

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re NORTEL NETWORKS CORP.	:	Civil Action No. 05-MD-1659 (LAP)
SECURITIES LITIGATION	:	
_____	:	<u>CLASS ACTION</u>
	:	
This Document Relates To:	:	
	:	
ALL ACTIONS.	:	
_____	x	

**ORDER AND FINAL JUDGMENT**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2006, a hearing having been held before this Court to determine: (1) whether the terms and conditions of the Stipulation and Agreement of Settlement dated \_\_\_\_\_, 2006 (the "Stipulation") are fair, reasonable and adequate for the settlement of all claims asserted by the U.S. Global Class against the Defendants in the Complaint now pending in this Court under the above caption, including the release of the Defendants and the Released Parties, and should be approved; (2) whether judgment should be entered dismissing the Complaint on the merits and with prejudice in favor of the Defendants and as against all persons or entities who are members of the U.S. Global Class herein who have not requested exclusion therefrom; (3) whether to approve the Plan of Allocation as a fair and reasonable method to allocate the settlement proceeds among the members of the U.S. Global Class; and (4) whether and in what amount to award Lead Plaintiffs' Counsel fees and reimbursement of expenses. The Court having considered all matters submitted to it at the hearing and otherwise; and it appearing that a notice of the hearing substantially in the form approved by the Court (including French language versions sent to addresses in Quebec, Canada)

was mailed to all persons or entities reasonably identifiable, who purchased common stock of Nortel Networks Corporation (“Nortel”), or call options on Nortel common stock, or wrote (sold) put options on Nortel common stock during the period between April 24, 2003 through April 27, 2004, inclusive (the “Class Period”), except those persons or entities excluded from the definition of the U.S. Global Class, as shown by the records of Nortel’s transfer agent, at the respective addresses set forth in such records, and that a summary notice of the hearing substantially in the form approved by the Court was published pursuant to the Notice Plan as set forth in the Affidavit of \_\_\_\_\_, and the Court having considered and determined the fairness and reasonableness of the award of attorneys’ fees and expenses requested by Lead Plaintiffs’ Counsel; and all capitalized terms used herein having the meanings as set forth and defined in the Stipulation.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Court has jurisdiction over the subject matter of the Action, the Lead Plaintiffs, all U.S. Global Class Members, and the Defendants.
2. The Court finds that the prerequisites for a class action under (United States) Federal Rules of Civil Procedure 23(a) and (b)(3) have been satisfied in that: (a) the number of U.S. Global Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the U.S. Global Class; (c) the claims of the U.S. Global Class Representatives are typical of the claims of the U.S. Global Class they seek to represent; (d) the Class Representatives have and will fairly and adequately represent the interests of the U.S. Global Class; (e) the questions of law and fact common to the members of the U.S. Global Class predominate over any questions affecting only individual members of the

U.S. Global Class; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

3. Pursuant to Rule 23 of the (United States) Federal Rules of Civil Procedure this Court hereby finally certifies this action as a class action on behalf of all persons and entities who purchased Nortel common stock, or purchased call options on Nortel common stock, or wrote (sold) put options on Nortel common stock (collectively, "Nortel Securities") during the period between April 24, 2003 through April 27, 2004, inclusive, and who suffered damages thereby, including, but not limited to, those persons or entities who traded in Nortel Securities on the New York Stock Exchange and/or the Toronto Stock Exchange. Excluded from the U.S. Global Class are (i) the Defendants; (ii) James Kinney (Finance Chief for Nortel's Wireless Networks Division, Richardson, Texas), Ken Taylor (Vice President for Nortel's Enterprise Networks Division, Raleigh, North Carolina), Craig Johnson (Finance Director for Nortel's Wireline Networks Division, Richardson, Texas), Doug Hamilton (Finance Director for Nortel's Optical Networks Group, Montreal, Quebec), Michael Gasnier (Vice President of Finance for Europe), Robert Ferguson (Vice President of Finance for China), and William Bowrey (Controller for Asia); (iii) members of the immediate family of each of the Defendants and/or any of the individuals referenced above; (iv) any entity in which any Defendant and/or any of the individuals referenced above has a controlling interest; (v) any parent, subsidiary or affiliate of Nortel; (vi) any person who was an officer or director of Nortel or any of its subsidiaries or affiliates during the Class Period; and (vii) the legal representatives, heirs, predecessors, successors or assigns of any of the excluded persons or entities. Also excluded from the U.S. Global Class for this Action are the persons and/or entities who have requested exclusion from the U.S. Global Class by filing a request for exclusion as listed on Exhibit 1 annexed hereto.

