THE GLOBAL CROSSING ESTATE
REPRESENTATIVE, FOR ITSELF AND AS
THE LIQUIDATING TRUSTEE OF THE
GLOBAL CROSSING LIQUIDATING
TRUST,

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Continental Casualty Company

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

	x	
GLOBAL CROSSING ESTATE REPRESENTATIVE, FOR ITSELF AND AS THE LIQUIDATING TRUSTEE OF THE GLOBAL CROSSING LIQUIDATING TRUST,	:	**04 Civ. 2558 (GEL)**
Plaintiff,	:	
v.	:	
GARY WINNICK, LODWRICK COOK, DAN J. COHRS, JACK M. SCANLON, JOSEPH P. CLAYTON, THOMAS J. CASEY, DAVID A. WALSH, S. WALLACE DAWSON, JR., JOSEPH P. PERRONE, GKW UNIFIED HOLDINGS LLC, THE	:	

WINNICK FAMILY FOUNDATION, INC., :
ANDERSEN WORLDWIDE S.C., ARTHUR :
ANDERSEN LLP, MARK FAGAN, JOSEPH :
F. BERARDINO, THOMAS L. ELLIOTT, :
ANTHONY J. AMORUSO, SCOTT TAUB, :
BENJAMIN NEUHAUSEN, CARL E. BASS, :
AMY RIPEPI, JOHN STEWART, EDMUND :
JENKINS, DORSEY L. BASKIN, JR., :
MICHAEL CROOCH, KEN RIGELSFORD, :
RICK PETERSON, ROBERT :
HODGKINSON, ROS LINDSEY, ISOBEL :
SHARP, HAZEL POWLING, THOMAS :
HOEY, ODNAL L. WEEKS, CITIGROUP, :
INC., JACK GRUBMAN, MICHAEL :
CARPENTER, KEVIN MCCAFFREY, THE :
GOLDMAN SACHS GROUP, INC., :
MORGAN STANLEY DEAN WITTER, THE :
BEAR STEARNS COMPANIES, INC., :
PACIFIC CAPITAL GROUP, PCG :
TELECOM, ULLICO, INC., MRCO., INC., :
CANADIAN IMPERIAL BANK OF :
COMMERCE, CIBC WOOD GUNDY :
CAPITAL (SFC) INC., CIBC :
OPPENHEIMER CORP., CIBC WORLD :
MARKETS CORP., and CONTINENTAL :
CASUALTY COMPANY, :

Defendants. :
x

THE GLOBAL CROSSING ESTATE REPRESENTATIVE'S CONSOLIDATED AMENDED COMPLAINT AGAINST ULLICO, INC., MRCO., INC., CANADIAN IMPERIAL BANK OF COMMERCE, CIBC WOOD GUNDY CAPITAL (SFC) INC., CIBC OPPENHEIMER CORP., CIBC WORLD MARKETS CORP., AND CONTINENTAL CASUALTY COMPANY

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The Global Crossing Ltd., Estate Representative, for itself and as the Liquidating Trustee of the Global Crossing Liquidating Trust ("Estate Representative") by and through its Special Litigation Counsel, Entwistle & Cappucci LLP, states as follows in support of its Consolidated Amended Complaint:

I. INTRODUCTION

Background

1. The Estate Representative files this consolidated amended complaint, which consolidates the Amended Complaint filed in this action, *Global Crossing Estate Representative v. Gary Winnick et. al.*, 04 Civ. 2558 (GEL), and the Complaint filed in *Global Crossing Estate Representative v. Continental Casualty Company* (Adv. Pro. No. 05-01718 (REG)), against: (a) Canadian Imperial Bank of Commerce ("CIBC"); (b) CIBC Wood Gundy Capital (SFC) Inc. ("CIBC Wood Gundy"); (c) CIBC Oppenheimer Corp. ("CIBC Oppenheimer"); (d) CIBC World Markets Corp. ("CIBC World Markets") (a through d are hereinafter referred to as the "CIBC Defendants"); (e) ULLICO, Inc. ("ULLICO"); (f) MRCo., Inc. ("MRCo."); and (g) Continental Casualty Company ("CCC") (a through g are collectively hereinafter referred to as the "defendants").

2. The defendants, acting together (and in concert with others named in the Complaint filed in *Global Crossing Estate Representative v. Porter, et al.*, 05 Civ. 2489 (GEL)), engaged in a multiyear scheme to provide themselves with improper fees, profits from insider selling, and other ill-gotten compensation from self-dealing transactions with Global Crossing, Ltd. ("Global Crossing" or the "Company"), while leaving the Company and its creditors to hold the bag. As a part of this scheme, the defendants and others combined to manipulate and misstate the financial condition of Global Crossing, including its subsidiaries and related entities throughout the world, during the period between March 25, 1997 and the end of 2000 (the "Relevant Period"). Although not all the Company's relevant decision-makers were complicit in this scheme, during the Relevant Period the

defendants dominated the board of directors of Global Crossing, had reason to be aware of the misstatement of Global Crossing's revenues, assets and obligations, and knew of the growing disparity between the Company's reported revenues, which were largely wrongly accounted-for revenues from IRU transactions (described below in Section V (B)) and Global Crossing's real revenues from operations. This inflation of reported revenues permitted the Company (acting through directors designated by defendants and other insiders) to incur enormous debt that it ultimately could not pay, and contributed eventually to Global's January 28, 2002 bankruptcy filing.

3. The Company's IRU transactions, described further herein, were erroneously accounted for in a manner that inflated Global Crossing's reported operating income to levels necessary to maintain Global Crossing's credit ratings and lending covenants. The revenues that Global Crossing received from the IRU transactions were wrongly recorded as current income from Global Crossing's business operations. This created the false appearance that Global Crossing's businesses were healthy and disguised the mismatch between its reported income and its true financial picture. Proper accounting would have amortized much of this reported income over a long period of time.

4. The defendants knew or should have known that the reporting of IRU transactions, and other accounting manipulations, made a sham of Global Crossing's income statements and balance sheets as further described herein.

5. For defendants, the scheme provided enormous financial rewards in the form of opportunities to sell Global Crossing stock at inflated prices based upon the Company's reported financial performance. In addition, some of the CIBC defendants reaped other rewards through underwriting and consulting fees, credit facility interest, and other forms of compensation. Directly and through their designated members of the Company's board of directors, the defendants owed

fiduciary duties of care and loyalty to the Company and its creditors. By engaging in self-dealing to obtain these illicit rewards, the defendants breached, and caused their designated directors to breach, those duties. By participating in the Advisory Service Agreements ("ASAs") and the U.S. West tender offer and the secondary stock offering described below, as well as other insider deals, the defendants seized corporate opportunities and made enormous profits, while possessing material non-public information about the Company and its affairs. They received cash fees and stock at low prices and reaped hundreds of millions of dollars in gains by selling stock at Global Crossing's artificially inflated stock prices. During the period from August 13, 1998 through April 11, 2000 alone, defendants sold artificially inflated Global Crossing stock for more than $2 billion while possessing material non-public information. Defendants are required to account to the Estate Representative for the profits on those sales.

6. While the Company's financial statements were manipulated to appear robust, in truth many of Global Crossing's operations were struggling and the Company was insolvent at all relevant times. Buoyed by artificially strong credit ratings and inflated stock prices, and willingly assisted by others outside the Company, Global incurred billions of dollars of debt that its business operations would never be able to repay.

7. By this Complaint, the Estate Representative brings several types of claims against the defendants. First, under Title 11 of the United States Code ("the Bankruptcy Code"), the Estate Representative seeks avoidance of all payments of fees, other compensation, and other fraudulent transfers subject to recovery under Bankruptcy Code Sections 544 and 550 and Sections 270-281 of the New York Debtor and Creditor Law. These claims for relief are set forth in Count 1 of this Complaint. Second, the Estate Representative seeks to recover the enormous damages Global Crossing and its creditors suffered as a result of the breaches of fiduciary duties of loyalty, due care,

good faith and fair dealing, and as a result of the corporate waste engaged in by defendants CIBC, CIBC Woody Gundy, CIBC Oppenheimer, CIBC World Markets, CCC, ULLICO, and MRCo. and their designees as directors of Global Crossing. (Counts 2, 3 and 4). Third, the Estate Representative seeks equitable relief in the form of the imposition of a constructive trust or trusts, equitable forfeiture of ill-gotten compensation and profits, and an accounting (Counts 5 through 7).

8. The sole ultimate beneficiaries of this action are creditors of Global Crossing whose allowed claims in the Company's bankruptcy remain largely unsatisfied.

II. PROCEDURAL BACKGROUND

9. On January 28, 2002, Global Crossing and fifty-four of its debtor subsidiaries filed voluntary petitions in this Court for relief under Chapter 11 of the Bankruptcy Code. On August 20, 2002, twenty-three of Global's debtor-subsidiaries filed voluntary petitions in this Court for relief under Chapter 11 of the Bankruptcy Code. The filing entities are referred to herein as the "Debtors."

10. On January 28, 2002 and September 4, 2002, Global Crossing and its various subsidiaries incorporated in Bermuda ("the Bermuda Debtors") presented a winding-up petition in the Supreme Court of Bermuda under the Companies Act of 1981.

11. On September 10, 2002, the Debtors filed their Joint Plan of Reorganization under Chapter 11 of the Bankruptcy Code (as amended, modified and supplemented from time to time, the "Plan"). The Plan was confirmed by an order of this Court dated December 26, 2002 (the "Confirmation Order") and became effective on December 9, 2003.

12. On or about October 24, 2002, the Bermuda Debtors filed with the Bermuda Court Schemes of Arrangement (collectively, the "Schemes"), which were sanctioned by an order of the Bermuda Court dated January 3, 2003. The terms of the Schemes incorporate, in relevant part, the terms of the Plan.

13. Pursuant to the terms of the Plan (including Section 5.8 thereof), the Confirmation Order, and the Liquidating Trust Agreement dated as of December 9, 2003 (the "Liquidating Trust Agreement"), the Liquidating Trust was established for the purpose of liquidating its assets for the benefit of the Debtors' creditors who held Allowed Claims in Classes C, D, E, and F. The assets of the Liquidating Trust consist of, among other things, certain causes of action (as defined in the Plan, the "Estate Representative Claims") transferred by the Debtors to the Liquidating Trust free of all claims, liens and encumbrances.

14. Pursuant to the terms of the Plan (including Section 5.8 thereof), the Confirmation Order, and the Liquidating Trust Agreement, the Estate Representative, consisting of five individuals, was designated to, among other things, act as Liquidating Trustee and prosecute and resolve the Estate Representative Claims in the name of the Estate Representative and/or in the names of the Debtors.

15. Pursuant to the terms of the Plan (including Sections 1.44 and 1.90 thereof and documents referred to therein), the Estate Representative Claims are defined to "include, with respect to officers, directors and their Affiliates of the Company and its Subsidiaries, ... claims and causes of action of any kind or nature." In addition, pursuant to Section 9.7 of the Plan, the Estate Representative is specifically empowered to prosecute avoidance or recovery actions under §§ 510, 542 - 551, and 553 of the Bankruptcy Code. Accordingly, all the claims in this action are Estate Representative Claims within the meaning of the Plan, and the Estate Representative has standing to bring this action pursuant to the terms of the Plan and the Confirmation Order.

III. THE PARTIES

The Plaintiff

16. Plaintiff Estate Representative is authorized to bring the claims asserted in this Adversary Proceeding pursuant to section 5.8(h) of the Plan and the Liquidating Trust Agreement. Pursuant to the Confirmation Order and Plan, the Estate Representative, whose retention was approved by the Bankruptcy Court, is authorized to, among other things, prosecute actions for preferential payments and fraudulent transfers, seek to recover the property of the Debtor and prosecute claims of the Debtor and its Estate for the benefit of creditors whose allowed claims remain largely unsatisfied after Global Crossing's emergence from bankruptcy.

17. The Estate Representative is charged by the Bankruptcy Court with liquidating assets of Global Crossing for the benefit of Creditor Classes C, D, E, and F. As referenced in the Plan, those Classes have more than $6.2 billion in unsatisfied outstanding allowed claims, as follows:

Class	Identity	Allowed Claims	Partial Satisfaction
C	Lender Claims[1]	$2,260,257,918.26	$300,562,307.50 cash; $175,000,000 cash; 2,400,000 shares of New Global Crossing; 50% of the beneficial interest in the Liquidating Trust
D	GC Holdings Notes Claims[2]	$3,896,484,000	$18,975,000 cash; 9,867,000 shares of New Global Crossing; 37.95% of the beneficial interest in the Liquidating Trust
E	GCNA Notes Claims[3]	$632,523,250	$3,080,000 cash; 1,601,600 shares of New Global Crossing; 6.16% of the beneficial interest in the Liquidating Trust.

