

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

In re MERCURY INTERACTIVE CORP.  
SECURITIES LITIGATION

This Document Relates To:  
ALL ACTIONS

Master File No. 5:05-CV-3395-JF

CLASS ACTION

NOTICE OF PENDENCY AND PROPOSED SETTLEMENT  
OF CLASS ACTION

TO: ALL PERSONS WHO PURCHASED MERCURY INTERACTIVE CORPORATION ("MERCURY") SECURITIES (INCLUDING COMMON STOCK, OPTIONS, OTHER EQUITY SECURITIES, AND DEBT SECURITIES) DURING THE PERIOD BEGINNING SEPTEMBER 8, 2001 THROUGH JULY 3, 2006

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS MAY BE AFFECTED BY PROCEEDINGS IN THIS LITIGATION. PLEASE NOTE THAT IF YOU ARE A CLASS MEMBER, YOU MAY BE ENTITLED TO SHARE IN THE PROCEEDS OF THE SETTLEMENT DESCRIBED IN THIS NOTICE. TO CLAIM YOUR SHARE OF THIS FUND, YOU MUST SUBMIT A VALID PROOF OF CLAIM AND RELEASE ("PROOF OF CLAIM") POSTMARKED NO LATER THAN NOVEMBER 29, 2008.

IF YOU DO NOT WISH TO BE INCLUDED IN THE CLASS AND YOU DO NOT WISH TO PARTICIPATE IN THE PROPOSED SETTLEMENT DESCRIBED IN THIS NOTICE, YOU MAY REQUEST TO BE EXCLUDED. TO DO SO, YOU MUST SUBMIT A WRITTEN REQUEST FOR EXCLUSION THAT MUST BE RECEIVED NO LATER THAN SEPTEMBER 4, 2008.

This Notice has been sent to you pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Northern District of California (the "Court"). The purpose of this Notice is to inform you of the pendency and proposed settlement of this class action litigation and of the hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the settlement. This Notice is not intended to be, and should not be construed as, an expression of any opinion by the Court with respect to the truth of the allegations in the Litigation or the merits of the claims or defenses asserted. This Notice describes the rights you may have in connection with the settlement and what steps you may take in relation to the settlement and this class action litigation.

The proposed settlement creates a fund in the amount of \$117,500,000 in cash (the "Settlement Fund") and will include interest that accrues on the fund prior to distribution. Your recovery from this fund will depend on a number of variables, including the number of shares of Mercury securities you purchased during the period September 8, 2001 to July 3, 2006, and the timing of your purchases and any sales. Depending on the number of eligible shares purchased by Class Members who elect to participate in the settlement and when those shares were purchased and sold, the estimated average distribution per share will be approximately \$1.34 before deduction of Court-approved fees and expenses.

Lead Plaintiffs and Defendants do not agree on the average amount of damages per share that would be recoverable if the Lead Plaintiffs were to have prevailed on each claim alleged. The issues on which the parties disagree include: (1) the amount by which Mercury securities were allegedly artificially inflated (if at all) during the Class Period; (2) the effect of various market forces influencing the trading price of Mercury securities at various times during the Class Period; (3) the extent to which external factors, such as general market and industry conditions, influenced the trading price of Mercury securities at various times during the Class Period; (4) the extent to which the various matters that Lead Plaintiffs alleged were materially false or misleading influenced (if at all) the trading price of Mercury securities at various times during the Class Period; (5) the extent to which the various allegedly adverse material facts that Lead Plaintiffs alleged were omitted influenced (if at all) the trading price of Mercury securities at various times during the Class Period; (6) whether the statements made or facts allegedly omitted were material, false, misleading or otherwise actionable under the securities laws; and, (7) whether even if liability could be proven, total damages would still be \$0, or \$0 per damaged share.

The Lead Plaintiffs believe that the proposed settlement is a good recovery and is in the best interests of the Class. At the time this settlement was reached, Defendants' motion to dismiss had been granted and Lead Plaintiffs received leave to file an amended complaint. Because of risks associated with continuing to litigate and proceeding to trial, there was a danger that the Class would not have prevailed on any of their claims, in which case the Class would receive nothing. The amount of damages recoverable by the Class was and is challenged by Defendants. Recoverable damages in this case are limited to losses caused by conduct actionable under applicable law and, had the litigation gone to trial, Defendants would have asserted that all or most of the losses of Class Members were caused by non-actionable market, industry or general economic factors. In fact, Defendants also argued that the U.S. Supreme Court decision in *Dura Pharmaceuticals, Inc. v. Broudo*, 544 U.S. 336 (2005), on the issue of loss causation for damages, required complete dismissal of the case. Defendants would also assert that throughout the Class Period the uncertainties and risks associated with the purchase of Mercury securities were fully and adequately disclosed.

Plaintiffs' Lead Counsel have not received any payment for their services in conducting this Litigation on behalf of the Lead Plaintiffs and the Members of the Class, nor have they been reimbursed for all of their out-of-pocket expenditures. If the settlement is approved by the Court, counsel for the plaintiffs will apply to the Court for attorneys' fees in the amount of 25% of the Settlement Fund and reimbursement of out-of-pocket expenses not to exceed \$975,000 to be paid from the Settlement Fund. If the amount requested is approved by the Court, the average cost per share will be \$0.35.

For further information regarding this settlement you may contact: Joel H. Bernstein, Labaton Sucharow LLP, 140 Broadway, New York, NY 10005, Telephone: 212-907-0677 or Peter A. Binkow, Glancy Binkow & Goldberg LLP, 1801 Avenue of the Stars, Suite 311, Los Angeles, CA 90067, Telephone: 310-201-9150.

**QUESTIONS? CALL 1-888-356-0255 OR VISIT: [www.MercuryInteractiveSecuritiesSettlement.com](http://www.MercuryInteractiveSecuritiesSettlement.com)**

## **I. NOTICE OF HEARING ON PROPOSED SETTLEMENT**

A settlement hearing will be held on September 25, 2008, at 9:30 a.m., before the Honorable Jeremy Fogel, United States District Judge, at the United States Courthouse, Northern District of California, 280 South First Street, San Jose, California (the "Settlement Fairness Hearing"). The purpose of the Settlement Fairness Hearing will be to determine: (1) whether the settlement consisting of \$117,500,000 in cash should be approved as fair, reasonable and adequate to the Settling Parties; (2) whether the proposed plan to distribute the settlement proceeds (the "Plan of Allocation") is fair, reasonable, and adequate; and (3) whether the application by Plaintiffs' Lead Counsel for an award of attorneys' fees and expenses should be approved. The Court may adjourn or continue the Settlement Fairness Hearing without further notice to the Class.

