



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

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For Immediate Release

NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM SETTLES SECURITIES ACTION AGAINST APPLE

RETIREMENT SYSTEM ACHIEVES SETTLEMENT VALUED IN EXCESS OF \$20 MILLION RELATING TO STOCK OPTIONS BACKDATING SUIT FILED IN 2006; APPLE RETURNS \$14 MILLION TO SHAREHOLDERS, INITIATES CORPORATE GOVERNANCE REFORMS AND CONTRIBUTES \$2.5 MILLION TO 12 MAJOR GOVERNANCE PROGRAMS NATIONALLY

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New York, Oct. 6, 2010 – The New York City Employees' Retirement System (NYCERS) is pleased to announce that it reached a settlement of its securities class action against Apple Inc. Apple has agreed to pay \$16.5 million in exchange for dismissal of claims of improper stock options backdating practices between 2001 and 2006.

The settlement between investors and Apple (NASDAQ: AAPL) consists of a \$14 million fund to be distributed to the plaintiff class of shareholders, along with the establishment of key corporate governance reforms at the company. And in an important add-on to the settlement, Apple will contribute \$2.5 million to a dozen leading corporate governance programs across the country. All administrative and attorneys' fees associated with the settlement – approximately \$4 million – will be paid separately by Apple, and will not reduce distribution to shareholders or to the corporate governance programs.

NYCERS will seek preliminary approval of the settlement from Judge Jeremy Fogel of the U.S. District Court, Northern District of California, San Jose, tomorrow (October 7th). NYCERS, which is the nation's largest municipal public employee pension fund, is the court-appointed lead plaintiff in the class action, and is represented, by noted shareholder and corporate governance law firm Grant & Eisenhofer P.A.

"The settlement demonstrates that as institutional investors we can change the ways corporations do business" said New York City Comptroller John C. Liu. "It not only holds Apple accountable. It also protects Apple shareholders going forward by requiring the board to adopt and maintain policies that will help to prevent similar pay abuses in the future."

Corporation Counsel Michael A. Cardozo, chief legal officer for the City of New York and counsel to the City's pension funds, stated: "This settlement is an excellent example of shareholder advocacy, and compensates shareholders for systematic options backdating at the company. We are happy to have reached an accord with Apple after four years of litigation."

Shareholder Settlement Fund

The \$14 million settlement fund is reserved for the class of investors who purchased Apple securities between Aug. 24, 2001, and June 29, 2006, when Apple first disclosed irregularities in the manner in which it had accounted for thousands of stock options. The proposed class that would be eligible for

distributions from this fund would consist of shareholders who purchased Apple common stock at a price in excess of \$65.71. Distribution will be based on difference between \$65.71 per share and purchase price, capped at \$1.70 per share.

Contribution to Corporate Governance Programs

In a key component of the settlement, \$2.5 million will be paid separately to corporate governance programs at 12 universities across the country. Each will receive a donation of \$208,333.33.

The recipients are:

- Baruch College, City University of New York (Robert Zicklin Center for Corporate Integrity)
- Columbia Law School (Center on Corporate Governance)
- Harvard Law School (Forum on Corporate Governance and Financial Regulation)
- Indiana University, Kelly School of Business (Institute for Corporate Governance)
- Kennesaw State University College of Business (Corporate Governance Center)
- Northwestern University, Kellogg School of Management (Corporate Governance Program)
- San Diego State University (Corporate Governance Institute)
- Stanford Law School and the Graduate School of Business (Rock Center for Corporate Governance)
- University of Delaware (Weinberg Center for Corporate Governance)
- University of Texas, Dallas School of Management (Institute for Excellence in Corporate Governance)
- Vanderbilt University Law School (Law & Business Program)
- Yale School of Management (Millstein Center for Corporate Governance and Performance)

Corporate Governance Reforms at Apple

As part of the settlement, Apple has also agreed to implement various reforms in its corporate governance that provide material benefits to shareholders. Among these, Apple has agreed to amend its bylaws to make clear that shareholders may submit proposals under SEC Rule 14a-8 without complying with the company's "advance notice" requirements, which otherwise restrict matters that may be brought for consideration by shareholders at the company's annual meetings.

Second, Apple has agreed to amend the Charter for the Compensation Committee of the company's Board of Directors to specifically require the directors to consider the appropriateness of implementing clawback provisions for executive compensation grants.

Third, Apple has agreed to amend its formal insider trading policy to provide enhanced compliance requirements that extends blackout trading periods, requires mandatory pre-clearance of trades by Section 16 officers and directors, and places restrictions of 10b-1 trading plans that may be adopted by these officers and directors. Apple also agreed to extension of corporate governance reforms adopted in connection with 2008 derivative backdating litigation.

The case caption of this action is: *In re Apple Inc. Securities Litigation, No. C-06-5208-JF.*

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Note: The New York City Employees' Retirement System (NYCERS) was founded by the New York State Legislature in 1920 with 13,331 members. Today, NYCERS has grown into the largest municipal public employee retirement system in the United States with over 300,000 active members and retirees including civilian employees such as clerical workers, accountants and social workers, and uniformed employees such as New York City Correction Officers and Sanitation Workers. For more information, visit www.nycers.org

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and one of the largest public law offices in the country. Tracing its roots back to the 1600's, the Department has an active caseload of 90,000 matters and transactions in 17 legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The

Department's 650 attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. For more information, please visit nyc.gov/law.

The New York City Comptroller, an independently elected official, is the Chief Financial Officer of the City of New York. The mission of the office is to ensure the financial health of New York City by advising the Mayor, the City Council, and the public of the City's financial condition. The Comptroller also makes recommendations on City programs and operations, fiscal policies, and financial transactions. In addition, the Comptroller manages assets of the five New York City Pension Funds, performs budgetary analysis, audits city agencies, registers proposed contracts, etc. His office employs a workforce of over 700 professional staff members. These employees include accountants, attorneys, computer analysts, economists, engineers, budget, financial and investment analysts, claim specialists and researchers in addition to clerical and administrative support staff. For more information, please visit comptroller.nyc.gov.

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