4. Notice of the pendency of this Action as a class action and of the proposed Settlement was given to all U.S. Global Class Members who could be identified with reasonable effort. The form and method of notifying the U.S. Global Class of the pendency of the action as a class action and of the terms and conditions of the proposed Settlement met the requirements of Rule 23 of the (United States) Federal Rules of Civil Procedure, Section 21D(a)(7) of the (United States) Securities Exchange Act of 1934, 15 U.S.C. 78u-4(a)(7), as amended, including by the (United States) Private Securities Litigation Reform Act of 1995 (the “PSLRA”), Rule 23.1 of the Local Rules of the Southern and Eastern Districts of New York, due process, and any other applicable law, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

5. The Settlement is approved as fair, reasonable and adequate. Subject to the terms and provisions of the Stipulation and the conditions therein being satisfied, the parties are directed to consummate the Settlement.

6. The Gross Settlement Shares are to be issued solely in exchange for bona fide outstanding claims. All parties to whom it is proposed to issue such securities have had the right to appear at the hearing on the fairness of the Settlement and adequate notice has been given to all such parties. The Court recognizes and acknowledges that one consequence of its approval of the Settlement at the Settlement Fairness Hearing is that, pursuant to Section 3(a)(10) of the (United States) Securities Act of 1933, as amended, 15 U.S.C. § 77c(a)(1), the Gross Settlement Shares may be distributed to Class Members (and to Plaintiffs’ Counsel as may be awarded by the respective Courts for attorneys’ fees) without registration and compliance with the prospectus delivery requirements of the U.S. securities laws as the Gross Settlement Shares will be exempt from registration under the (United States) Securities Act of 1933, 15 U.S.C. § 77c(a)(1), as

amended, pursuant to Section 3(a)(10) thereunder. The Court also acknowledges that Nortel will rely on such 3(a)(10) exemption (and Nortel will not register the Gross Settlement Shares under the (United States) Securities Act of 1933) based on this Court's approval of the fairness of the Settlement.

7. The Complaint, which the Court finds was filed on a good faith basis in accordance with the Private Securities Litigation Reform Act and Rule 11 of the (United States) Federal Rules of Civil Procedure based upon all publicly available information, is hereby dismissed in its entirety with prejudice and without costs, except as provided in the Stipulation, as against the Defendants.

8. Lead Plaintiffs and each U.S. Global Class Member who has not validly opted out, whether or not such U.S. Global Class Member executes and delivers a Proof of Claim, on behalf of themselves, their heirs, executors, administrators, successors and assigns, are hereby permanently barred and enjoined from instituting, commencing or prosecuting any and all claims, debts, demands, rights or causes of action or liabilities whatsoever (including, but not limited to, any claims for damages, interest, attorneys' fees, expert or consulting fees, and any other costs, expenses or liability whatsoever), whether based on federal, state, provincial, local, statutory or common law or any other law, rule or regulation, whether fixed or contingent, accrued or un-accrued, liquidated or un-liquidated, at law or in equity, matured or un-matured, whether class or individual in nature, including both known claims and Unknown Claims, (i) that have been asserted in this Action by the U.S. Global Class Members or any of them against any of the Released Parties, or (ii) that could have been asserted in any forum by the U.S. Global Class Members or any of them against any of the Released Parties which arise out of or are based upon the allegations, transactions, facts, matters or occurrences, representations or omissions

involved, set forth, or referred to in the Complaint and which relate to the purchase of Nortel common stock or call options on Nortel common stock or the sale of put options on Nortel common stock during the Class Period, or (iii) any oppression or other claims under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended, that arise out of or are based upon the allegations, transactions, facts, matters or occurrences, representations or omissions during the Class Period, set forth or referred to in the Nortel II Actions, (the “Settled Claims”), against any and all of the Defendants, their past or present subsidiaries, parents, principals, affiliates, general or limited partners or partnerships, successors and predecessors, heirs, assigns, officers, directors, agents, employees, attorneys, advisors, investment advisors, investment bankers, underwriters, insurers, co-insurers, re-insurers, attorneys, accountants, auditors, consultants, administrators, executors, trustees, personal representatives, immediate family members and any person, firm, trust, partnership, corporation, officer, director or other individual or entity in which any Defendant has a controlling interest or which is related to or affiliated with any of the Defendants, and the legal representatives, heirs, executors, administrators, trustees, successors in interest or assigns of the Defendants (the “Released Parties”); *provided, however*, that “Settled Claims” does not mean or include (a) claims, if any, against the Released Parties arising under the (United States) Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001, *et seq.* (“ERISA”) which are not common to all U.S. Global Class Members and which are the subject of an action pending before the Judicial Panel on Multidistrict Litigation, denominated *In re Nortel Networks Securities and “ERISA” Litigation*, MDL Docket No. 1537; (b) the action in *Rohac, et al. v. Nortel Networks Corporation, et al.*, Court File No. 04-CV-3268 (Ont. Sup. Ct. J.); and (c) the application brought in *Indiana Electrical Workers Pension Trust Fund IBEW and Laborers Local 100 and 397 Pension Fund v. Nortel Networks Corporation*,