## **II. DEFINITIONS USED IN THIS NOTICE**

1. "Authorized Claimant" means a Claimant who files a timely and valid Proof of Claim with required documentation in accordance with the requirements of the Hearing Order, this Notice, and paragraph 19 of the Stipulation of Settlement (the "Stipulation").
2. "Claimant" means any member of the Settlement Class who files a Proof of Claim in connection with this Settlement in such manner and within such time as provided in this Notice, or as the Court shall prescribe.
3. "Claims Administrator" or "Settlement Administrator" means the firm Complete Claim Solutions, LLC which shall administer the Settlement.
4. "Class" shall mean the Lead Plaintiffs and all Persons and entities who purchased or otherwise acquired securities of Mercury (including common stock, options, other equity securities, and debt securities) either directly or by dividend re-investment during the Class Period, and their respective executors, administrators, representatives, agents, attorneys, successors, heirs and/or assigns.
5. "Class Member" or "Member of the Class" means a Person who falls within the definition of the Class as set forth in ¶ 4 above.
6. "Class Period" or "Settlement Class Period" means the period from and including September 8, 2001 through July 3, 2006, inclusive.
7. "Defendants" means Mercury, Amnon Landan, Douglas Smith, Sharlene Abrams, Susan Skaer, Igal Kohavi, Yair Shamir, Giora Yaron, PricewaterhouseCoopers Inc., and, respectively, their Related Parties.
8. "Final Judgment" or "Judgment" shall mean the Final Judgment and Dismissal with Prejudice to be entered in the Litigation pursuant to paragraph 25 of the Stipulation of Settlement.
9. "Individual Defendants" means Amnon Landan, Douglas Smith, Sharlene Abrams, Susan Skaer, Igal Kohavi, Yair Shamir, and Giora Yaron.
10. "Initial Defendants" shall mean Anthony Zingale, Bradley Boston, Bryan LeBlanc, Yuval Scarlat, any entity in which Initial Defendants have a controlling interest, any member of an Initial Defendant's immediate family, or any trust of which any Initial Defendant is a settlor or which is for the benefit of Initial Defendant's family.
11. "Lead Plaintiffs" means Mercury Pension Fund Group, which is comprised of the Steamship Trade Association/International Longshoreman's Association Pension Fund, the City of Sterling Heights General Employees Retirement System, the City of Dearborn Heights Police and Fire Retirement System, and the Charter Township of Clinton Police and Fire Pension System.
12. "Mercury" means Mercury Interactive, LLC, formerly known as Mercury Interactive Corporation.
13. "Person" means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated organization, and any other type of legal entity, and their respective executors, administrators, representatives, agents, attorneys, heirs, successors, and/or assigns.
14. "Plaintiffs' Lead Counsel" or "Lead Counsel" means the law firms of Labaton Sucharow LLP and Glancy, Binkow & Goldberg LLP.
15. "Plan of Allocation" means a plan or formula of allocation of the Settlement Fund whereby the Settlement Fund shall be distributed to Authorized Claimants after payment of expenses of notice and administration of the settlement, Taxes and Tax Expenses and such attorneys' fees, costs, expenses and interest. Any Plan of Allocation is not part of the Stipulation of Settlement and neither Released Persons nor their Related Parties shall have any responsibility or liability with respect thereto.
16. "PwC" means PricewaterhouseCoopers Inc.
17. "Related Parties" means each of a Defendant's past or present directors, officers, employees, partners, insurers, co-insurers, reinsurers, controlling shareholders, attorneys, accountants or auditors, personal or legal representatives, predecessors, successors, parents, subsidiaries, divisions, joint ventures, assigns, spouses, heirs, related or affiliated entities, any entity in which a Defendant has a controlling interest, any member of any Individual Defendant's immediate family, or any trust of which any Individual Defendant is the settlor or which is for the benefit of any Individual Defendant's family.
18. "Released Claims" shall collectively mean any and all claims arising from the purchase (as the term is used in the Securities Exchange Act to include contract to buy, purchase, or otherwise acquire) or sale of Mercury securities and relating in any way to Mercury's financial statements, the sale of securities by any Mercury officer, director or employee, or any other acts, facts, statements or omissions during the Class Period that are alleged or could have been alleged in the Litigation. "Released Claims" includes "Unknown Claims" as defined in ¶ 23 hereof.
19. "Released Persons" means each and all of the Defendants, their Related Parties, and Initial Defendants.
20. "Settlement Class" shall mean Lead Plaintiffs and the Class ("Class" meaning the Lead Plaintiffs and all Persons and entities who purchased or otherwise acquired securities of Mercury (including without limitation common stock, options, other equity securities, or debt securities) either directly or by dividend re-investment from and including September 8, 2001 through July 3, 2006, inclusive, and their respective executors, administrators, representatives, agents, attorneys, successors, heirs and/or assigns. Excluded from the Settlement Class are the Defendants; members of Defendants' immediate families; all individuals who are either current officers and/or directors, or who served as

officers and directors at any time during the Settlement Class Period or any of the Defendants; Defendants' subsidiaries; any person, firm, trust, corporation, officer, director or other individual or entity in which any Defendant has a controlling interest or any entity which is related to or affiliated with any Defendant; Hewlett-Packard Company, and any and all subsidiaries and affiliates of Hewlett-Packard Company; and the legal representatives, agents, affiliates, heirs, successors and assigns of any such excluded persons. Also excluded from the Settlement Class are any persons who exclude themselves by filing valid and timely requests for exclusion from the Settlement Class in accordance with the requirements set forth in the Notice.

21. "Settlement Class Member" shall mean a Person who is a member of the Settlement Class.
22. "Settling Parties" means, collectively, the Defendants and the Lead Plaintiffs on behalf of themselves and the Members of the Class.
23. "Unknown Claims" means any Released Claims which any Lead Plaintiff or Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Persons which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Persons, or might have affected his, her or its decision not to object to this settlement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, the Lead Plaintiffs shall expressly and each of the Class Members shall be deemed to have, and by operation of the Judgment shall have, expressly waived the provisions, rights and benefits of California Civil Code §1542, which provides:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.**

The Lead Plaintiffs shall expressly and each of the Class Members shall be deemed to have, and by operation of the Judgment shall have, expressly waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code § 1542. The Lead Plaintiffs and Class Members may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but each Lead Plaintiff shall expressly and each Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Lead Plaintiffs acknowledge, and the Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the settlement of which this release is a part.

### **III. THE LITIGATION**

On and after August 19, 2005, the following actions were filed in the United States District Court for the Northern District of California (the "Court") as securities class actions on behalf of purchasers of Mercury securities during defined periods of time.