[1] Class C consists of creditors of the following: the August 10, 2000 Amended and Restated Credit Agreement; and The Final Stipulation and Order Providing Adequate Protection to JP Morgan Chase Bank as Administrative Agent for the Senior Secured Lenders, dated May 16, 2002, and "so ordered" by the Bankruptcy Court on May 17, 2002.

[2] Class D consists of holders of: 9.125% Senior Notes due 2006 ($900,000,000 original principal amount); 9.5% Senior Notes due 2009 ($1,100,000,000 original principal amount); 8.7% Senior Notes due 2007 ($1,000,000,000 original principal amount); and 9.625% Senior Notes due 2008 ($800,000,000 original principal amount).

F	General Unsecured Claims[4]	[Currently in dispute in the Bankruptcy Court]	$2,945,000 cash; 1,531,400 shares of New Global Crossing; 5.89% of the beneficial interest in the Liquidating Trust.

18. On information and belief, a majority in interest of Creditor Classes C, D, E and F resided and sustained the economic impact of their losses in New York State.

Defendants

19. Defendant Canadian Imperial Bank of Commerce ("CIBC") is a Canadian chartered bank with its principal place of business at Commerce Court, Toronto, Ontario, Canada M5L 1A2. During the Relevant Period, CIBC operated through various subsidiaries which it owned and controlled, including defendants CIBC Wood Gundy, CIBC Oppenheimer and CIBC World Markets. The CIBC defendants were original investors in Global Crossing. They provided commercial and investment banking services, underwriting services, and advisory services to Global Crossing, and participated in the ASAs. By participating in the ASAs, they received at least $58.7 million in fees, 48,625,622 shares of stock (which split 2 for 1 in March 1999), and as many as 5 seats on the Global Crossing Board of Directors, through which CIBC exercised control over the operations of the Company. After the stock split, and during the Relevant Period, the CIBC defendants sold at least 28,497,506 shares of Global Crossing stock in the 1999 US West tender offer, the 2000 secondary offering and other transactions for total proceeds estimated to exceed $2.4 billion.

[3] Class E consists of holders of: 7.25% Senior Notes due 2004 ($300,000,000 original principal amount); 6% Dealer Remarketed Securities due 2013 ($200,000,000 original principal amount); 9.3% Medium-Term Notes due 2004 ($20,000,000 principal original amount); and 9% Debentures due 2021 ($100,000,000 original principal amount).

[4] Class F consists of any pre-petition Claim against any of the Debtors, including but not limited to any ERISA Claim and Other Litigation Claim, that is not an Other Secured Claim, Lender Claim, Administrative Expense Claim, Priority Tax Claim, Priority Non-Tax Claim, GCNA Notes Claim, GC Holdings Notes Claim, Convenience Claim, Securities Litigation Claim or Intercompany Claim.

20. Defendant ULLICO, Inc. ("ULLICO") is a diversified financial services company in the business of creating and distributing a broad range of insurance, managed care, investment, and fund administration products to organized working men and women, unions, organized employers, and their pension and welfare funds. ULLICO is currently headquartered at 111 Massachusetts Avenue, Washington, D.C., and manages over $4.4 billion in assets for various union members and their families. ULLICO operates as a holding company for various subsidiaries.

21. Defendant MRCo., Inc. is a wholly owned subsidiary of ULLICO.

22. Defendants ULLICO and MRCo. participated in the ASAs. During the Relevant Period, defendant ULLICO had one seat on the Global Crossing Board of Directors and sold approximately 3,070,738 shares of Global Crossing stock in the 1999 U.S. West tender offer for proceeds of nearly $193 million, and 2,568,160 shares of Global Crossing stock in the 2000 secondary offering for proceeds exceeding $84.7 million.

23. Defendant Continental Casualty Company ("CCC") is a wholly-owned subsidiary of CNA Financial Corporation, which in turn is 85% owned by Loews Corporation. CCC had one seat on the Global Crossing Board of Directors. During the Relevant Period, or as a result of transactions entered into during the Relevant Period, CCC sold Global Crossing common stock for proceeds of at least $1.7 billion, including 3,973,391 shares in the US West tender offer and additional stock in various private transactions.

Additional Persons and Entities Identified Herein

24. Citigroup Inc. ("Citigroup") is a Delaware corporation with its principal place of business at 399 Park Ave., New York, New York 10043. Citigroup is a registered bank holding company. Citigroup was, at all times during the Relevant Period, a diversified global financial services holding company whose businesses provided a broad range of financial services to consumer and corporate customers. Through its position of control and authority as the 100% owner

of Salomon Smith Barney ("SSB"), and as Jack B. Grubman's ("Grubman") employer, Citigroup was able to and did control, directly and indirectly, the content of false and misleading public statements disseminated by SSB and Grubman. At all times during the Relevant Period, SSB was one of the largest securities brokers in the United States.

25. Jack B. Grubman ("Grubman") was, at all times during the Relevant Period, the primary telecommunications industry analyst at SSB. Grubman worked at SSB from the fall of 1994 until August 2002. Grubman was one of the most powerful men on Wall Street. As observed by *Time Magazine* on August 5, 2002, "every big investor knew Grubman was the axe"; the one man who could make or break any stock in the [telecommunications] industry with a thumbs-up or thumbs down. SSB held Grubman out as SSB's resident guru on telecommunications stocks. Grubman was one of the highest paid analysts in the securities industry, with total compensation during 1999-2002 that averaged approximately $20 million per year. On August 15, 2002, Grubman resigned from SSB and received a compensation package worth approximately $32 million.

26. Gary Winnick ("Winnick") was the founder of Global Crossing and, at all relevant times, served as Co-Chairman and a member of the Company's board of directors. Winnick is the founder of Pacific Capital Group, Inc. ("PCG"), described more fully below. On December 30, 2002, Winnick resigned from the positions he held at the Company.

27. Jay R. Bloom ("Bloom") was a member of the board of directors of Global Crossing from March 1997 to June 20, 2000. Bloom was placed on the Company's Board by CIBC. Bloom was at all relevant times a managing director of CIBC Oppenheimer, and co-head of the CIBC subsidiary CIBC World Markets High Yield Merchant Banking Funds.

28. Jay R. Levine ("Levine") was a member of the board of directors of Global Crossing from March 1997 to September 22, 1999. Levine was placed on the Company's Board by CIBC.

Levine was at all relevant times a managing director of CIBC Oppenheimer, managing director of CIBC Wood Gundy and manager of CIBC World Markets High Yield Merchant Banking Funds.

29. Dean C. Kehler ("Kehler") was a member of the board of directors of Global Crossing from March 1997 to June 20, 2000. Kehler was placed on the Company's Board by CIBC and served on its audit committee. Kehler was at all relevant times a managing director of CIBC Oppenheimer and co-head of CIBC World Markets High Yield Merchant Banking Funds.

30. William P. Phoenix ("Phoenix") was a member of the board of directors of Global Crossing from March 1997 to September 22, 1999. Phoenix was placed on the Company's board by CIBC. Phoenix was at all relevant times a managing director of CIBC Oppenheimer, and co-head of subsidiary CIBC Credit Capital Markets.

31. Bruce Raben ("Raben") was a member of the board of directors of Global Crossing from March 1997 to June 20, 2000. Raben was placed on the Company's board by CIBC. Raben was at all relevant times a managing director of CIBC Oppenheimer.

32. Hillel Weinberger ("Weinberger") was a member of the board of directors of Global Crossing from June 1997 through February 28, 2000. Weinberger was placed on Global Crossing's board of Directors by CCC and served on its audit committee, ultimately as chairman. Weinberger was at all relevant times an officer of Loews Corporation and/or CCC's direct parent, CNA Financial Corporation.

33. Michael R. Steed ("Steed") was a member of the board of directors of Global Crossing from March 1997 to March 20, 2001. During 1997-1999 Steed was ULLICO's designee on the board. He was the Senior Vice President of Investments for ULLICO, Inc. and its family of companies, President of MRCo., and President of Trust Fund Advisors, ULLICO's investment

management subsidiary. In 2000 he became a managing director of PCG, identified below, and continued to serve on Global Crossing's board of directors.

34. Pacific Capital Group, Inc. ("PCG") is a merchant bank specializing in telecommunications, media and technology and at all relevant times had substantial holdings in Global Crossing's common stock. PCG played a principal role in the founding of Global Crossing. PCG was founded and is controlled by Winnick. PCG owned an entity called PCG Telecom, which was a participant in the Advisory Service Agreements ("ASAs"), described further herein.

35. Lodwrick M. Cook ("Cook") was the co-chairman of Global Crossing from January 1998 through January 2003. Cook also served as vice chairman and managing director of PCG, which he joined in such capacity in September 1997.

36. Abbott L. Brown ("Brown") was a founder, Senior Vice President of Corporate Affairs and a member of the board of directors of Global Crossing between March 1997 and March 2000. For a time he served as Chief Financial Officer of Global Crossing and of important Global subsidiaries including Global Telesystems, Ltd. ("GT"), which served as a vehicle for self-dealing. He served on Global Crossing's audit committee.

37. Barry Porter ("Porter") was a founder, Senior Vice President of Corporate Development and a member of the board of directors of Global Crossing between March 1997 and July 2000.

38. Andersen Worldwide S.C. ("Andersen Worldwide") was a Swiss partnership organized as a Societe Cooperative under the Swiss Federal Code of Obligations and was comprised of member firms, including Arthur Andersen LLP ("Andersen LLP") and Arthur Andersen & Co. ("Andersen & Co"). Andersen Worldwide, Andersen LLP and Andersen & Co., together with the individual partners of the member firms, are collectively referred to as "Andersen."

39. Andersen served as Global Crossing's "independent" auditor from 1997 through 2002, and issued clean and unqualified audit opinion letters in connection with Global Crossing's financial statements for 1998, 1999, and 2000, which were incorporated with Andersen's approval in Global Crossing's public filings.

40. Andersen audited Global Crossing's materially false and misleading financial statements during the Relevant Period and issued materially false and misleading opinions on those financial statements. Andersen also consented to the use of its unqualified opinion on Global Crossing's financial statements and reports filed with the SEC and otherwise disseminated to the investing public during the Relevant Period.

IV. JURISDICTION AND VENUE

41. This Court has jurisdiction of this Adversary Proceeding pursuant to 28 U.S.C. § 1331 and 28 U.S.C. §§ 1334(b) and 1334(e).

42. Pursuant to Section 5.8(h) *(Role of the Estate Representative)* of the Plan, confirmed by the Confirmation Order, the Estate Representative has, without limitation, "the power and authority to prosecute and resolve, in the names of the Debtors and/or the name of the Estate Representative, the Estate Representative Claims."

43. In addition, pursuant to Section 5.8(c) (*Liquidating Trust Assets*) of the Plan, the Estate Representative may initiate and prosecute this Adversary Proceeding, and "[a]ny cash or other property received from third parties from the prosecution, settlement, or compromise of the Estate Representative Claims shall constitute Liquidating Trust Assets for purposes of distributions under the Liquidating Trust."

44. The Confirmation Order anticipates the filing of this Adversary Proceeding for the benefit of the Liquidating Trust, stating in paragraph AA(i) that "[t]he Liquidating Trust shall consist of the Liquidating Trust Assets, which, in addition to the assets described in section 1.77 of the Plan,

shall include any Cash or other property received from third parties from the prosecution, settlement, or compromise of the Estate Representative Claims." The Confirmation Order further states that "[t]he Trustee shall have the powers and responsibilities set forth in the Liquidating Trust Agreement and section 5.8(g) of the Plan."

45. Pursuant to Section 5.8(r) (*Retention of Professionals by the Estate Representative*) of the Plan, the Estate Representative is authorized by the Court to retain and compensate counsel "to assist in its duties on such terms as the Estate Representative deems appropriate, without Bankruptcy Court approval."

46. In addition, the Estate Representative is authorized to initiate and prosecute this Adversary Proceeding pursuant to Section 9.7 (*Avoidance Actions*) of the Plan, which states in pertinent part:

> "The Estate Representative shall have the right to prosecute any avoidance or recovery actions under sections 510, 542 through 551, and 553 of the Bankruptcy Code that belong to the Debtors or debtors in possession."