Ontario Superior Court of Justice, Court File No. 49059, for leave pursuant to the Canada Business Corporations Act to commence a representative action in the name of and on behalf of Nortel against certain of the Released Parties (the “Derivative Application”). Each U.S. Global Class Member who has not validly opted out has fully, finally, and forever released, relinquished, and discharged all Settled Claims against the Released Parties and each such U.S. Global Class Member is bound by this judgment, including without limitations, the release of claims as set forth in the Stipulation. The Settled Claims are hereby compromised, settled, released, discharged and dismissed as against the Released Parties on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

9. Defendants Nortel, John Edward Cleghorn, Robert Ellis Brown, Robert Alexander Ingram, Guylaine Saucier, and Sherwood Hubbard Smith, Jr., and the successors and assigns of any of them, are hereby permanently barred and enjoined from instituting, commencing or prosecuting any and all claims, rights or causes of action or liabilities whatsoever, whether based on federal, state, provincial, local, statutory or common law or any other law, rule or regulation, including both known claims and unknown claims, that have been or could have been asserted in the Action or any forum by the Defendants or any of them or the successors and assigns of any of them against any of the Lead Plaintiffs, U.S. Global Class Members or their attorneys, which arise out of or relate in any way to the institution, prosecution, or settlement of the Action (except for claims to enforce the Settlement, confidentiality obligations or in respect of the Derivative Application) (the “Settled Defendants’ Claims”). The Settled Defendants’ Claims of all the Released Parties are hereby compromised, settled, released, discharged and dismissed on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment. In the event that any of the Released Parties asserts against the Lead Plaintiff, any

U.S. Global Class Member or their respective counsel, any claim that is a Settled Defendants' Claim, then Lead Plaintiff, such U.S. Global Class Member or counsel shall be entitled to use and assert such factual matters included within the Settled Claims only against such Released Party in defense of such claim but not for the purposes of asserting any claim against any Released Party.

10. Pursuant to the PSLRA, the Released Parties are hereby discharged from all claims for contribution by any person or entity other than by Released Parties, whether arising under state, provincial, federal or common law, based upon, arising out of, relating to, or in connection with the Settled Claims of the U.S. Global Class or any U.S. Global Class Member. Accordingly, to the full extent provided by the PSLRA, the Court hereby bars all claims for contribution: (a) against the Released Parties by any person or entity other than the Released Parties; and (b) by the Released Parties against any person or entity other than the Released Parties.

11. Neither this Order and Final Judgment, the Stipulation, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any of the documents or statements referred to therein shall be:

(a) offered or received against the Defendants as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any of the Defendants with respect to the truth of any fact alleged by any of the plaintiffs or the validity of any claim that has been or could have been asserted in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action or in any litigation, or of any liability, negligence, fault, or wrongdoing of the Defendants;



(b) offered or received against the Defendants as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by any Defendant;

(c) offered or received against the Defendants as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any of the Defendants, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; provided, however, that Defendants may refer to it to effectuate the liability protection granted them hereunder;

(d) construed against the Defendants as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; or

(e) construed as or received in evidence as an admission, concession or presumption against Lead Plaintiffs or any of the U.S. Global Class Members that any of their claims are without merit, or that any defenses asserted by the Defendants have any merit, or that damages recoverable under the Complaint would not have exceeded the Gross Settlement Fund.

12. The Plan of Allocation is approved as fair and reasonable, and Plaintiffs' Counsel and the Claims Administrator are directed to administer the Stipulation in accordance with its terms and provisions.

13. The Court finds that all parties and their counsel have complied with each requirement of Rule 11 of the (United States) Federal Rules of Civil Procedure as to all proceedings herein.