CASE NAME	CASE NUMBER
<i>Archdiocese of Milwaukee Supporting Fund, Inc. v. Mercury Interactive Corporation, et al.</i>	<i>C 05-3395 JF</i>
<i>Johnson v. Mercury Interactive Corporation et al.</i>	<i>C 05-3864 JF</i>
<i>Munao v. Mercury Interactive Corporation et al.</i>	<i>C 05-4031 JF</i>
<i>Singhal v. Mercury Interactive Corporation et al.</i>	<i>C 05-4036 JF</i>
<i>Public Employees' Retirement System of Mississippi v. Mercury Interactive Corporation et al.</i>	<i>C 05-5157 JF</i>

These actions were consolidated under case number 5:05-CV-3395-JF for all purposes by an order filed on or about December 8, 2005. The consolidated actions are referred to herein collectively as the "Litigation." On May 5, 2006, Mercury Pension Fund Group, which is comprised of the Steamship Trade Association/International Longshoreman's Association Pension Fund, the City of Sterling Heights General Employees Retirement System, the City of Dearborn Heights Police and Fire Retirement System, and the Charter Township of Clinton Police and Fire Pension System, was appointed as Lead Plaintiffs.

On or about September 8, 2006, Lead Plaintiffs, individually and on behalf of all other persons and entities similarly situated, filed and served a Consolidated Class Action Complaint (the "Complaint") against Mercury, the Individual Defendants and PwC. The Complaint alleges violations of Section 10(b) of the Exchange Act and Rule 10b-5 against Mercury and the Individual Defendants, violation of Section 20(a) of the Exchange Act against the Individual Defendants, and violations of Section 10(b) and Rule 10b-5 against PwC.

On November 7, 2006, seven separate motions to dismiss the Complaint were filed by: (1) PwC; (2) Abrams; (3) Skaer; (4) Smith; (5) Mercury; (6) Landan; and (7) Kohavi, Shamir and Yaron. Defendants also joined in various portions of each other's motions. Lead Plaintiff filed oppositions.

On July 30, 2007, the Court granted the motions to dismiss with leave to amend. Lead Plaintiffs have not yet filed an amended complaint. With respect to Part III(1)(b)(i) of the Court's July 30, 2007 order, which held that "the class should not include individuals or entities that purchased Mercury stock prior to September 8, 2001" and dismissed the claims asserted in the Complaint on behalf of purchasers during the period October 17, 2000 through September 7, 2001 as barred by the statute of limitations, Lead Plaintiffs and Plaintiffs' Lead Counsel have determined, after research and investigation, that the Complaint cannot be amended to avoid the statute of limitations as applied by the Court with respect to claims of purchasers before September 8, 2001.

### **IV. THE LEAD PLAINTIFFS' CLAIMS AND BENEFITS OF SETTLEMENT**

The Lead Plaintiffs believe that the claims asserted in the Litigation have merit and that the evidence developed to date supports the claims. However, Plaintiffs' Lead Counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Litigation

against the Defendants through trial and through appeals. Plaintiffs' Lead Counsel also has taken into account the uncertain outcome and the risk of any litigation, especially in complex actions such as the Litigation, as well as the difficulties and delays inherent in such litigation. Plaintiffs' Lead Counsel also is mindful of the inherent problems of proof under and possible defenses to the securities law violations asserted in the Litigation. Plaintiffs' Lead Counsel believes that the settlement set forth in the Stipulation confers substantial benefits upon the Class. Based on their evaluation, Plaintiffs' Lead Counsel has determined that the settlement set forth in the Stipulation is in the best interests of the Lead Plaintiffs and the Class.

#### **V. DEFENDANTS' STATEMENT AND DENIALS OF WRONGDOING AND LIABILITY**

The Defendants have denied and continue to deny each and all of the claims alleged by the Lead Plaintiffs in the Litigation. The Defendants expressly have denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Litigation. The Defendants also have denied and continue to deny, *inter alia*, the allegations that the Lead Plaintiffs or the Class have suffered damage, that the price of Mercury common stock was artificially inflated by reasons of alleged misrepresentations, non-disclosures or otherwise, or that the Lead Plaintiffs or the Class were harmed by the conduct alleged in the Complaint and Defendants believe that the evidence developed to date supports their positions.

Nonetheless, the Defendants have concluded that further conduct of the Litigation would be protracted and expensive, and that it is desirable that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in the Stipulation. The Defendants also have taken into account the uncertainty and risks inherent in any litigation, especially in complex cases like the Litigation. The Defendants have, therefore, determined that it is desirable and beneficial to them that the Litigation be settled in the manner and upon the terms and conditions set forth in the Stipulation.

#### **VI. TERMS OF THE PROPOSED SETTLEMENT**

Mercury, on behalf of Defendants, has paid or caused to be paid into an escrow account, pursuant to the terms of the Stipulation dated as of October 31, 2007, cash in the amount of \$117,500,000 which has been earning and will continue to earn interest for the benefit of the Class. In exchange for such payment, the Released Claims will be released, discharged and dismissed with prejudice as against each of the Released Persons.

A portion of the settlement proceeds will be used for certain administrative expenses, including costs of printing and mailing this Notice, the cost of publishing a newspaper notice, payment of any taxes assessed against the Settlement Fund and costs associated with the processing of claims submitted. In addition, as explained below, a portion of the Settlement Fund may be awarded by the Court to counsel for plaintiffs as attorneys' fees and for reimbursement of out-of-pocket expenses. The balance of the Settlement Fund (the "Net Settlement Fund") will be distributed according to the Plan of Allocation described below to Class Members who submit valid and timely Proof of Claim forms with required supporting material.

#### **VII. THE RIGHTS OF CLASS MEMBERS**

If you are a Class Member, you may receive the benefit of and you will be bound by the terms of the proposed settlement described in §VI of this Notice, upon approval of it by the Court.

If you are a Class Member, you have the following options:

1. You may file a Proof of Claim as described below. If you choose this option, you will remain a Settlement Class Member, you will share in the proceeds of the proposed settlement if your claim is timely and valid and if the proposed settlement is finally approved by the Court, and you will be bound by the Judgment and release described below.
2. If you do not wish to be included in the Class and you do not wish to participate in the proposed settlement described in this Notice, you may request to be excluded. To do so, you must submit a written request for exclusion ("Request for Exclusion") that must be received no later than September 4, 2008. A Request for Exclusion must: (a) state the name, address, and telephone number of the Person requesting exclusion; (b) identify each of the Person's purchases and sales of Mercury securities made during the Class Period, including the dates of purchase or sale, the number of shares purchased and/or sold, and the price paid or received per share for each such purchase or sale; (c) provide proper evidence of the Person's purchases and sales of Mercury securities during the Class Period; and (d) state that the Person wishes to be excluded from the Class. The Request for Exclusion must be addressed as follows:

*Mercury Interactive Securities Litigation*  
EXCLUSIONS  
c/o Complete Claim Solutions, LLC  
P.O. Box 24715  
West Palm Beach, FL 33416

NO REQUEST FOR EXCLUSION WILL BE CONSIDERED VALID UNLESS ALL OF THE INFORMATION DESCRIBED ABOVE IS INCLUDED IN ANY SUCH REQUEST. If you timely and validly request exclusion from the Class, (a) you will be excluded from the Class, (b) you will not share in the proceeds of the settlement described herein, (c) you will not be bound by any judgment entered in the Litigation, and (d) you will not be precluded, by reason of your decision to request exclusion from the Class, from otherwise prosecuting an individual claim, if timely, against Defendants based on the matters complained of in the Litigation.