47. This Adversary Proceeding, and all claims asserted herein for the benefit of the Liquidating Trust, seeks to recoup the fraudulent transfers, the illicit profits, the usurpation of corporate opportunities and the corporate waste by which defendants benefited. This Adversary Proceeding is properly brought pursuant to the authority granted to the Estate Representative, and is properly before the Court pursuant to the above-cited sections of the Plan and the Confirmation Order.

48. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims alleged herein occurred in this District, and pursuant to 28 U.S.C. § 1409(a) because this is a proceeding arising under Title 11 or arising in or related to a case under Title 11.

49. This Adversary Proceeding is brought in accordance with Federal Rules of Bankruptcy Procedure 7001, *et seq.*, and seeks relief under §§ 544, 550, and 553 of the Bankruptcy Code, the Common Law of the State of New York, New York Business Corporation Law ("BCL") §720 and New York Debtor and Creditor Law §§ 270-281.

V. FACTUAL ALLEGATIONS

A. The Formation of Global Crossing

50. Following passage of the Telecommunications Act of 1996 (the "Act"), a host of start-up telecommunication companies, such as Global Crossing, were formed to take advantage of the provisions of the Act. Global Crossing, originally called Global Telesystems, was founded in March 1997 by Winnick, Porter, Brown and David L. Lee, who were partners in PCG.

51. Winnick was the Chairman and Chief Executive Officer of PCG from its formation. In or about late 1996, Winnick and PCG began planning the financing of a fiber optic cable under the Atlantic Ocean between the United States and Europe.

52. The Company's original plan was to build an international fiber optic telecommunications network and to sell or lease capacity on that network, starting with the trans-Atlantic cable. Fiber-optic networks originally competed with metal wire and satellite communications and, because they were less expensive than the older methods of transmitting voice and data, quickly garnered significant market share. Global Crossing's ultimate business plan was to be a "carrier's carrier" and sell capacity on its fiber-optic network to carriers who would, in turn, sell that capacity to end users or other carriers. Global Crossing's customers were expected to benefit from this service because it eliminated their need to commit the substantial capital required to build their own undersea cable networks and decreased the risks associated with forecasting the industry's future capacity requirements. Instead, those costs and risks were shifted to Global Crossing.

53. Soon after being formed, Global Crossing designed and built global long distance telecommunications facilities and services using a network of undersea digital fiber-optic cables and terrestrial backhaul capacity, segment by segment, starting with a transatlantic cable system called Atlantic Crossing ("AC-1"), a system connecting the United States and Europe; then Pacific Crossing ("PC-1"), a system connecting the United States and Asia; Mid-Atlantic Crossing ("MAC"), a system connecting the eastern United States, Bermuda, the Caribbean and Central America; and Pan American Crossing ("PAC"), a system connecting the western United States and Central America. The cables making up the Company's network were either laid on the ocean floor (subsea) or underground (terrestrial).

54. As observed in the financial press such as *Forbes* Magazine in an October 2000 article entitled "Doing It With Mirrors" and *Fortune* Magazine in a June 2002 article entitled "Emperor of Greed," Global Crossing's ostensible business model was a modest one, not much different from a utility. It sold capacity -- typically for 25-year periods -- on its network. Capacity was generally sold in the form of Indefeasible Rights of Use ("IRUs"), described further herein, which gave the purchaser the right for a period -- normally 25 years -- to transmit a defined quantity of data over a specified cable link. Proceeds from IRU sales and incidental service revenues would generate the returns on the Company's investment. It could have been a safe, conservative investment with predictable returns, but that was not the goal of Winnick and the defendants. They wanted to leverage the early success of fiber optic networks into the public perception that Global Crossing was a telecommunications giant. That could only be done if the market received a completely distorted view of the Company and its finances. To that end, insiders -- including the defendants and the Global directors who were their designees -- joined with Andersen accountants, securities analysts such as Grubman, and various underwriters of Global Crossing's numerous

offerings to create a hugely distorted picture of Global Crossing's financial condition. As a result of this distorted accounting, the Company eventually raised more than $20 billion in the debt and equity markets in just three years. Upwards of $6.2 billion in debt, which the Company never had realistic prospects of being able to pay as it came due, remains unpaid.

B. Global Crossing's Improper Accounting Techniques

55. With the active collusion of Andersen, its "independent" auditor, Global Crossing structured deals and accounted for transactions in a fashion that abused traditional methods of accounting, and built an entire company based on erroneous "upfront" revenue recognition by persistently and wrongly characterizing certain transactions as capital lease transactions. That led lenders to loan Global money in the belief it was capable of making billions of dollars in profits, and also led to artificial demand for Global's stock, enabling insiders like defendants to sell the stock at unrealistically high prices.

56. Generally Accepted Accounting Principles ("GAAP") are guidelines by which the accounting profession defines acceptable accounting practices. GAAP are the official standards adopted by the American Institute of Certified Public Accountants ("AICPA"), through the three successor groups it established: the Committee on Accounting Procedure; the Accounting Principles Board ("APB"); and the Financial Accounting Standards Board ("FASB").

57. An Indefeasible Right of Use ("IRU") is the right to use a specified capacity over a designated communications cable owned by a telecom company for a set period of time, often as much as 25 years. The purchaser of an IRU pays a set price, usually at least 25% up front, and receives the right to use that capacity for the designated length of time. An IRU therefore has certain characteristics that make it facially analogous to a lease of real estate or equipment. However, since the essence of an IRU is to provide a customer with data transmission service capacity over a period

of time, and since numerous users run their transmissions on the same cable at the same time or at different times, an IRU can never properly be viewed as a lease at all.

58. Ordinarily, leases of real estate or equipment -- except those that qualify for sales-type treatment under FASB Statement No. 13 -- are called operating leases. GAAP requires the lessor of an operating lease (like a service provider under a service contract) to allocate the revenue over the length of the lease term, even if some or all of the payments are made up front.

59. FASB Statement No. 98 provides that a lease involving real estate shall be classified as a sales-type lease only if it complies with FASB Statement No. 13, paragraph 7(a). That paragraph provides that for a lease to qualify as a capital lease, ownership of the property must be transferred to the lessee by the end of the lease term; it further provides that if the original lease is an operating lease, any sub-lease must also be classified as an operating lease. IRU sales are not leases of real estate at all (although the cable runs under land or over seabed) and do not qualify as capital leases of equipment, since ownership of the fiber-optic cable is never transferred to the lessee and the other criteria of Statement No. 13 are not met.

60. From the beginning, with Andersen's encouragement, Global Crossing erroneously treated IRU sales as sales-type leases, purporting to rely on FASB Statement No. 13. When an IRU was sold, Global Crossing recognized the revenue on the sale immediately, and amortized the costs associated with the IRU over the term of the agreement — typically up to 25 years.

61. IRU sales were Global Crossing's main source of reported revenue. From at least *April 1998 through June 1999, Global wrongfully treated each IRU sale as a sales-type lease under* FASB Statement No. 13, recognizing the entire amount of the payments immediately as revenue.

62. The practice of recognizing the revenue on the sale immediately, while at the same time amortizing the costs associated with the IRU over the term of the agreement, violated GAAP's

Matching Principle, under which revenues and expenses resulting from the same transaction must be recognized in the financial statements at the same time.

63. In 1998, Global Crossing recognized $418 million in revenue from IRU sales that it improperly treated as sales-type leases, representing 98.8% of the Company's total revenue for the year.

64. In 1999, Global Crossing recognized $728 million in revenue from IRU sales that it improperly treated as sales-type leases, representing 48.8% of Global Crossing's total revenue for the year.

65. Treating IRU sales as sales-type leases gave investors a grossly distorted picture of Global Crossing's revenues and encouraged them to believe the Company might someday attain profitability. Assuming that all of the IRU sales in 1998 and 1999 had properly been treated as operating leases or service contracts and not sales-type leases, Global Crossing's reported revenue for 1998 would have been $7.3 million, and for 1999 would have been $28.2 million—far less than the amounts actually reported. Never profitable, Global Crossing would have shown much larger losses than it did, and its financial statements would have been wholly insufficient to support the massive lending that actually occurred.

66. Beginning in the mid-1990s, the characterization of transactions as sales-type leases, on which companies recognized revenue immediately, became the subject of increasing criticism in the finance industry because of fears that the accelerated booking of such revenues would result in misleading earnings reports to investors

67. In May 1998, the FASB Emerging Issues Taskforce sought clarification from the FASB as to the appropriate treatment of transfers of real estate with property improvements or integral equipment. In October 1998, the FASB published a draft of its proposed statement, which

indicated that the FASB would require that any purported transfer of an improvement or integral equipment on land would be accounted for as a transfer of real estate, and would require a transfer of title before the entire payment could be booked as revenue.

68. Global Crossing and Andersen recognized that the anticipated FASB pronouncement would keep the Company from recognizing revenue "up front" from IRU sales, because no title to real estate changed hands in connection with an IRU sale. Thus, it would be clear to the world that Global would no longer be able to treat IRU sales as sales-type leases and would no longer be able to immediately recognize the revenue from such sales. Global Crossing did not make any effort to conform the Company's accounting practices to this anticipated pronouncement, but instead sought to evade its effect.

69. In addition to sales of IRUs for cash, Global Crossing, like other telecom networks, commonly engaged in "swaps," in which the companies bought and sold IRUs among themselves. This permitted telecom companies to expand their networks and fill gaps in existing networks, while avoiding the cost of laying new fiber optic cables or constructing new networks.

70. Parties to IRU swaps did not usually treat the transactions as sales and did not usually book revenue from the deals. Since its inception, in disregard of proper accounting practices, Global Crossing regularly booked sales revenue from those transactions. In a press release dated April 7, 1998, Global Crossing announced "Qwest and Global Crossing to Swap Transatlantic High Capacity Fiber Between U.S. Cities and Europe." In its Form 10-K for the year ended December 31, 1998, Global Crossing listed Qwest as one of its biggest capacity purchasers, and reported revenue from the swap using sales-type lease accounting.

71. Accounting Principles Board Opinion No. 29 sets forth the GAAP guidelines for accounting for transactions involving non-monetary assets. The seller of such an asset can generally

record revenue based on the fair value of the asset received. However, if two similar non-monetary assets are exchanged, the exchange must be accounted for based on the difference between the cost basis, or book value, of the asset relinquished and the asset received.

72. In a memo dated February 10, 1999, Joseph Perrone, then the partner in charge of the Global Crossing account at Arthur Andersen, specifically counseled Global Crossing on how to improperly manipulate the accounting rules so that two telecom companies could both recognize revenue by exchanging like amounts of capacity and treating each side of the deal as a purportedly independent sale transaction. The memo instructed Andersen's telecom clients that they could realize revenue by exchanging network capacity among themselves, while each party treated the transaction as a "sale" by recording revenue from the transfer based on the fair value of the IRU it relinquished. The memo encouraged Global Crossing to attempt to evade the requirement of booking the exchange of similar assets based on the book values of the assets exchanged, by obscuring the reciprocal nature of the transactions or by making the network capacity appear dissimilar in order to render the book value requirement of APB No. 29 inapplicable.

73. On July 1, 1999 the FASB issued its long-anticipated Interpretation No. 43 ("FIN 43"), in which the FASB provided clarification of GAAP's requirements for accounting for the sale of real estate, and provided that in all sales after June 30, 1999, the definition of "real estate" would include any interests in property improvements or integral equipment on that property that could not be removed and used separately from the real estate without incurring significant cost. In order to qualify as a sale of real estate under GAAP, FIN 43 made it clear that there must be an actual transfer of title, rather than merely a transfer of use. As there is no transfer of title in an IRU sale, it was now unmistakably clear that Global could no longer treat IRU sales or swaps as sales-type leases of real estate.

74. Global Crossing represented in its financial filings (and thus to its lenders) that compliance with this interpretation would not have any material effect on the Company's finances. In doing so, the Company misrepresented the effect of FIN 43. As the defendants knew, a correct application of FIN 43 to Global Crossing's past and future financial performance would in fact have had a devastating effect.

75. On September 30, 1999, Andersen published its "White Paper," which summarized FIN 43's requirement of a title transfer in order to qualify an IRU sale as a sales-type lease transaction, but concluded that telecom firms could still continue recognizing revenue immediately in connection with some IRU sales.

