pa. 2005)(approving fee – during discovery, before depositions – resulting in a multiplier of 6.96); *In re Xcel Energy, Inc., Sec. Derivative & "ERISA" Litig.*, 364 F.Supp.2d 980 (D. Minn. 2005)(multiplier of 4.7); *In re NASDAW Market-Makers Antitrust Litig.*, 187 F.R.D. 465, 489 (S.D.N.Y. 1998)(settling during discovery after depositions started, and approving 3.97 multiplier and finding that multipliers of 3 to 4.5 are "common"); *In re Sumitomo Cooper Litig.*, 74 F.Supp.2d 393, 399 (S.D.N.Y.1 999)(awarding a 27.5% fee in commodities fraud litigation and finding that multipliers of 3 to 4.5 are common); *In re Cendant Corp. Prides Litig.*, 51 F.Supp.2d 537 (D.N.J. 1999), *vacated and remanded*, 243 F.3d 722 (3d Cir. 2001), *on remand*, No. 98-2819 (D.N.J. June 11, 2002)(settled before motions to dismiss were filed; multiplier of 5.28); *Di Giacomo v. Plains All Am. Pipeline*, Nos. H-99-4137, H-99-4212, 2001 WL 34633373 at *10 (S.D. Fla. Dec. 19, 2001)(multiplier of 5.3); *Roberts v. Texaco, Inc.*, 979 F.Supp. 185, 197 (S.D.N.Y. 1997)(multiplier of 5.5). Thus, the low multiplier further confirms the reasonableness of the fee sought here.

50. In sum, I believe that in this case, which seems to have presented risks to Lead Plaintiffs and Lead Counsel that were higher than typical for large securities class actions, a fee request implying a greater multiplier would not be unreasonable.

51. Although the lodestar method is not the central focus of the analysis required by *Gottlieb*, there can be no real suggestion that the fee award constitutes a windfall of any sort. Lead Counsel bore very real risks, and their efforts and extensive skill were instrumental in creating the benefit to the Class embodied in the Settlement.

IV. Conclusions

52. I urge this Court to award the fee on a percentage basis, consistent with the Tenth Circuit's holding in *Gottlieb* and as is done in most jurisdictions across the nation. Even when applying a lodestar cross-check, the resulting lodestar multiplier of less than 1.7 (which will be still lower after including former co-lead counsel's time) is well below the average for similar cases. Based on the foregoing criteria, the 25% fee award that Lead Counsel seeks here is well within the range of fees awarded in similar cases.

53. The risk to Lead Counsel of obtaining no recovery of its investment of professional time and out-of-pocket expenses was significant. By making that investment, Lead Counsel and Lead Plaintiffs obtained an exceptional recovery for the Class. Further, the fee award has been approved by the Lead Plaintiffs, who are sophisticated institutional investors with significant experience in this area. Thus, all the relevant factors combine to make the requested 25% fee award reasonable in my judgment by all objective comparative standards.

I declare under the penalties of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: January 11, 2007
Norman, Oklahoma

/s/ Joseph C. Long
Professor Joseph C. Long