3. If you do not request in writing to be excluded from the Class as set forth in ¶2 above, you will be bound by any and all determinations or judgments in the Litigation in connection with the settlement entered into or approved by the Court, whether favorable or unfavorable to the Class, and you shall be deemed to have, and by operation of the Judgment shall have fully released all of the Released Claims against the Released Persons, whether or not you submit a valid Proof of Claim.
4. You may object to the Settlement and/or the application of Plaintiffs' Lead Counsel for an award of attorneys' fees and reimbursement of expenses in the manner set forth below. The filing of a Proof of Claim by a Class Member does not preclude a Class Member from objecting to the Settlement. However, if your objection is rejected you will be bound by the Settlement and the Judgment just as if you had not objected.

5. You may do nothing at all. If you choose this option, you will not share in the proceeds of the settlement, but you will be bound by any Judgment entered by the Court, and you shall be deemed to have, and by operation of the Judgment shall have fully released all of the Released Claims against the Released Persons.

If you are a Class Member, you may, but are not required to, enter an appearance through counsel of your own choosing at your own expense. If you do not do so, you will be represented by Plaintiffs' Lead Counsel: Labaton Sucharow LLP and Glancy, Binkow & Goldberg LLP.

### VIII. PLAN OF ALLOCATION

The Net Settlement Fund will be distributed to Class Members who submit valid, timely Proof of Claim forms ("Authorized Claimants") under the Plan of Allocation described below. Other than for the set aside funds, as described below, the Plan of Allocation provides that you will be eligible to participate in the distribution of the Net Settlement Fund only if you have a net loss on all transactions in Mercury securities during the Class Period.

For purposes of determining the amount an Authorized Claimant may recover under the Plan of Allocation, Lead Counsel have consulted with their damages consultant.

To the extent there are sufficient funds in the Net Settlement Fund, each Authorized Claimant will receive an amount equal to the Authorized Claimant's claim, as defined below. If, however, the amount in the Net Settlement Fund is not sufficient to permit payment of the total claim of each Authorized Claimant, then each Authorized Claimant shall be paid the percentage of the Net Settlement Fund that each Authorized Claimant's claim bears to the total of the claims of all Authorized Claimants. Payment in this manner shall be deemed conclusive against all Authorized Claimants.

A claim will be calculated by security as described below.

#### **COMMON STOCK**

For Class Members who conducted multiple transactions in Mercury publicly traded common stock during the Class Period,<sup>1</sup> the earliest subsequent sale will be matched first against those shares in the Claimant's opening position on the first day of the Settlement Class Period, and then matched chronologically thereafter against each purchase made during the Class Period ("FIFO").

This Plan of Allocation is based on the daily per share amounts of artificial inflation present in Mercury's stock price set forth in Table A and shall be calculated as follows:

- I. For shares of Mercury common stock ***purchased or otherwise acquired on or after September 8, 2001 through November 1, 2005*** and:
  - (a) sold on or before October 4, 2005, the claim per share is \$0. This determination was made because the purchase and the sale occurred before any adverse information was publicly disclosed. Thus, any losses that Class Members may have suffered with respect to shares of Mercury common stock that were purchased from September 8, 2001 through October 4, 2005, that were sold on or before October 4, 2005, were not related to the alleged misstatements or omissions and are not compensable through an action for violation of the securities laws;
  - (b) sold on or after October 5, 2005 but before the close of business on November 1, 2005, the claim per share is the lesser of:
    - i the purchase price minus the sale price, or
    - ii the Alleged Inflation amount on the date of purchase indicated in Table A minus the Alleged Inflation amount on the date of sale indicated in Table A;
  - (c) sold on or after November 2, 2005 but before the close of business on July 3, 2006, the claim per share is the lesser of:
    - i the purchase price minus the sale price, or
    - ii the Alleged Inflation amount on the date of purchase;
  - (d) still held as of the close of business on July 3, 2006, the claim per share is the lesser of:
    - i the purchase price minus the closing price on July 5, 2006 of \$37.96, or
    - ii the Alleged Inflation amount on the date of purchase indicated in Table A.

TABLE A	
Trade Date	Alleged Inflation
09/07/01 through 10/4/05	\$3.68
10/5/05 through 10/25/05	\$2.06
10/26/05 through 11/1/05	\$3.52
11/2/05 through 9/29/06	\$0.00

- II. For shares of Mercury common stock ***purchased from November 2, 2005 through July 3, 2006, and held until after July 3, 2006***, Authorized Claimants will share equally in the \$7,699,108 equity set aside fund on the basis of claims filed.

#### **DEBT SECURITIES**

For Class Members who conducted multiple transactions in Mercury publicly traded debt securities during the Settlement Class Period, the earliest subsequent sale will be matched first against those securities in the Claimant's opening position on the first day of the Settlement Class Period, and then matched chronologically thereafter against each purchase made during the Settlement Class Period (FIFO). Mercury had two publicly traded debt securities traded during the Settlement Class Period: a 4.75% Convertible Subordinated Notes Due July 1, 2007 for a total

<sup>1</sup> Publicly traded common stock includes Mercury stock traded on all foreign exchanges. Transactions for stock will be matched to other transactions on the same exchanges.

principal amount of \$500 million ("2007 Notes"), and Zero Coupon Senior Convertible Notes Due May 1, 2008 for a total principal amount of \$500 million ("2008 Notes"), (collectively, the "Notes").

This allocation is based on the daily per share amounts of artificial inflation present in Mercury's debt securities and shall be calculated as follows:

- III. For Mercury debt securities ***purchased from September 8, 2001 through November 1, 2005***, and:
- (a) sold on or before November 1, 2005, the claim per bond is \$0.00. This determination was made because the purchase and the sale occurred before any negative price reaction to adverse information that was publicly disclosed. Thus, any losses that Class Members may have suffered with respect to shares of Mercury debt securities that were purchased from September 8, 2001 through and including November 1, 2005, that were sold on or before November 1, 2005, were not related to the alleged misstatements or omissions and are not compensable through an action for violation of the securities laws.
  - (b) sold on or after November 2, 2005, the claim per bond is the lesser of:
    - i the purchase price minus the sale price, or
    - ii \$15.57 per \$1,000 of face value for the 2007 Note, and \$13.75 per \$1,000 of face value for the 2008 Note.
- IV. For Mercury debt securities ***purchased from November 2, 2005 through July 3, 2006, and held until after July 3, 2006***, Authorized Claimants will share equally in the \$809,981 debt set aside fund, on the basis of claims filed.