76. After the White Paper was published, Andersen and Global Crossing knew that the Company could not transfer title in connection with an IRU sale relating to land-based cable, and thus could not immediately recognize the revenue on an IRU sale where the cable was based on land. However, Global continued to maintain that it could recognize revenue "up front" in connection with an IRU sale on ocean-based cable, because the seabed has no landowner and there was no title to transfer. Thus, although Global reluctantly decided not to recognize revenue "up front" in connection with IRU sales related to land-based cable, it continued to immediately book revenue in connection with IRU sales relating to oceanic cable, on the purported theory that an IRU sale constituted a transfer of a depreciable asset.

77. In determining that it could treat an IRU sale on an oceanic cable as a transfer of an asset, Global Crossing ignored the economic and electronic realities of the IRU sale transactions. The continued treatment of IRU sales involving oceanic cable as sales-type leases, purportedly falling under FASB Statement No. 13, continued the artificial inflation of Global Crossing's revenue.

78. The White Paper also repeated Andersen's guidance that telecom firms could book revenue simply by exchanging network capacity among themselves. Andersen explained how to structure an IRU swap with the specific intent of avoiding the requirement of accounting for the exchange of similar assets using the book value of the assets exchanged. The White Paper said nothing about the requirement of disclosing the reciprocal nature of such transactions.

79. Global Crossing did not properly apply APB No. 29, which should have precluded Global from recording revenue from *any* IRU Swap deal—terrestrial or oceanic – beyond the difference in book value between the IRU received and the IRU given up.

80. On January 12, 2000, an email from Andersen to Global Crossing insiders attached an internal Andersen email, which stated:

> "As you know, the Firm's approach to accounting by providers of network capacity has turned on the key consideration of whether an IRU meets the definition of a lease. If it does then, subject to meeting the relevant criteria in Statement 13 and Statement 66, sales-type lease accounting is possible.
>
> We had previously understood that not only did the SEC staff share that analysis but that they also believed, as did we and our clients, that if the purchased capacity in an IRU was limited to a specified fiber and wavelength of light within a cable then it was capable (subject to the other criteria identified in the White Paper) of meeting the definition of a lease.
>
> **Rick Petersen took a call this afternoon from the Chief Accountant of the SEC and the Chief Accountant in the Division of Corporation Finance. The staff said that it tentatively had reached the view that an IRU is likely not a lease and that therefore up-front revenue recognition is not appropriate.**
>
> Their view appears to have been strongly influenced by the understanding they now believe they have of the technology involved. Where a system uses time division multiplexing techniques then the staff presently appear to believe that the purchased capacity could not represent an identifiable asset that passes the test of being a depreciable asset as required by paragraph 1 of Statement 13.

> If the staff hold to their present view then it is not presently clear how transition will be handled (that is, restatement, cumulative effect or prospective) for those companies who have in the past accounted for IRUs as sales-type leases.
>
> In the meantime, the SEC staff asked that we advise our clients of its strong concern." (Emphasis in original).

81. Faced with the SEC's view that it could not longer do so, the Company announced on February 18, 2000 that it had stopped treating the majority of IRU sales, even in connection with oceanic cables, as sales-type leases -- although it still maintained sales type lease treatment for certain oceanic IRU sales.

82. This change (which was not made retroactively) had a dramatic impact on Global Crossing's financial statements in 2000 and afterward. Because FIN 43 made it plain that Global Crossing was no longer permitted to book its IRU sales as sales-type leases, it could no longer record the fair market value of the IRUs it sold as revenue in the periods during which the agreements were reached. Thus, because a significant portion of Global's reported revenue was generated through IRU sales, compliance with FIN 43 caused a considerable drop in Global's reported revenues. For example, the amount of GAAP revenue Global recognized on IRU sales dropped from $418 million in 1998 and $728 million in 1999, to $350 million in 2000.

83. In January 2000, Global abandoned any pretense of exchanging different "kinds" of capacity, and commenced its Global Network Offering ("GNO"). Capacity sold pursuant to Global's GNO was not permanently designated capacity, but was general capacity that allowed the "purchaser" to use a certain unit of capacity anywhere on Global Crossing's global network. The purported justification of the GNO was a complete sham; the true and undisclosed purpose of the GNO program was to facilitate future improper accounting for swaps. By no longer requiring a particular physical section of the network to be swapped, the Company would be in effect trading rights of future use.

84. Global Crossing's adoption of the GNO had an impact on its accounting practices: because a "purchaser" could direct capacity over any portion of the Global Crossing network, the Company could no longer pretend that it was selling a designated "asset" as part of an IRU. Thus, Global could no longer falsely account for IRU sales as sales-type leases or as transfers of depreciable assets.

85. However, Global continued to recognize income from swaps. Because Global offered generic capacity as part of the GNO, any capacity it swapped with other telecom companies for GNO capacity was "similar" to the capacity acquired. The exchange of similar capacity heightened the requirement that the Company should have recorded capacity exchanges using their book value pursuant to APB No. 29. But Global Crossing continued to ignore that principle.

86. Global Crossing paid lip service to FIN 43 but began in 2000 to include in its filings and annual reports "pro forma" profit-and-loss statements, which ignored the effect of FIN 43 and reported "cash revenues" and "Adjusted EBITDA" ("Earnings Before Income Taxes, Depreciation and Amortization") as if FIN 43 had never been promulgated. In addition, during 2000, the Company began increasingly to rely on the booking of income from "swap" transactions that had no economic reality.

87. "Adjusted EBITDA" was the Company's favorite term for earnings, on which it encouraged financial analysts to concentrate. Disregarding GAAP and FIN 43, "Adjusted EBITDA" included what were described as "cash revenues," the amounts received "up front" in cash from IRU sales and the so-called revenues received from swaps. "Adjusted EBITDA" also included in earnings (by disregarding as expenses) the amounts GAAP required the company to expense each year for the amortization of goodwill and the depreciation of its cable systems.

88. In 1999 the Company acquired a number of subsidiaries for which it paid far more than fair value. The excess of the amount paid over fair value was recorded on the Company's books as "goodwill," and by the end of 1999 this figure exceeded $9 billion on the Global Crossing books. GAAP required the Company to record an annual amortization expense to write off that "goodwill," but the "Adjusted EBITDA" earnings presentation ignored that requirement.

89. A major part of the Company's business was always the sale of capacity on its cable systems. GAAP required that the capitalized cost of those systems (which included not only construction costs but numerous "soft" costs such as advisory fees) be depreciated over time. The "Adjusted EBITDA" earnings presentation ignored that requirement.

90. Through its representatives on the board of directors, CIBC encouraged and approved of the Company's use of "Adjusted EBITDA" as its preferred method of reporting earnings beginning with its reports of results for the year 1999. For that year the Company reported a GAAP operating loss of $7.5 million and a net loss of $71 million, which would have been much larger if it had restated past earnings to conform with FIN 43. However, it reported "Adjusted EBITDA" of $708 million for the same period and relied on that figure as the most meaningful expression of its "earnings."

91. The use of this measure of earnings was a complete distortion of the Company's true economic state, which was at all times a state of ever-growing operating losses and ever-deepening insolvency.

C. Global Crossing's Credit Rating Became Vitally Important – Global Crossing's Search For Capital, and CIBC's Role in Raising It.

92. From mid-1998 onwards, Global Crossing grew into a voracious consumer of cash -- cash it did not have. Global Crossing's need for cash made Global Crossing's credit rating critically important. Absent a favorable credit rating, Global Crossing could not raise capital. The erroneous

and misleading accounting practices described above contributed to Global Crossing's ability to achieve favorable credit ratings and purport to comply with its loan covenants -- but in fact, Global Crossing was always insolvent because it never had the resources to pay its debts as they matured.

93. During the Relevant Period, Global Crossing raised billions upon billions from offerings of debt to investors and through credit facility financing, including but not limited to the following:

Date	Issuer	[illegible]	Amount Raised
5/13/98	Global Crossing Holdings Ltd.	9.625% Sr. Unsecured Notes	$800,000,000
7/30/98	Pacific Crossing Ltd.	Project Finance Bank Facility	$850,000,000
11/24/98	Global Crossing Holdings Ltd.	MAC Sr. Secured Bridge Loan	$200,000,000
11/25/98	Mid-Atlantic Crossing Ltd.	Project Finance Bank Facility	$260,000,000
1/26/99	Global Crossing Holdings Ltd.	Lucent Unsecured Bridge Loan	$400,000,000
7/2/99	Global Crossing Holdings Ltd.	Global Marine Bridge Loan	$600,000,000
7/6/99	Global Crossing Holdings Ltd.	Sr. Secured Credit Facility	$3,000,000,000
11/19/99	Global Crossing Holdings Ltd.	9.5% Unsecured Notes	$1,100,000,000
11/19/99	Global Crossing Holdings Ltd.	9.125% Sr. Unsecured Notes	$900,000,000
11/24/99	Global Crossing (Bidco) Limited	Sr. Secured Credit Facility	$1,094,000,000
		TOTAL	**$9,204,000,000**

94. The first of these debt offerings was closed on May 13, 1998. It was a private $800 million offering of 9 5/8% Global Crossing Holdings Ltd. notes in $1,000 multiples ("Restricted Notes"). Approximately $295 million of the proceeds from the Restricted Notes private offering was used for construction of the AC-1 digital fiber optical cable. CIBC was an initial purchaser of these notes and re-sold them to "qualified" investors.

95. After the Company's IPO, on October 14, 1998, Global Crossing Holdings Ltd., through a registered exchange offer, exchanged the Restricted Notes for new $800 million 9 5/8%

Senior Notes Due 2008 ("Exchange Notes"). The terms of the Exchange Notes were identical in all material respects to those of the Restricted Notes.

96. Upon information and belief, some of the purchasers of the Restricted Notes participated in the exchange offer, acquired the Exchange Notes, retained the Exchange Notes throughout the Relevant Period, filed proofs of claim in the pending bankruptcy proceeding, and are creditors in Class D.

97. As noted above, CIBC was an initial purchaser and re-seller of the $800 million in Restricted Notes. In addition, one or more of the CIBC defendants acted as an arranger for the $600 million 10-day demand note issued in connection with Global's purchase of Global Marine Systems, acted as an arranger for the July 1999 $3 billion senior secured credit facility, was an initial purchaser and re-seller of the $2 billion in unsecured senior notes in November 1999, and was an initial purchaser and re-seller of Global Crossing's $650 million aggregate liquidation preference 7% cumulative convertible preferred stock issued in December 1999.

98. CIBC's subsidiary, defendant CIBC Oppenheimer, co-led the IPO of Global Crossing's common stock. CIBC Oppenheimer was also an initial purchaser and reseller of the offering of Global Crossing Holdings Ltd. 10-1/2% senior exchangeable preferred stock due 2008.

99. Among other transactions, defendant CIBC Wood Gundy acted as exclusive placement agent for the issuance by Global Telesystems Holdings Ltd. ("GT Holdings") of $100 million in GT Holdings Preference Shares and the issuance by GT Holdings of $150 million in Senior Notes.

100. From 1997 through 2000, Global Crossing paid the CIBC defendants at least $58.7 million in fees relating to these and other transactions.