14. Lead Plaintiffs' Counsel in this Action are hereby awarded attorneys' fees in the amount of \_\_\_\_\_% of the Gross Cash Settlement Fund (net of litigation expenses awarded in the next sentence), and \_\_\_ % of the Gross Settlement Shares, which amounts the Court finds to be fair and reasonable. Lead Plaintiffs' Counsel are hereby awarded \$\_\_\_\_\_ in reimbursement of expenses, which expenses shall be paid to Plaintiffs' Lead Counsel from the Gross Cash Settlement Fund with interest from the date such Gross Cash Settlement Fund was funded to the date of payment at the same net rate that the Gross Cash Settlement Fund earns. The award of attorneys' fees shall be allocated among plaintiffs' counsel in a fashion which, in the opinion of Plaintiffs' Lead Counsel, fairly compensates such counsel for their respective contributions in the prosecution and settlement of the Action.

15. The fees and expenses of plaintiffs' counsel in the Canadian Actions, as determined by the Canadian Courts shall be paid from the Gross Settlement Fund.

16. Lead Plaintiff Ontario Teachers' Pension Plan Board is hereby awarded \$\_\_\_\_\_, and the Department of the Treasury of the State of New Jersey and its Division of Investment is hereby awarded \$\_\_\_\_\_. Such awards are for reimbursement of their reasonable costs and expenses (including lost wages) directly related to its representation of the U.S. Global Class.

17. In making this award of attorneys' fees and reimbursement of expenses to be paid from the Gross Settlement Fund, the Court has considered and found that:

(a) the Settlement has created a cash fund of \$370,157,428 that is already on deposit earning interest, and will also provide for the benefit of the Class 314,333,875 shares of Nortel common stock;

(b) The Settlement will entitle the Class to receive one-quarter of any actual gross recovery by Nortel in the existing litigation by Nortel against Frank Dunn, Douglas Beatty and Michael Gollogly (including the value of any monetary benefit that Nortel might receive from the defendants by way of forgiveness or cancellation of any monetary debt owed by Nortel to such defendants), excluding attorneys' fees and expenses awarded by the court, if any;

(c) Nortel has agreed to adopt the corporate governance enhancements described in Appendix A to Tab 1 to Exhibit A of the Stipulation;

(d) Over \_\_\_\_\_ copies of the Notice were disseminated to putative Class Members indicating that Lead Plaintiffs' Counsel were moving for attorneys' fees in the amount of up to 10% of the Gross Settlement Fund less litigation expenses awarded by the Court, and for reimbursement of expenses in an amount of approximately \$4.3 million, and [\_\_\_\_\_] objections were filed against the terms of the proposed Settlement or the ceiling on the fees and expenses requested by Lead Plaintiffs' Counsel contained in the Notice;

(e) Lead Plaintiffs' Counsel have conducted the litigation and achieved the Settlement with skill, perseverance and diligent advocacy;

(f) The action involves complex factual and legal issues and was actively prosecuted over 2 years and, in the absence of a settlement, would involve further lengthy proceedings with uncertain resolution of the complex factual and legal issues;

(g) Had Lead Plaintiffs' Counsel not achieved the Settlement there would remain a significant risk that Lead Plaintiffs and the Class may have recovered less or nothing from the Defendants;

(h) Lead Plaintiffs' Counsel have devoted over \_\_\_\_\_ hours, with a lodestar value of \$ \_\_\_\_\_, to achieve the Settlement; and

(i) The amount of attorneys' fees awarded and expenses reimbursed from the Settlement Fund are fair and reasonable and consistent with awards in similar cases.

18. Any appeal or any challenge affecting the approval of (a) the Plan of Allocation submitted by Lead Plaintiffs' Counsel and/or (b) this Court's approval regarding any attorneys' fees and expense application shall in no way disturb or affect the finality of the other provisions of this Final Judgment.

19. Jurisdiction is hereby retained over the parties and the U.S. Global Class Members for all matters relating to this Action, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Order and Final Judgment, and including any application for fees and expenses incurred in connection with administering and distributing the settlement proceeds to the members of the U.S. Global Class.

20. In the event that the Settlement does not become Final in accordance with the terms of the Stipulation, or is terminated pursuant to ¶ 27 of the Stipulation, this judgment shall be rendered null and void to the extent provided by and in accordance with the Stipulation and shall be vacated and in such event all orders entered and released by and in accordance with the Stipulation.

21. Without further order of the Court, the parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

22. There is no just reason for delay in the entry of this Order and Final Judgment and immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the (United States) Federal Rules of Civil Procedure.

Dated: New York, New York  
\_\_\_\_\_, 2006

\_\_\_\_\_  
[Insert Judge Name: Honorable \_\_\_\_\_]  
UNITED STATES DISTRICT JUDGE