#### **OPTIONS**

- V. Call Options
- (a) For call options on Mercury common stock ***purchased from September 8, 2001 through November 1, 2005***, and;
    - i ***open*** at the close of business on either October 4, 2005 or November 1, 2005, the claim per call option is the difference between the price paid for the call option less the proceeds received upon the settlement of the call option contract;
    - ii ***not open*** at the close of business on either October 4, 2005 or November 1, 2005, the claim per call option is \$0.
  - (b) for call options on Mercury common stock written from September 8, 2001 through November 1, 2005, the claim per call option is \$0.
  - (c) for call options on Mercury common stock ***purchased from November 2, 2005 through July 3, 2006, and held until after July 3, 2006***, Authorized Claimants will share equally in the \$481,194 options set aside fund, on the basis of claims filed.
- VI. Put Options
- (a) For put options on Mercury common stock ***written from September 8, 2001 through November 1, 2005***, and;
    - i ***open*** at the close of business on either October 4, 2005 or November 1, 2005, the claim per put option is the difference between the price paid upon settlement of the put option contract less the initial proceeds received upon the sale of the put option contract;
    - ii ***not open*** at the close of business on either October 4, 2005 or November 1, 2005, the claim per put option is \$0.
  - (b) For put options on Mercury common stock ***purchased from September 8, 2001 through November 1, 2005***, the claim per put option is \$0.
  - (c) For put options on Mercury common stock ***written from November 2, 2005 through July 3, 2006, and held until after July 3, 2006***, Authorized Claimants will share equally in the \$481,194 options set aside fund, on the basis of claims filed.

If the option was exercised for Mercury common stock, the amount paid, or proceeds received, upon the settlement of the option contract equals the intrinsic value of the option using Mercury common stock's closing price on the date the option was exercised.

The combined recovery for the call options and the put options shall not exceed 5% of the Settlement Fund.

#### **IX. PARTICIPATION IN THE SETTLEMENT**

**TO PARTICIPATE IN THE DISTRIBUTION OF THE NET SETTLEMENT FUND, YOU MUST TIMELY COMPLETE AND RETURN THE PROOF OF CLAIM AND RELEASE FORM THAT ACCOMPANIES THIS NOTICE.** The Proof of Claim and Release must be postmarked no later than November 29, 2008, and delivered to the Claims Administrator at the address below. Unless the Court orders otherwise, if you do not timely submit a valid Proof of Claim, you will be barred from receiving any payments from the Net Settlement Fund, but will in all other respects be bound by the provisions of the Stipulation and the Judgment.

#### **X. DISMISSAL AND RELEASES**

If the proposed settlement is approved, the Court will enter a Final Judgment and Order of Dismissal with Prejudice ("Judgment"). The Judgment will dismiss the Released Claims with prejudice as to all Released Persons. The Judgment will provide that all Settlement Class Members shall be deemed to have released and forever discharged all Released Claims against all Released Persons and that the Released Persons shall be deemed to have released and discharged all Settlement Class Members and counsel to the Lead Plaintiffs from all claims arising out of the prosecution and settlement of the Litigation or the Released Claims.

#### **XI. APPLICATION FOR FEES AND EXPENSES**

At the Settlement Fairness Hearing, counsel for plaintiffs will request that the Court award attorneys' fees in the amount of 25% (\$29.375 million) of the Settlement Fund, plus reimbursement of the expenses, not to exceed \$975,000, which were incurred in connection with the Litigation, plus interest thereon. Such sums as may be approved by the Court will be paid from the Settlement Fund. Class Members are not personally liable for any such fees or expenses.

To date, Plaintiffs' Lead Counsel have not received any payment for their services in conducting this Litigation on behalf of the Lead Plaintiffs and Members of the Class, nor have counsel been reimbursed for their out-of-pocket expenses. The fee requested by Plaintiffs' Lead Counsel will compensate counsel for their efforts in achieving the Settlement Fund for the benefit of the Class, and for their risk in undertaking this representation on a wholly contingent basis. The fee to be requested is well within (if not below) the range of fees awarded to plaintiffs' counsel under similar circumstances in other litigation of this type.

### **XII. CONDITIONS FOR SETTLEMENT**

The settlement is conditioned upon the occurrence of certain events described in the Stipulation. Those events include, among other things: (1) entry of the Judgment by the Court, as provided for in the Stipulation; and (2) the expiration of the applicable period to file all appeals from the Judgment without the filing of any appeals, or, in the event of any appeal, the entry of an order dismissing the appeal or affirming the appealed Judgment, and the expiration of any time period for further appeal, including a writ of certiorari. If, for any reason, any one of the conditions described in the Stipulation is not met, the Stipulation might be terminated and, if terminated, will become null and void, and the parties to the Stipulation will be restored to their respective positions as of September 30, 2007.

### **XIII. THE RIGHT TO BE HEARD AT THE HEARING**

Any Class Member who timely and validly files a written objection to any aspect of the settlement, the Plan of Allocation, or the application for attorneys' fees and expenses, may appear and be heard at the Settlement Fairness Hearing. Any such Person must submit a written notice of objection, received or postmarked on or before September 4, 2008, to each of the following:

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
280 South First Street  
San Jose, CA 95113

*Co-Lead Counsel for Plaintiffs:*

Labaton Sucharow LLP  
Joel H. Bernstein  
140 Broadway  
New York, NY 10005

Glancy Binkow & Goldberg LLP  
Peter A. Binkow  
1801 Avenue of the Stars, Suite 311  
Los Angeles, CA 90067

*Counsel for Mercury:*

Heller Ehrman LLP  
Sara Brody  
333 Bush Street  
San Francisco, CA 94104-2878  
Tel: 415-772-6000

*Counsel for PricewaterhouseCoopers Inc.:*

Gibson Dunn & Crutcher LLP  
Scott A. Fink  
One Montgomery Street  
San Francisco, CA 94104

The notice of objection must demonstrate the objecting Person's membership in the Class, including the number of Mercury securities purchased and sold during the Class Period, and contain a statement of the reasons for objection. Only Members of the Class who have submitted written notices of objection in this manner will be entitled to be heard at the Settlement Fairness Hearing, unless the Court orders otherwise.