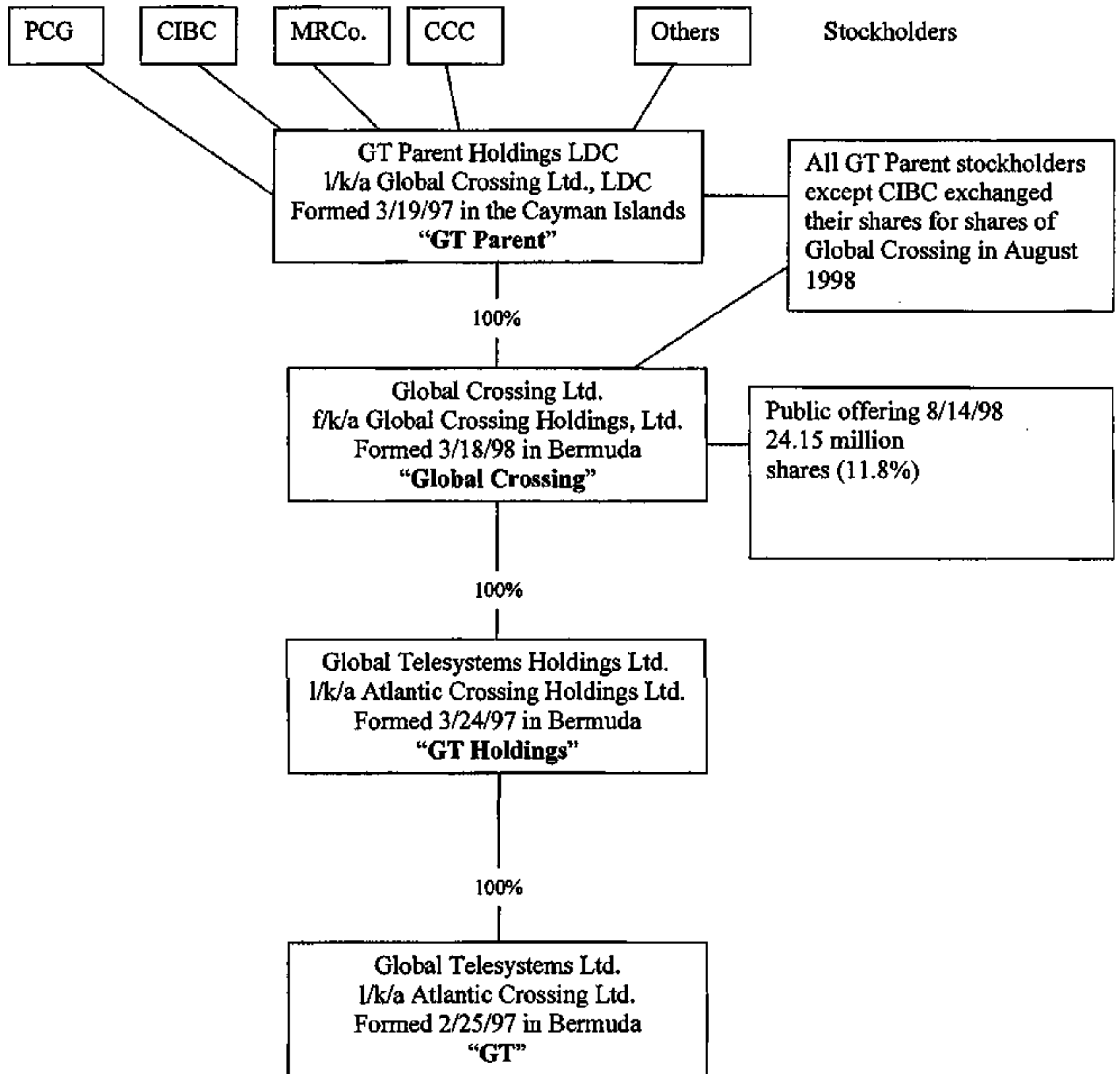
101. Through their involvement in the above-noted financings, as well as through the presence of their designees on Global's board of directors, the CIBC defendants acquired intimate inside adverse knowledge of the Company's business, finances, prospects and accounting techniques. By virtue of all these relationships, the CIBC defendants had a fiduciary relationship to Global Crossing.

102. CIBC ceased its involvement with Global Crossing in approximately mid-2000 after having capitalized on this fiduciary relationship by turning its initial investment of approximately $41 million in Global Crossing into approximately $2.4 billion.

D. The ASAs and Other Self-Dealing Transactions

103. The relationship between Global Crossing and its initial investors—PCG, CIBC, ULLICO, MRCo. and CCC—was rife with self-dealing transactions that substantially damaged Global Crossing and rendered it perpetually insolvent and dependent upon continual debt offerings and its lines of credit.

104. Following is a simplified diagram of the Global Crossing corporate structure that will serve to elucidate the paragraphs that follow.


Global Crossing
CORPORATE STRUCTURE
PCG
CIBC
MRCo.
CCC
Others
Stockholders
GT Parent Holdings LDC
l/k/a Global Crossing Ltd., LDC
Formed 3/19/97 in the Cayman Islands
"GT Parent"
All GT Parent stockholders except CIBC exchanged their shares for shares of Global Crossing in August 1998
100%
Global Crossing Ltd.
f/k/a Global Crossing Holdings, Ltd.
Formed 3/18/98 in Bermuda
"Global Crossing"
Public offering 8/14/98
24.15 million
shares (11.8%)
100%
Global Telesystems Holdings Ltd.
l/k/a Atlantic Crossing Holdings Ltd.
Formed 3/24/97 in Bermuda
"GT Holdings"
100%
Global Telesystems Ltd.
l/k/a Atlantic Crossing Ltd.
Formed 2/25/97 in Bermuda
"GT"

1. The Advisory Services Agreement

a. History and Terms

105. GT Parent Holdings Ltd. LDC ("GT Parent"), a Cayman Islands limited duration company formed in 1997, was later known as Global Crossing Ltd., LDC. In 1998 GT Parent formed a Bermuda subsidiary, Global Crossing, Ltd. ("Global Crossing"), which went public within a few months.

106. Global Telesystems Ltd. ("GT"), later known as Atlantic Crossing Ltd., was a Bermuda corporation. Originally GT was an indirectly but wholly-owned subsidiary of GT Parent; in 1998 it became an indirect subsidiary of Global Crossing.

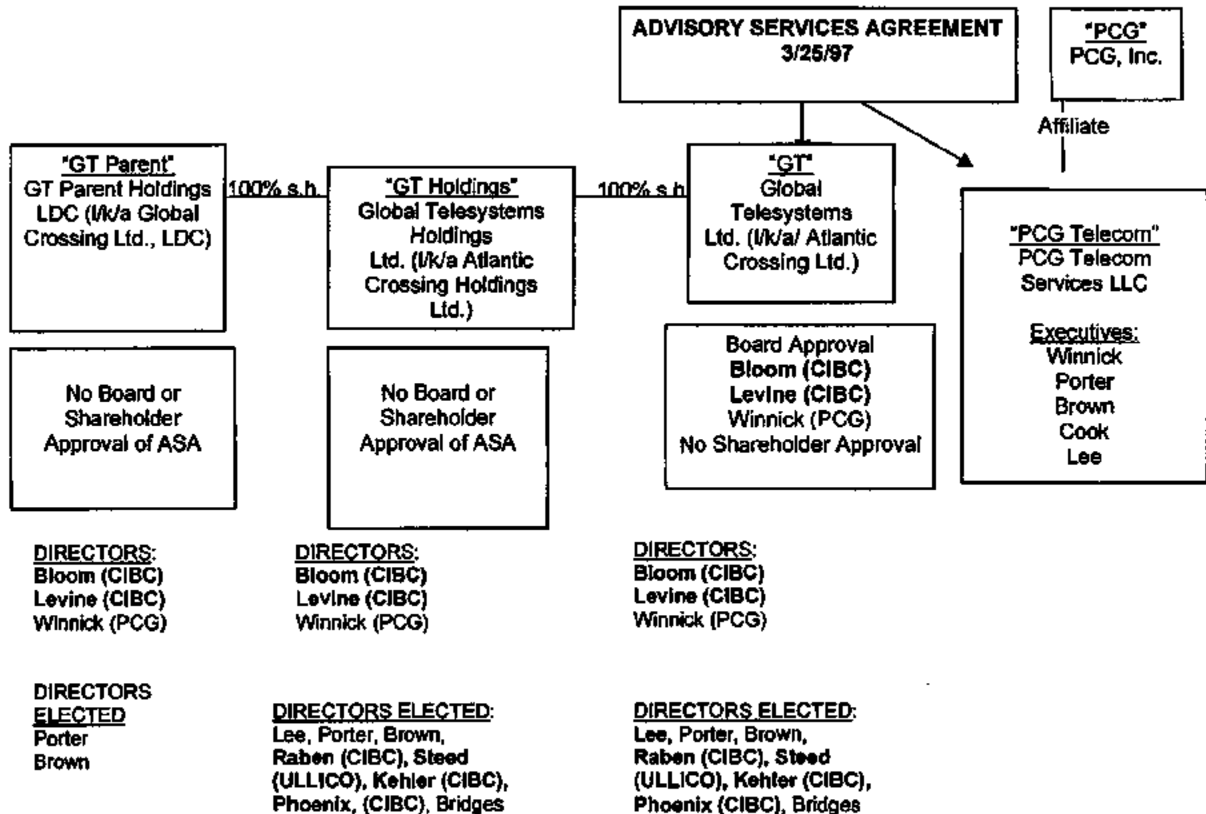
107. On March 25, 1997, GT entered into an Advisory Service Agreement ("ASA") with PCG Telecom. PCG Telecom was a subsidiary of PCG, which in turn was 100% owned and controlled by Winnick. PCG Telecom's key executives were Winnick, Brown, Porter, Lee, and Cook.

108. In the ASA, PCG Telecom agreed to provide technical, business, and marketing advice to GT regarding the development of the AC-1 cable system in exchange for a fee of 1.5% of GT's gross revenues over a term of 25 years. As will be discussed in more detail below, this percentage of GT's gross revenues, over such a lengthy term, was grossly disproportionate to the value, if any, of the advisory services PCG Telecom agreed to provide. PCG Telecom agreed to advise GT "in connection with the supervision of the development, construction and operation" of the AC-1 system and "marketing and pricing of circuits" of the system including advice with respect to the performance of AT&T Submarine System, Inc. ("SSI") relative to the AC-1 project. PCG Telecom also agreed to render advice to GT's management concerning annual budgets and business plans.

109. The ASA contained no provisions regarding cancellation fees or liquidated damages in the event of early termination or breach.

110. The GT board of directors approved the ASA the same day it was executed, March 25, 1997. All three GT directors, Winnick, Bloom, and Levine, were present at the meeting and voted to approve the ASA.

111. There is no evidence of shareholder approval of the ASA, nor of approval by the boards of directors of GT Parent or GT Holdings. A chart of the entities involved in the ASA follows:



b. Interestedness

112. Upon information and belief, PCG and CIBC were the controlling shareholders of GT Parent at the time of the ASA. All GT board members who approved the ASA were interested on both sides of the deal—Winnick on behalf of himself and his entities (PCG and PCG Telecom), and Bloom and Levine on behalf of CIBC, which was a direct beneficiary of the ASA as noted below.

2. CIBC Side Letter with PCG Telecom

113. CIBC's direct benefit from the ASA came about as follows: On March 25, 1997, PCG Telecom and CIBC Wood Gundy executed a side letter (the "CIBC Side Letter"), wherein PCG Telecom agreed to direct 35% of all of its ASA fees over the initial $5 million per year to CIBC Wood Gundy. This benefit was created by a breach of fiduciary duty to GT Parent and its creditors. It was provided to CIBC Wood Gundy without consideration and constituted fraudulent transfers and corporate waste.

114. Bloom personally signed the CIBC Side Letter on behalf of CIBC Wood Gundy. Winnick signed on behalf of PCG Telecom.

3. ULLICO Side Letter with PCG Telecom

115. ULLICO and PCG Telecom also executed an agreement (the "ULLICO Side Letter") on March 25, 1997, the day the ASA was approved. Under the terms of the ULLICO Side Letter, a company named ULLICO/PCG Advisors, LLC, in which ULLICO had an interest, would be entitled to 10% of the first $5 million of ASA fees per year, plus 31.07% of all ASA fees in excess of $5 million per year, net of CIBC's payout from the ASA under its side letter with PCG Telecom.

116. The ASA fees were paid directly to ULLICO and PCG, net of CIBC's share. ULLICO received these benefits without consideration, and its benefits from the ASA transactions constituted fraudulent transfers and corporate waste.

117. The ULLICO Side Letter was signed by Steed on behalf of ULLICO. On March 25, 1997 -- the same date the ASA and the ULLICO Side Letter were executed -- Steed was elected a director of GT Parent, Global Telesystems Holdings Ltd. ("GT Holdings"), and GT.

118. Upon information and belief, ULLICO (through MRCo.) became a substantial shareholder of GT Parent at approximately the time of the execution of the ASA.

4. How the ASA and the CIBC and ULLICO Side Letters Worked

119. The ASA, CIBC and ULLICO Side Letters, all executed on March 25, 1997, worked in unison as follows:

- Initial $5 million of ASA fees in any year:
  - 5% payable to ULLICO;
  - 5% payable to PCG; and
  - 90% retained by PCG Telecom.
- Amounts over the initial $5 million of ASA fees in any year:
  - 15.5% payable to ULLICO;
  - 15.5% payable to PCG;
  - 35% payable to CIBC; and
  - 34% retained by PCG Telecom.

120. The ASA paid the defendants for services their representatives were already being paid to provide as directors of the Company. Actual fees paid under the ASA to PCG Telecom were approximately $2 million, not including the $135 million in pre-IPO stock ultimately issued pursuant to the ASA Buyout Agreement discussed below.

121. After February 28, 1998, Global Crossing's outside directors received $2,500 for each board of directors meeting attended. Bloom, Kehler, Levine, Phoenix, Raben, Steed, and Weinberger also individually each received options on 120,000 shares of Global Crossing stock with an exercise price of 83 cents per share.