### **XIV. SPECIAL NOTICE TO NOMINEES**

If you hold any Mercury securities purchased during the Class Period as nominee for a beneficial owner, then, within ten (10) days after you receive this Notice, you must either: (1) send a copy of this Notice and the Proof of Claim by first class mail to all such Persons; or (2) provide a list of the names and addresses of such Persons to the Claims Administrator:

*Mercury Interactive Securities Litigation*, Claims Administrator  
c/o Complete Claim Solutions, LLC  
P.O. Box 24715  
West Palm Beach, FL 33416

Toll-Free: 1-888-356-0255 - Email: [Info@MercuryInteractiveSecuritiesSettlement.com](mailto:Info@MercuryInteractiveSecuritiesSettlement.com)

If you choose to mail the Notice and Proof of Claim yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing.

Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for or advancement of reasonable administrative costs actually incurred or expected to be incurred in connection with forwarding the Notice and Proof of Claim and which would not have been incurred but for the obligation to forward the Notice and Proof of Claim, upon submission of appropriate documentation to the Settlement Administrator.

### **XV. EXAMINATION OF PAPERS**

This Notice is a summary and does not describe all of the details of the Stipulation. For full details of the matters discussed in this Notice, you may review the Stipulation filed with the Court, which may be inspected during business hours, at the office of the Clerk of the Court, United States Courthouse, Northern District of California, 280 South First Street, San Jose, California or at [www.MercuryInteractiveSecuritiesSettlement.com](http://www.MercuryInteractiveSecuritiesSettlement.com).

If you have any questions about the settlement of the Litigation, you may contact Plaintiffs' Lead Counsel by writing:

Labaton Sucharow LLP  
Joel H. Bernstein  
140 Broadway  
New York, NY 10005

Glancy Binkow & Goldberg LLP  
Peter A. Binkow  
1801 Avenue of the Stars, Suite 311  
Los Angeles, CA 90067

**DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE REGARDING THIS NOTICE.**

Dated: June 2, 2008

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**QUESTIONS? CALL 1-888-356-0255 OR VISIT: [www.MercuryInteractiveSecuritiesSettlement.com](http://www.MercuryInteractiveSecuritiesSettlement.com)**

MERCURY INTERACTIVE SECURITIES LITIGATION  
CLAIMS ADMINISTRATOR  
C/O COMPLETE CLAIM SOLUTIONS, LLC  
P.O. BOX 24715  
WEST PALM BEACH, FL 33416

**IMPORTANT COURT DOCUMENTS**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

In re MERCURY INTERACTIVE CORP.  
SECURITIES LITIGATION

Master File No. 5:05-CV-3395-JF

This Document Relates To:  
ALL ACTIONS.

CLASS ACTION

PROOF OF CLAIM AND RELEASE

### I. GENERAL INSTRUCTIONS

1. To recover as a Member of the Class based on your claims in the action entitled *In re Mercury Interactive Corp. Sec. Litig.*, Master File No. 5:05-CV-3395-JF (the "Litigation"), you must complete and, on page 6 hereof, sign this Proof of Claim and Release. If you fail to timely file a properly addressed (as set forth in paragraph 3 below) Proof of Claim and Release, your claim may be rejected and you may be precluded from any recovery from the Settlement Fund created in connection with the proposed settlement of the Litigation.
2. Submission of this Proof of Claim and Release, however, does not assure that you will share in the proceeds of settlement in the Litigation.
3. **YOU MUST MAIL YOUR COMPLETED AND SIGNED PROOF OF CLAIM AND RELEASE POSTMARKED NO LATER THAN NOVEMBER 29, 2008, ADDRESSED AS FOLLOWS:**

*Mercury Interactive Securities Litigation*  
Claims Administrator  
c/o Complete Claim Solutions, LLC  
P.O. Box 24715  
West Palm Beach, FL 33416

Toll-Free: 1-888-356-0255 - Email: [Info@MercuryInteractiveSecuritiesSettlement.com](mailto:Info@MercuryInteractiveSecuritiesSettlement.com)

If you are NOT a Member of the Settlement Class (as defined in the "Notice of Pendency and Proposed Settlement of Class Action") DO NOT submit a Proof of Claim and Release form.

4. If you are a Member of the Class, and you do not timely and validly request exclusion, you are bound by the terms of any judgment entered in the Litigation, WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM AND RELEASE.

### II. DEFINITIONS

Terms as defined in the Notice of Pendency and Proposed Settlement of Class Action shall also apply herein.

### III. CLAIMANT IDENTIFICATION SECTION OF FORM

1. If you purchased Mercury Interactive Corporation ("Mercury") common stock, debt securities, other equity securities, or options and held the certificate(s) in your name, you are the beneficial purchaser as well as the record purchaser. If, however, the certificate(s) were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial purchaser and the third party is the record purchaser.
2. Use Part I of this form entitled "Claimant Identification" to identify each purchaser of record ("nominee"), if different from the beneficial purchaser of Mercury common stock, debt securities, other equity securities, or options which forms the basis of this claim. **THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL PURCHASER OR PURCHASERS, OR THE LEGAL REPRESENTATIVE OF SUCH PURCHASER OR PURCHASERS, OF THE MERCURY SECURITIES UPON WHICH THIS CLAIM IS BASED.**
3. All joint purchasers must sign this claim. Executors, administrators, guardians, conservators and trustees must complete and sign this claim on behalf of Persons represented by them and proof of their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or taxpayer identification) number and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

#### IV. CLAIM FORM

1. Use Part II of this form entitled "Schedule of Transactions in Mercury Common Stock," "Schedule of Transactions in Mercury Bonds" and/or "Schedule of Transactions in Mercury Call or Put Options" to supply all required details of your transaction(s) in Mercury common stock, debt securities, other equity securities, or options. If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.
  2. On the schedules, provide all of the requested information with respect to **all** of your purchases and **all** of your sales of Mercury securities which took place at any time beginning September 8, 2001 through July 3, 2006, inclusive (the "Class Period"). Failure to report all such transactions may result in the rejection of your claim.
  3. List each transaction in the Class Period separately and in chronological order, by trade date, beginning with the earliest. You must accurately provide the month, day and year of each transaction you list.
  4. The date of covering a "short sale" is deemed to be the date of purchase of Mercury securities. The date of a "short sale" is deemed to be the date of sale of Mercury securities.
  5. Copies of broker confirmations or other documentation of your transactions in Mercury securities must be attached to your claim. **Do not send originals.** Failure to provide this documentation could delay verification of your claim or result in rejection of your claim. Certain Claimants with a large number of transactions, such as institutional holders, may ask (or be asked) to submit claim information in an electronic format. The Claims Administrator will decide when electronic filing of information will be authorized. In these cases, all Claimants **must** still submit a manually signed paper Proof of Claim form. The Proof of Claim form must list all the data and transactions, whether or not they are also submitted electronically. Only electronic files authorized by the Claims Administrator will be considered properly submitted. The Claims Administrator will issue a written acknowledgement of receipt and acceptance of electronically submitted data to the Claimant.
- 

#### Reminder Checklist:

1. Please sign the release and declaration on page 6 of the claim form.
2. Remember to attach supporting documentation.
3. Do not send original or copies of stock certificates.
4. Keep a copy of your claim form for your records.
5. If you desire an acknowledgment of receipt of your claim form, please send it Certified Mail, Return Receipt Requested.
6. If you move, please send us your new address.