5. First Amendment to the ASA

122. On June 27, 1997, the ASA was amended (the "First Amendment") to expand the compensation section, and to set up a payment schedule for certain fees. The First Amendment to the ASA was, within approximately six months, obviated by the Second Amendment to the ASA.

123. All eight directors who approved the First Amendment were interested in their individual capacities and/or as representatives of beneficiaries of the ASA.

6. Second Amendment to the ASA

124. On January 21, 1998, GT's board of directors amended the ASA a second time (the "Second Amendment"). The Second Amendment increased the fees to be paid under the ASA from 1.5% to 2% of the gross revenues of GT, retroactive to the ASA's original date, and appears to have undone the payment schedule set forth by the First Amendment. Neither the Second Amendment itself nor the board minutes contain any evidence of any consideration flowing from PCG Telecom to GT for the increase in fees. The Second Amendment was made without consideration; it reflects fraudulent transfers and corporate waste, and resulted from breaches of fiduciary duty to Global Crossing and its creditors.

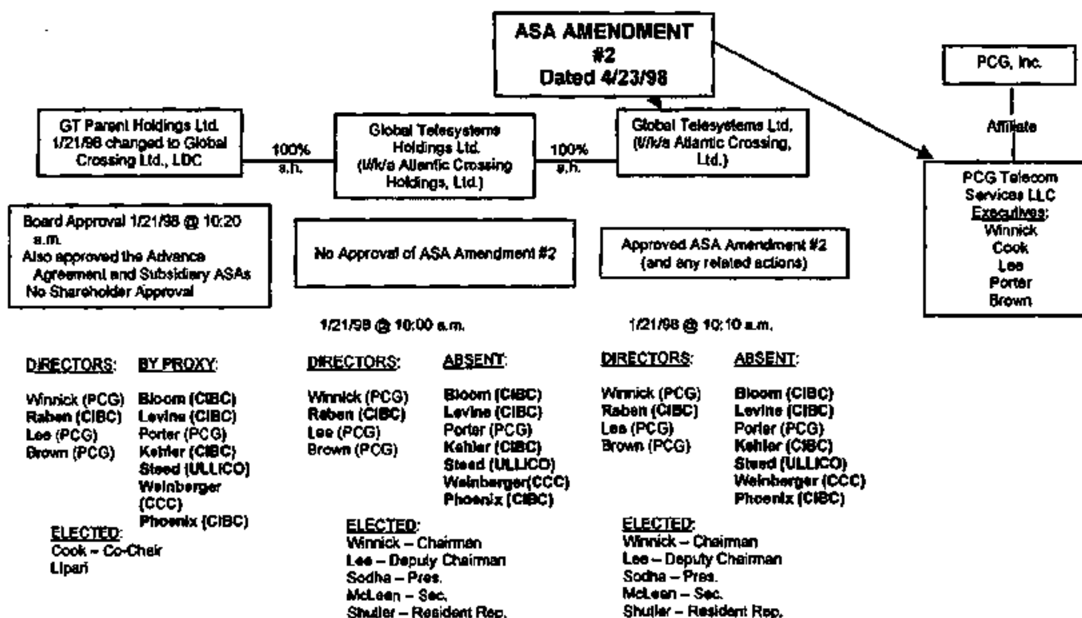
125. The GT board of directors approved the Second Amendment at a meeting held on January 21, 1998. Only four directors were present: Winnick, Raben, Lee, and Brown. The minutes of the GT board of directors meeting do not indicate that the remaining seven directors, Bloom, Levine, Porter, Kehler, Steed, Weinberger, and Phoenix, voted by proxy. However, the minutes of the meeting of the GT Parent board of directors, which was held ten minutes later the same day, indicate that the same four directors approved the Second Amendment in person and that the remaining seven directors approved it by proxy.

126. There is no evidence of approval of the Second Amendment by the GT Parent shareholders.

127. The following chart shows the interestedness of the directors of GT and GT Parent voting on the Second Amendment.

Winnick, Brown, Porter, Lee, Bloom, Levine, Kehler, Raben, Steed, Phoenix	Interested (as described above in chart, ¶ 110)
Weinberger	Representative of CCC

128. As noted, GT Parent was the indirect 100% shareholder of GT, and at least ten of the eleven GT Parent directors who approved the transaction (not including Weinberger) were interested because they benefited directly from the transaction or were representatives of entities (including defendants) that benefited. A diagram of Amendment #2 to the ASA follows:



7. Sub ASAs

129. Also on January 21, 1998 (the same day the GT Parent board of directors approved the Second Amendment), the GT Parent board approved the execution of Subsidiary Advisory

Services Agreements ("Sub ASAs") and fee caps. According to the board of directors' minutes, subsidiaries of GT Parent were to enter into Advisory Services Agreements on substantially the same terms as the ASA, including that the fees paid under the agreements should be 2% of the gross revenues of the relevant subsidiary. The subsidiaries, however, were instructed in the board minutes to enter into their ASAs with PCG, not PCG Telecom. As later recited in the Global Crossing IPO Prospectus, the subsidiaries were directed to enter into the Advisory Services Agreements on substantially the same terms as the ASA with PCG Telecom.

8. The Advance Agreement

130. Global Crossing was formed on March 18, 1998 and immediately became the ultimate parent of GT. On March 24, 1998, Global Crossing entered into an advance agreement (the "Advance Agreement") whereby Global Crossing agreed to make advances to PCG Telecom of fees that PCG Telecom would be owed under the ASA. Specifically, Global Crossing agreed to advance to PCG Telecom, within three days after a request from PCG Telecom, up to 1% of the amounts payable to Global Crossing under long-term capacity purchase agreements executed by Global Crossing. Significantly, the "advances" paid pursuant to the Advance Agreement were all to be paid out of the proceeds of a $200 million line of credit from CIBC to Global Crossing. Pursuant to this agreement, Global Crossing advanced $4,669,340 to PCG Telecom allocated as follows:

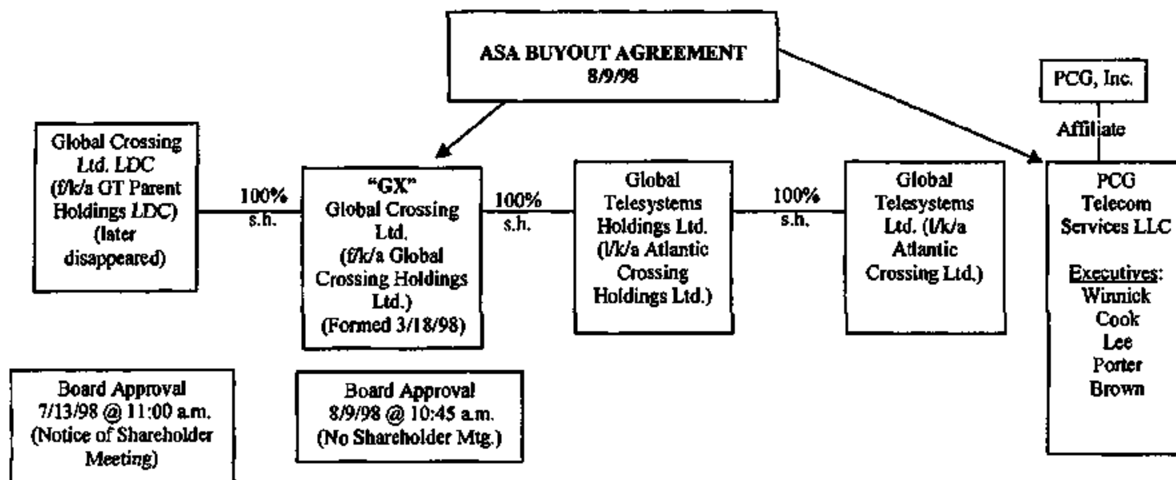
Winnick	$3,191,630
Lee	$481,130
Porter	$481,130
Brown	$320,754
MRCo	$194,696
Total:	**$4,669,340**

131. The board of directors of GT Parent had approved the Advance Agreement on January 21, 1998, at the same meeting at which it approved the Second Amendment – even before Global Crossing was formed. Among the directors present in person or by proxy at that meeting were Winnick, Lee, Brown, Porter, and Steed— all of whom were interested in the Advance Agreement or (in Steed's case) represented an entity that was directly interested in it. The Advance Agreement was made without consideration and was the result of a breach of fiduciary duty by ULLICO's representative on the GT Parent board of directors.

9. The ASA Buyout Agreement

132. GT Parent's board of directors first considered terminating the ASA on July 1, 1998. Of the twelve directors, Winnick, Bloom, Levine, Kehler, Raben, Steed, Cook, Brown, Lee and Porter were present at this meeting, and were directly interested as described above. At that time, Global Crossing was planning its initial public offering of common stock ("IPO"). At the meeting, the GT Parent board considered terminating the ASA and the Sub ASAs by paying the ASA beneficiaries between $125 million and $145 million in pre-IPO stock of Global Crossing.

133. On July 13, 1998, the GT Parent board of directors held a meeting to vote on the buyout of the ASAs. Winnick, Cook, Brown, Lee, Porter, Bloom, Levine, Kehler, Raben and Steed were again present at this meeting and were interested, or represented entities that were interested, in the proceeds of the buyout agreement. A diagram of the approval of this transaction follows:



<u>DIRECTORS</u>:
Winnick (PCG)
Cook (PCG)
Bloom (CIBC)
Brown (PCG)
Kehler (CIBC)
Lee (PCG)
Levine (CIBC)
Raben (CIBC)
Porter (PCG)
Steed (ULLICO)
Scanlon
Weinberger (CCC)

<u>ABSENT</u>:
Phoenix

<u>DIRECTORS</u>:
Winnick (Co-chair) (PCG)
Cook (Co-chair) (PCG)
Bloom (CIBC)
Brown (PCG)
Kehler (CIBC)
Lee
Levine (CIBC)
Raben (CIBC)
Porter (PCG)
Scanlon
Weinberger (CCC)

<u>ABSENT</u>:
Phoenix
Steed

134. Weinberger presented a proposal that the ASAs would be terminated in exchange for the issuance of $135 million in Global Crossing stock and the cancellation of approximately $2 million in advances owed to GT Parent under the Advance Agreement. Ultimately $2.7 million in advances were canceled.

135. The board presentation of the proposed ASA buyout agreement included a "fairness opinion" on the transaction delivered by Houlihan Lokey Howard & Zukin. That fairness opinion was based upon limited information which, importantly, assumed the truth of projections by the principals of GT Parent as to Global Crossing's future revenues. Weinberger stated his view that from GT Parent's perspective, the transaction was fair. Based on his presentation and "full

discussion," the board resolved that GT Parent should acquire the rights to and/or terminate the fees payable under the ASAs in consideration for issuance to the persons "entitled" to receive such fees of $135 million in pre-IPO Global Crossing stock at the price-per-share of the IPO ($19.00), together with the cancellation of all fees owed GT Parent under any Advance Agreement.

The amounts received from the termination of the ASAs were to be split as follows:

Recipient	**Common Stock**	**Pre-IPO Value of Shares**
Gary Winnick (including PCG and PCG Telecom)	3,257,577	$61,893,963
CIBC	670,000	$12,730,000
ULLICO	366,579	$6,965,001
Lodwrick M. Cook	304,974	$5,794,506
Abbott Brown	683,711	$12,990,510
David Lee	911,211	$17,313,010
Barry Porter	911,211	$17,313,010
Total:	7,105,263	$135,000,000

136. The board resolved to submit these terms to the shareholders of GT Parent for their approval. Virtually all those shareholders were interested in the result. PCG, as Manager of GT Parent, ratified all the actions taken by the board at this meeting.

137. Global Crossing also approved the buyout agreement on August 9, 1998, five days before its IPO. Eleven members of Global Crossing's board (including Winnick, Cook, Bloom, Brown, Kehler, Lee, Levine, Raben, Porter, and Weinberger) participated in approving the buyout terms.

138. CIBC's five representative directors on the Board of Global Crossing—Bloom, Kehler, Levine, Phoenix, and Raben—were interested on behalf of CIBC, which profited directly or indirectly from the ASA transactions. On information and belief, Bloom, Kehler, Levine, Phoenix, and Raben received compensation from CIBC that varied with CIBC's return on its investment in Global Crossing.

139. Immediately prior to the IPO, at the time of the ASA buyout, the defendants CIBC, ULLICO and CCC, together with PCG, controlled the vast majority of GT Parent shares and, through their designees, dominated its board of directors.

140. The amount of the termination payment was computed based on a determination of the net present value of the "advisory" fees projected to be paid over the remaining life of the ASAs. Nothing justified that approach. The fairness opinion did not address the fact that the ASA agreements and amendments thereto had been entered into with insufficient or no consideration at the behest of self-interested directors and entities. Moreover, there was nothing to justify the conclusion that Global Crossing would have revenues over a 25-year period with a 1998 present value of approximately $6.75 billion, the amount necessary to support the calculation of the $135 million buyout payment. This is particularly true because, as noted above, Global Crossing was recognizing most of its revenue "up front" from IRU sales and swap transactions. That the ASA transactions provided insiders with approximately $135 million in pre-IPO benefits (and substantially more in post-IPO benefits to the extent their ASA stock was later sold at inflated post-IPO prices) only serves to underscore the scope of their self-interested dealing.

10. Other Payments

141. In addition to the fees and buyout payments received under the ASA, ULLICO's subsidiary MRCo. received $1,000,000 in fees, purportedly for services provided for arranging the AC-1 credit facility, the GT Holdings Senior Notes, and GT Holdings Preference Shares.

142. Purportedly in return for providing commercial and investment banking services, underwriting services and advisory services to Global Crossing, the CIBC defendants received at least $58.7 million in fees.

11. The Registration Rights Agreement

143. Just prior to the IPO, CIBC held 48,513,400 shares, CCC held 21,330,900 shares, and MRCo. held 16,939,097 shares of Global Crossing stock.

144. In August 1998, prior to the IPO, Global Crossing's principal stockholders, including the defendants, entered into an agreement with Global under which, on demand, CIBC, MRCo. and CCC (among others) could require Global, at the Company's expense, to register for public sale up to 25% of their holdings of Global stock in a secondary offering, or to "piggyback" such a registration on any offer of stock made by Global Crossing itself to the public.

145. This Registration Rights Agreement was entered into without adequate consideration and constituted a prospective transfer of the Company's interest in property -- i.e., the right to register shares of Global Crossing stock for public sale -- during a time when the Company was insolvent.

146. Because the terms of the Registration Rights Agreement prohibited any secondary offering until at least one year after the Company's IPO, no transfer of rights was effective until at least August 15, 1999. In fact, as noted below, no secondary offering took place (and, therefore, no actual transfer of an interest in property occurred) until April 2000.

12. The Insiders Take Global Crossing Public

147. On August 13, 1998, Global Crossing became a public company. On the day of the initial public offering (the "IPO"), 22.21 million shares of common stock were sold by the Company and 1.94 million shares by Winnick, Brown, Porter and Lee: a total of approximately 11.8% of the Company's stock. As a result of the IPO, Global Crossing raised approximately $394 million and its theoretical market capitalization exceeded $3.8 billion.

148. Immediately prior to the IPO, the shareholders of GT Parent other than CIBC exchanged all their GT Parent shares for shares of Global Crossing. GT Parent thus became CIBC's

wholly-owned subsidiary and, on information and belief, had no function other than to hold CIBC's stock in Global Crossing.

149. To the extent the defendants had owed fiduciary duties to GT Parent, Global Crossing succeeded to, and became the beneficiary of, those duties by virtue of these transactions.

150. After the exchange, PCG had a 26.1% beneficial ownership interest in Global Crossing, CCC held approximately 11.66%, and MRCo. held approximately 9.07%. CIBC (which did not exchange its shares) had a 26.51% beneficial ownership interest in Global Crossing through GT Parent. Together, these four shareholders controlled Global Crossing's board of directors and dominated its affairs. Jointly and severally, these entities (directly and through their designated directors) owed fiduciary duties to Global Crossing and its creditors, which they violated through their many acts of self-dealing.

151. By the end of 1998, Global Crossing's market capitalization had risen to over $9 billion as its stock price closed above $45 per share. The market value of the stock that had been issued to the insiders in return for the buyout of the ASAs was almost $320 million. On March 9, 1999, Global's stock split two-for-one.

13. The US West Tender Offer

152. On May 16, 1999, Global Crossing's board of directors approved a plan of merger with US West. That plan required, as a necessary element, that US West make a tender offer to purchase up to 39,259,305 shares (or 9.5%) of Global Crossing's stock in the hands of its existing *shareholders. The tender offer was required as a precondition to the proposed merger even though,* as all parties knew, there was a substantial possibility that the merger might never occur (as, in fact, it did not).

153. The price US West was required to pay (and did pay) for all shares tendered was $62.75 per share in cash. That was a premium over the market price for the Company's registered

shares, which had averaged $55.525 during the twenty days preceding the announcement of the tender offer. US West's total investment in Global Crossing stock, pursuant to the tender offer, was approximately $2.464 billion in cash.

154. The tender offer extended from May 21 to June 18, 1999. At that time, approximately twelve percent of Global Crossing's stock was freely marketable registered shares, which were in the hands of the public by virtue of the 1998 IPO.

155. The remaining 88% of Global Crossing's shares consisted of restricted stock in the hands of insiders such as CIBC, MRCo. and CCC, as well as Winnick, Brown and Porter, who together completely controlled the Company's board of directors. This restricted stock was not freely marketable, owing to restrictions and constraints imposed by the securities laws of the United States as well as various agreements.

156. The representatives of the defendants approved the US West transaction as members of Global's board of directors. In doing so they were all supremely self-interested, since the tender offer provided a vehicle for the insiders to obtain cash by selling otherwise unmarketable restricted shares of Global Crossing stock to US West at a significant premium to the market price of the Company's publicly tradable shares, and without depressing the market as a secondary offering might well have done.

157. The tender offer portion of the US West transaction was designed to and did provide a substantial benefit (in excess of $1.825 billion) to insider shareholders, but created no benefit to the Company itself, much less to its creditors.

158. Indeed, the tender offer occurred at approximately the same time that Global Crossing was dramatically increasing its debt load: the Company closed approximately $3.6 billion in loan transactions largely negotiated by CIBC in the first two weeks of July 1999.

159. Defendants and the other insiders who benefited from the US West tender offer seized a corporate opportunity from Global Crossing by diverting the proceeds of US West's investment in Global Crossing stock to themselves rather than to the Company, while simultaneously loading the Company with debt. They breached their fiduciary duties of loyalty, due care, good faith and fair dealing to Global Crossing by so doing.

160. Had defendants and their confederates not seized this opportunity properly belonging to Global Crossing, much if not all of US West's $2.464 billion investment could have benefited Global Crossing itself, rather than its self-interested insider shareholders, and the Company would have had to incur less debt, or would have been in a much better position to pay its debts, than it actually turned out to be.

161. At the time of the tender offer, defendants possessed material non-public adverse information about Global Crossing's business prospects as well as its accounting and revenue recognition practices, all as set forth elsewhere in this Complaint.

162. On June 21, 1999, US West accepted CCC's tender of 3,973,391 shares, and later paid it $249,330,285.25. That same day, US West accepted CIBC's tender of 8,828,552 shares, and later paid CIBC $553,991,638.00. US West also accepted ULLICO's tender of 3,070,738 shares and paid ULLICO (or its subsidiary MRCo.) $192,688,809.50. In all, these entities realized nearly $1 billion from this transaction. The insiders at the Company realized approximately three-quarters of the benefits of the tender offer. Those sale proceeds properly belonged to Global Crossing.

163. The merger agreement between Global Crossing and US West contained a provision that Global Crossing could terminate the agreement if US West's board of directors approved or recommended an "alternative transaction," (*i.e.*, a superior corporate combination proposal which the board had to entertain or risk charges of breach of fiduciary duty to its shareholders), or refused to

affirm its commitment to a merger with Global. Should the merger agreement be terminated for such a reason, Global Crossing would be entitled to a "breakup fee" of $850 million in cash. A side letter agreement provided that this "breakup fee" could be reduced by as much as $250 million if US West bought capacity on Global Crossing systems, at current market prices, in an amount equivalent to the reduction in the fee.

164. The merger agreement between Global Crossing and US West also provided that either US West or Global Crossing could terminate the tender offer *if the merger agreement between the two companies had previously been terminated.*

165. Qwest made an offer to acquire US West on June 13, 1999, while US West's tender offer for Global Crossing shares was still open and before any shares had been purchased. US West eventually announced on July 18, 1999 that its board of directors had approved Qwest's proposal.

166. Global Crossing's board of directors, composed entirely of self-interested individual insiders and representatives of self-interested corporate insiders, met on June 16, 1999. It did not meet thereafter until July 18, 1999. Between those dates it did not ask US West to affirm its commitment to the merger, much less act to terminate the merger agreement with US West, which would have triggered US West's contractual obligation to pay Global Crossing the $850 million breakup fee. If Global Crossing had terminated the merger agreement, the inevitable consequence would have been that US West would have terminated the tender offer, as it would have had the right to do under the circumstances.

167. As a consequence of the Global Crossing board of directors' failure to seek affirmance of US West's commitment to the merger (which US West could not have given), US West was required to go through with the tender offer and to acquire tendered stock from defendants

and the other insiders, rather than pay the $850 million cash to Global Crossing as called for in the merger agreement.

168. Instead Global Crossing began a negotiation with US West that resulted in a new "termination agreement" dated as of July 18, 1999. Under that "termination agreement" the tender offer remained in place and US West paid for the shares that had been tendered. Global Crossing received a breakup fee comprised of only $140 million in cash and 2,231,076 shares of Global Crossing stock (which was valued at approximately $103.5 million based on the market price at the time). In addition, Qwest agreed to purchase capacity on Global Crossing's systems for $140 million.

169. As a result of these negotiations, Global Crossing received a total of approximately $210 million in value, net of expenses – of which $103.5 million was in its own stock, which eventually became worthless. In addition, it could sell cable capacity to Qwest in order to receive an additional $140 million over time.

170. Defendants were instrumental in approving this "termination agreement" through their control of the board of directors of Global Crossing. In doing so they caused their designated directors to violate their fiduciary duty to the Company and its creditors, to the Company's detriment, in order to feather their principals' nests as tendering shareholders.

14. Global Crossing's Secondary Common Stock Offering

171. On or about April 11, 2000, Global Crossing and several of its officers and directors and their affiliated trusts and companies (the "Selling Shareholders") sold 43 million shares of Global Crossing's common stock at $33.00 per share in a registered offering (the "Secondary Offering"). The right to sell these shares was granted shortly before the offering as a result of the August 1998 Registration Rights Agreement. The shares that the Selling Shareholders and their affiliated trusts

and companies sold included: (a) 6,768,158 shares owned by CIBC; and (b) 2,568,160 shares owned by ULLICO.

172. In connection with the Secondary Offering, Global Crossing filed a Registration Statement on March 20, 2000, as amended March 21, 23, and 31, 2000, and a Prospectus dated April 4, 2000, and supplemented April 10, 2000 (the "Secondary Offering Prospectus").

173. The Secondary Offering Prospectus incorporated by reference Global Crossing's Form 10-K annual report for 1999, which contained misleading disclosures regarding the Company's change in accounting procedures after FIN 43 became effective, and made a technically truthful but highly misleading claim that none of the new accounting practices affected its cash flows. Even so, the balance sheet contained in the Secondary Offering Prospectus revealed that all of Global Crossing's reported shareholders' equity of $9.2 billion was represented by "Goodwill and other intangible" assets. The Company had a negative net tangible book value.

174. Indeed, the Secondary Offering Prospectus contained prophetic language bearing directly on Global Crossing's insolvency:

> "Our significant indebtedness could adversely affect us by leaving us with insufficient cash to fund operations and impairing our ability to obtain additional financing. The amount of our debt could have important consequences for our future, including, among other things:
>
> cash from operations may be insufficient to meet the principal and interest on our indebtedness as it becomes due;
>
> payments of principal and interest on borrowings may leave us with insufficient cash resources for our operations; and
>
> restrictive debt covenants may impair our ability to obtain additional financing.
>
> We have incurred a high level of debt. As of December 31, 1999, we and our consolidated subsidiaries had a total of $8,051 million of total liabilities, including approximately $5,056 million in senior indebtedness, of which $1,295 million was secured. As of that date, we additionally had outstanding cumulative convertible preferred stock with a face value of $1,650 million. Our

> subsidiary, Global Crossing Holdings, also has mandatorily redeemable preferred stock outstanding with a face value of $500 million. In addition, our Pacific Crossing joint venture entered into an $850 million non-recourse credit facility, under which it had incurred $750 million of indebtedness as of December 31, 1000.
>
> Our ability to repay our debt depends upon a number of factors, many of which are beyond our control."