DEADLINE FOR  
SUBMISSION:  
POSTMARKED NO  
LATER THAN  
NOVEMBER 29, 2008

IN RE MERCURY INTERACTIVE CORP.  
SECURITIES LITIGATION  
MASTER FILE NO. 5:05-CV-3395-JF

**PROOF OF CLAIM AND RELEASE**

**Please Type or Print**

OFFICIAL USE ONLY

**PART I. CLAIMANT IDENTIFICATION** - Complete either Section A or B and then proceed to Section C.

A. Complete this Section ONLY if the Beneficial Owner is an individual, joint, or IRA account. Proceed to Section C.

Last Name (Beneficial Owner)	First Name (Beneficial Owner)
<input type="text"/>	<input type="text"/>
Last Name (Joint Beneficial Owner, if applicable)	First Name (Joint Beneficial Owner, if applicable)
<input type="text"/>	<input type="text"/>
Name of IRA Custodian, if applicable	
<input type="text"/>	
If this account is an IRA, and if you would like any check that you MAY be eligible to receive made payable to the IRA account, please include "IRA" in the "Last Name" box above (e.g. Jones IRA).	

B. Complete this Section ONLY if the Beneficial Owner is an Entity, such as a corporation, trust, estate, etc. Proceed to Section C.

Name of Entity - Beneficial Owner (See Section III for definition of Beneficial Owner)
<input type="text"/>
Name of Representative, if applicable (Executor, administrator, trustee, c/o, etc.)
<input type="text"/>

C. Mailing Information:

Number and Street or P.O. Box		
<input type="text"/>		
City	State	Zip Code
<input type="text"/>	<input type="text"/>	<input type="text"/>
Foreign Province and Postal Code	Foreign Country	
<input type="text"/>	<input type="text"/>	
Telephone Number (Day, including area and/or country code)	Telephone Number (Evening, including area and/or country code)	
<input type="text"/>	<input type="text"/>	
Email		
<input type="text"/>		
Enter Taxpayer Identification Number below for the Beneficial Owner(s). For most individuals, this is your Social Security Number. If you fail to provide this information, your claim may be rejected.		
Social Security No. (for individuals)	or Taxpayer Identification No. (for estates, trusts, corporations, etc.)	
<input type="text"/>	<input type="text"/>	





**PART II.**

**SCHEDULE OF TRANSACTIONS IN MERCURY COMMON STOCK**

**A. BEGINNING BALANCE** - State the total number of shares of Mercury common stock owned at the close of trading on September 7, 2001, long or short (*must be documented*):

Number of shares

**B. PURCHASES** - Separately list each and every purchase of Mercury common stock during the period September 8, 2001 through July 3, 2006, inclusive, and provide the following information (*must be documented*):

Trade Date (List Chronologically) (Month/Day/Year)	Number of Shares of Common Stock Purchased	Purchase Price Per Share of Common Stock	Amount Paid
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**C. SALES** - Separately list each and every sale of Mercury common stock during the period September 8, 2001 through July 3, 2006, inclusive, and provide the following information (*must be documented*):

Trade Date (List Chronologically) (Month/Day/Year)	Number of Shares of Common Stock Sold	Sale Price Per Share of Common Stock	Amount Received
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**D. ENDING BALANCE** - State the total number of shares of Mercury common stock you still owned at the close of trading on July 3, 2006 long or short (*must be documented*):

Number of shares



**SCHEDULE OF TRANSACTIONS IN MERCURY BONDS**

**A. BEGINNING BALANCE** - At the close of trading on September 7, 2001, I owned the following Mercury Bonds in the principal amounts indicated (If none, write "zero" or "0"; if other than zero, must be documented, refer to paragraph 5. on Instructions page 2.):

<u>Bond Code</u>	<u>Description of Bond</u>	<u>Principal Amount (Face Value or Par Value)</u>
2007 Note:	4.75% Convertible Subordinated Notes Due July 1, 2007	<input type="text"/>
2008 Note:	Zero Coupon Senior Convertible Notes Due May 1, 2008	<input type="text"/>

**B. PURCHASES:** For each Mercury Bond, list the total Principal Amount (Face Value) purchased between September 8, 2001 and July 3, 2006: (Bond Code: Refer to Section A above.)

<u>Bond Code</u>	<u>Date of Purchase (List Chronologically) (Month/Day/Year)</u>	<u>Principal Amount (Face Value or Par Value)</u>	<u>Total Amount Paid</u>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**C. SALES:** For each Mercury Bond, list the total Principal Amount (Face Value) sold between September 8, 2001 and July 3, 2006: (Bond Code: Refer to Section A above.)

<u>Bond Code</u>	<u>Date of Sale (List Chronologically) (Month/Day/Year)</u>	<u>Principal Amount (Face Value or Par Value)</u>	<u>Total Amount Received</u>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**D. ENDING BALANCE** - At the close of trading on July 3, 2006, I owned the following Mercury Bonds in the principal amounts indicated (If none, write "zero" or "0"; if other than zero, must be documented, refer to paragraph 5 on Instructions page 2.):

<u>Bond Code</u>	<u>Description of Bond</u>	<u>Principal Amount (Face Value or Par Value)</u>
2007 Note:	4.75% Convertible Subordinated Notes Due July 1, 2007	<input type="text"/>
2008 Note:	Zero Coupon Senior Convertible Notes Due May 1, 2008	<input type="text"/>

IF YOU NEED ADDITIONAL SPACE TO LIST YOUR TRANSACTIONS, PHOTOCOPY THIS PAGE.



**SCHEDULE OF TRANSACTIONS IN MERCURY CALL OR PUT OPTIONS**

**A. BEGINNING HOLDINGS:**

For Mercury call or put options, list (a) the number of contracts purchased; (b) the expiration date (month/year); and (c) the exercise/ strike price that you owned at the close of trading on September 7, 2001, long or short (*must be documented*):

Type of Contract	Number of Contracts	Expiration Date Month/Year	Exercise/Strike Price
Call	<input type="text"/>	<input type="text"/>	<input type="text"/>
Put	<input type="text"/>	<input type="text"/>	<input type="text"/>

**B. PURCHASES AND SALES:**

List each individual transaction of Mercury call and put options from September 8, 2001 through July 3, 2006, inclusive, as follows: (a) the trade date/date written; (b) the type of transaction by letter code; (c) the number of contracts; (d) the price per contract; (e) the date of expiration or strike date; (f) the exercise/assign/strike price; (h) the transaction amount/amount paid; (i) an indication if the option was assigned, exercised, expired or closed out; and (j) Action Date (*must be documented*). If you require additional space, attach extra sheets in the same format as below.

**CALLS**

Trade Date	Transaction Type Purchase (P) Sell (S)	Number of Contracts	Price Per Contract	Expiration Month/Year	Exercise/Strike Price	Amount Paid	Exercise (R) Expired (P) Closed Out (O)	Action Date**
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

\*\*Action Date: Date call option exercised, expired or closed out.

**PUTS**

Date Put Written	Number of Contracts Written	Price Per Contract	Strike Date Month/Year	Assign/Strike Price	Total Transaction Amount	Assigned (A) Expired (P) Closed Out (O)	Action Date**
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

\*\*Action Date: Date put option assigned, expired or bought.

**C. ENDING HOLDINGS:**

For Mercury call or put options, list (a) the number of contracts purchased; (b) the expiration date (month/year); and (c) the exercise/ strike price that you still owned at the close of trading on July 3, 2006, long or short (*must be documented*):

Type of Contract	Number of Contracts	Expiration Date Month/Year	Exercise/Strike Price
Call	<input type="text"/>	<input type="text"/>	<input type="text"/>
Put	<input type="text"/>	<input type="text"/>	<input type="text"/>

If additional space is needed, attach separate, numbered sheets, giving all required information, substantially in the same format, and print your name and Social Security or Taxpayer Identification number at the top of each sheet.

**YOU MUST ALSO READ THE RELEASE ON PAGE 5 AND SIGN THE PROOF OF CLAIM ON PAGE 6.**

**IMPORTANT: FAILURE TO ATTACH SUPPORTING DOCUMENTATION MAY PREVENT YOU FROM RECEIVING ANY DISTRIBUTION UNDER THE SETTLEMENT.**



## V. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS

I submit this Proof of Claim and Release under the terms of the Stipulation of Settlement described in the Notice. I also submit to the jurisdiction of the United States District Court for the Northern District of California, with respect to my claim as a Class Member and for purposes of enforcing the release set forth herein. I further acknowledge that I am bound by and subject to the terms of any Judgment that may be entered in the Litigation. I agree to furnish additional information such as transactions in other Mercury securities (including common stock, options, other equity securities, and debt securities) to the Claims Administrator to support this claim if required to do so. I have not submitted any other claim covering the same purchases or sales of Mercury securities during the Class Period and know of no other Person having done so on my behalf.

## VI. RELEASE

1. I hereby acknowledge full and complete satisfaction of, and do hereby fully, finally and forever settle, release and discharge from the Released Claims each and all of the Released Persons and each and all of their "Related Parties," defined as each of a Defendant's past or present directors, officers, employees, partners, insurers, co-insurers, reinsurers, controlling shareholders, attorneys, accountants or auditors, personal or legal representatives, predecessors, successors, parents, subsidiaries, divisions, joint ventures, assigns, spouses, heirs, related or affiliated entities, any entity in which a Defendant has a controlling interest, any members of any Individual Defendant's immediate family, or any trust of which any Individual Defendant is the settlor or which is for the benefit of any Individual Defendant's family.
2. "Released Claims" shall collectively mean any and all claims arising from the purchase (as the term is used in the Securities Exchange Act to include contract to buy, purchase, or otherwise acquire) or sale of Mercury securities and relating in any way to Mercury's financial statements, the sale of securities by any Mercury officer, director or employee, or any other acts, facts, statements or omissions during the Class Period that are alleged or could have been alleged in the Litigation. "Released Claims" includes "Unknown Claims" as defined in paragraph 3 hereof.
3. "Unknown Claims" means any Released Claims which any Lead Plaintiff or Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Persons which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Persons, or might have affected his, her or its decision not to object to this settlement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, the Lead Plaintiffs shall expressly and each of the Class Members shall be deemed to have, and by operation of the Judgment shall have, expressly waived the provisions, rights and benefits of California Civil Code §1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

The Lead Plaintiffs shall expressly and each of the Class Members shall be deemed to have, and by operation of the Judgment shall have, expressly waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code §1542. The Lead Plaintiffs and Class Members may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but each Lead Plaintiff shall expressly and each Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Lead Plaintiffs acknowledge, and the Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the settlement of which this release is a part.

4. This release shall only be in force when the Court approves the Stipulation of Settlement and the Stipulation becomes effective on the Effective Date (as defined in the Stipulation).
5. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.
6. I (We) hereby warrant and represent that I (we) have included information about all of my (our) transactions in Mercury common stock, debt securities, other equity securities, or options which occurred during the Class Period as well as the number of shares of Mercury securities held by me (us) at the opening of trading on September 8, 2001, and at the close of trading on July 3, 2006.



**VII. CERTIFICATION**

UNDER THE PENALTY OF PERJURY, I (WE) CERTIFY THAT:

1. The number shown on this form is my correct TIN; and
2. I (We) certify that I am (we are) NOT subject to backup withholding under the provisions of Section 3406 (a)(1)(C) of the Internal Revenue Code because: (a) I am (We are) exempt from backup withholding; or (b) I (We) have not been notified by the Internal Revenue Service that I am (we are) subject to backup withholding as a result of a failure to report all interest or dividends; or (c) the Internal Revenue Service has notified me (us) that I am (we are) no longer subject to backup withholding.

NOTE: If you have been notified by the Internal Revenue Service that you are subject to backup withholding, you must cross out Item 2 above.

The Internal Revenue Service does not require your consent to any provision of this document other than the certification required to avoid backup withholding.

I declare under penalty of perjury under the laws of the United States of America that the foregoing information supplied by the undersigned is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ (Month) \_\_\_\_\_ (Year) in \_\_\_\_\_ (City, State / Country).

Signature of Claimant (If this claim is being made on behalf of Joint Claimants, then each must sign)

Signature of Claimant

Signature of Joint Claimant (if any)

Type or Print Your Name Here

Type or Print Joint Claimant Name Here

Signature of person signing on behalf of Claimant

Type/print name of person signing on behalf of Claimant

(Capacity of person(s) signing, e.g., Beneficial Purchaser, Executor or Administrator)

For additional information, contact the Claims Administrator at:

*Mercury Interactive Securities Litigation*  
 c/o Complete Claim Solutions, LLC  
 P.O. Box 24715  
 West Palm Beach, FL 33416  
 Toll-Free: 1-888-356-0255  
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