175. The CIBC Defendants demanded registration of their shares and caused Bloom, their representative on Global Crossing's Executive Committee, to approve the Secondary Offering. The CIBC Defendants also caused their designated directors (Bloom, Kehler and Raben) to sign the registration statement for the Secondary Offering. This was done in violation of fiduciary duties to Global Crossing and its creditors, which were deprived of a corporate opportunity by virtue of the offering. The CIBC Defendants' conduct in selling in this Secondary Offering was wholly self-interested, and the proceeds from their insider selling (approximately $223.35 million) constituted a fraudulent transfer of a corporate opportunity and corporate waste due to the excessive nature of the benefits bestowed by the Company on the CIBC Defendants.

176. ULLICO acquired the right to demand registration of its shares in the Secondary Offering, and made such a demand, at a time when it had a designee (Steed) on the board of directors. As a shareholder which participated in corporate control, ULLICO had a fiduciary duty to Global Crossing and its creditors. It breached that fiduciary duty and seized a corporate opportunity by these actions, and benefited thereby in the amount of approximately $84.75 million.

177. At the time of the Secondary Offering, the CIBC defendants and ULLICO had material non-public adverse information about the inflation of corporate earnings and the Company's unsustainable level of debt, as indicated elsewhere in this Complaint.

178. If the Company had sold stock to the public instead of permitting the Selling Shareholders to profit from their positions, it would have been in a better position to pay its debts when they matured.

179. Global Crossing's common stock had sold for $19.00 per share in the IPO in 1998. Adjusting the $33.00 common stock price in the Secondary Offering for the two-for-one stock split on March 9, 1999, Global Crossing's common stock price had increased 247% since the IPO. CIBC and ULLICO and their associated entities collectively reaped net proceeds of approximately $308 million from selling stock in the Secondary Offering – proceeds properly belonging to the Company.

15. The Insiders Profited By Selling their Stock with Knowledge That The House Of Cards Was Collapsing, While Creditors And The Public Continued To Be Misled

180. On June 5, 2000, Leo J. Hindery, Jr., who had only three months earlier become Global Crossing's Chief Executive, sent a confidential memorandum to Winnick, Casey and Cook. After identifying what Hindery believed to be the "four notable participants" in the broadband transport industry at the time (Global Crossing, Level 3 Communications, Qwest and 360 Networks), Hindery wrote, "never has any industry group been formed more quickly nor signaled more quickly its willingness to be absorbed." Hindery added:

> "For the past three months I have thought long and often about this phenomenon, and I have wrestled with whether the transiency of the four companies' strategies is born out of the uncertainty which is often associated with a short industry and/or corporate history, or whether it is a candid look at the realities of the broadband transport world, especially the impending new transport-related technologies, most notably including the Ethernet-based technologies. I am now convinced it is the latter, and thus like the resplendently colored salmon going up river to spawn, at the end of our journey, our niche too is going to die rather than live and prosper.
>
> The stock market can be fooled, but not forever, and it is fundamentally insightful and always unforgiving of being misled."

181. In the memorandum, Hindery suggested that Global Crossing must dispose of certain of its assets, "talk publicly everyday about how better run [Global] Crossing is, and then meet or exceed near-term financial expectations" or sell the company.

182. Bloom, Kehler and Raben, three of CIBC's designated board members, left Global Crossing in June 2000. (Levine and Phoenix, CIBC's two other designees, had left in 1999.) Like salmon swimming upstream for the last time, they, like Hindery, knew the end of the Company was near. Indeed, some of the CIBC board representatives prospered individually from CIBC's sales of Global Crossing stock in the Secondary Offering. According to an April 29, 2002 *Canadian Business* article, CIBC's representative directors resigned from Global Crossing's Board so they could make further sales of their own stock without publicly reporting the sales, at a time they and CIBC knew or should have known that Global Crossing's financials were a sham and that Global Crossing was insolvent.

183. In selling stock in the Secondary Offering and in other private sales and hedging transactions prior to the end of 2000, the CIBC defendants and ULLICO breached their fiduciary duties to Global and its creditors. They knew or had good reason to know of the inflation of earnings and the unsustainable debt described above, but they nonetheless profited from sales of Company stock at prices they knew to be artificially inflated.

184. During the Relevant Period, the insiders named herein, including the defendants, sold at least 38 million shares of the Company's stock as follows:

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
CCC	06/21/99	290,050	$62.75	$18,200,638
	06/21/99	50,906	$62.75	$3,194,531.50
	06/21/99	3,632,435	$62.75	$227,935,296.25
Relevant Period Totals:		**3,973,391**		**$249,330,285.25**

CIBC	06/21/99	6,360,675	$62.75	$399,132,356
	06/21/99	1,567,277	$62.75	$98,346,632
	06/21/99	29,890	$62.75	$1,875,598
	06/21/99	870,710	$62.75	$54,637,052
	02/15/00	12,900,796	$60.938	$786,148,706
	04/11/00	6,768,158	$33.00	$223,349,214
Relevant Period Totals		**28,497,506**		**$1,563,489,558**
ULLICO (MRCo.)	6/21/99	3,070,738	62.75	192,688,809.50
	4/11/00	2,568,160	$33.00	$84,749,280
Relevant Period Totals		**5,638,898**		**$277,438,089.50**
GRAND TOTAL		**38,109,795**		**$2,090,257,932.75**

185. The prospectus for Global Crossing's secondary offering on April 10, 2000 reported that after the successful offering, CIBC and its affiliates would continue to hold 60,071,396 shares of common stock and ULLICO would continue to hold 28,239,296 shares of common stock. Upon information and belief, CIBC and ULLICO and their affiliates continued to sell such shares after their representatives resigned as directors of the Company.

186. CIBC alone sold 30 million shares of Global Crossing stock after its designees resigned from the Board in 2000 —shares with an aggregate value of more than $900 million at the then-current $30 per share price. On information and belief, such sales were made with inside knowledge of Global Crossing's misleading and improper revenue and income recognition policies, and in the belief they would continue, thereby inflating the value of CIBC's stock. Upon information and belief, CIBC realized over $2.4 billion in proceeds from the sale of Global Crossing securities.

187. On information and belief, at the same time CCC held over 36 million shares of common stock. Between April and July 2000, although not participating in the Secondary Offering, CCC was able to dispose of at least 13,910,200 Global shares under circumstances and at prices to be

determined and proven at trial. On information and belief, such sales were made based on inside knowledge similar to that possessed by CIBC.

188. In all, on information and belief, the insiders named herein, including defendants, unlawfully obtained more than $3.5 billion in profits and fees through their relationships with Global Crossing, all to the detriment of Global Crossing and its creditors. The transfers of money and stock described above were fraudulent transfers, constituted corporate waste and were wholly the result of self-interested dealing and breaches of fiduciary duty on the part of the insiders.

E. The Insiders Breached Fiduciary Duties to Global Crossing by Condoning and Assisting in Grubman's Hyping of its Stock

189. It was not enough that Winnick, the designated directors, and the defendants (collectively referred to as the "Insiders") falsified Global Crossing's revenues and exaggerated its earnings in public filings. They also employed the assistance of Grubman, SSB's supposedly independent securities analyst, to lend legitimacy to Global Crossing and keep the Company's credit ratings up, although they knew that the Company was incurring debt beyond its ability to repay. While these Insiders cashed out their artificially inflated shares, the Company paid Citigroup more than $120 million in fees for investment banking and underwriting, much of which was in reality a payoff for Grubman's unduly optimistic analyst reports.

1. Grubman Was Not An Independent Equity Analyst

190. Winnick befriended Grubman and made Grubman a part of Global Crossing's inner circle. Grubman advised Winnick on Global Crossing's deals, personnel and financial matters. He reviewed and advised Winnick on Global Crossing's capital expenditure plans and helped prepare (and participated in) roadshows and financial presentations. According to *The Wall Street Journal*, Winnick sought Grubman's advice and the two spoke almost daily. Indeed, Global Crossing's

strategy of creating the appearance of growth by acquiring other companies with overvalued and inflated Global Crossing stock was a strategy developed by Grubman and Winnick.

191. Starting in 1997, Grubman regularly attended Global Crossing's board meetings. While testifying before Congress, Citigroup's General Counsel, Jane C. Sherburne, disclosed that Grubman regularly met with the boards of directors of the companies he covered, including sitting in on the board meetings of at least six major telecom companies in addition to Global Crossing.

192. In fact, a May 31, 2002 article in *The Wall Street Journal* entitled, "How Analyst Grubman Helped Call Shots at Global Crossing," stated that Grubman may have had a hand in the actual management of Global Crossing. Specifically, the article reported that Grubman personally recommended the hiring of one of Global Crossing's chief executives, Robert Annunziata. The article explained that Grubman helped in the merger negotiations between Global Crossing and US West, as well as Frontier, and also advised Winnick on his stock sales. Winnick has purportedly stated that, "Jack Grubman was the Bruce Springsteen of telecom."

193. As a result of Citigroup's close ties with Winnick and certain other directors of the Company, it had access to both internal documents and senior management of the Company. Citigroup had knowledge of the Company's persistent need to generate cash flow from operating activities to match reported earnings and its need for positive credit ratings from the rating agencies in order to obtain loans for the ill-advised acquisitions that helped lead to the Company's bankruptcy.

194. Citigroup's participation in the manipulation of Global Crossing's financial condition and in exaggerating its prospects for success was essential to the success of the Insiders' scheme of enriching themselves at the Company's expense. During the Relevant Period, Citigroup assisted the Insiders in achieving these goals by designing and financing acquisitions and transactions, underwriting numerous offerings, and through SSB's and Grubman's pumping of the stock price by

generating unduly optimistic and misleading statements about the Company's actual financial condition and prospects. Citigroup then assisted the Insiders in using the Company's positive credit ratings to make acquisitions that were bad investments for the Company but were entered into for the purpose of adding apparent strength to its financial statements.

195. Despite SSB and Grubman holding themselves out as *independent*, equity research specialists in the telecom industry, they ignored the generally accepted accounting principles applicable to the telecom industry in favor of alternative method of reporting based on "cash revenues" and "adjusted EBITDA" used by the Insiders, in order to keep the Company's credit ratings up. Grubman's August 1, 2000 analyst report stated:

> GBLX reported very strong 2Q'00 results which surpassed our estimates by all measures, most notably, cash revenue from telecom services and adjusted EBITDA from telecom services, and for that matter, on an overall basis.
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> * * *
>
> This methodology is consistent with recognizing revenue in line with cash coming into the coffers, which, last we looked, is how the SEC likes companies to report, *except in this particular industry.*

(emphasis added).

196. SSB and Grubman knowingly and continually issued deceptively positive analyst reports, which recommended the purchase of Global Crossing common stock and which set price targets for Global Crossing common stock without any reasonable factual basis, in order to win and retain investment banking business for SSB. In each of these reports, Grubman failed to disclose that he had significant material conflicts of interest because of the investment banking business he was trying to garner for SSB. The defendants' designees on Global Crossing's board were aware of these conflicts of interest but ignored them and did not suggest he disclose them. Instead, they stood by while SSB represented to investors that its analysts, including Grubman, were "independent" and

free from improper influences relating to the companies on which they reported. This assurance was plainly untrue, but the defendants did nothing to correct it since it generated profits for them in connection with their sales of Global Crossing stock.

197. Grubman further aided Winnick and the other Insiders in cashing out their holdings of the Company's artificially inflated shares by structuring and/or underwriting various offerings that benefited the Insiders disproportionately. Grubman and SSB structured and acted as underwriters for Global Crossing's IPO, the US West tender offer, Global Crossing's Secondary Offering in April 2000, and several other offerings in 1999 and 2000. Grubman himself was given sales credit by SSB for the sale of 538,400 shares of Global's convertible preferred stock in December 1999.

198. By involving himself in Global Crossing's day-to-day operations and the sale of its securities, Grubman far exceeded analysts' traditional function of offering impartial advice to shareholders and investors. In an article published in *The New York Daily News* on August 10, 2002, Pat McGurn, a corporate governance expert at Institutional Shareholder Services, observed that it was inconceivable how an analyst could sit in on - much less advise - companies on their decisions and then provide an independent opinion.

2. SSB and Grubman Aided The Insiders By Issuing Deceptively Positive Analyst Reports That Bolstered Global Crossing's Stock Prices

199. Defendants were able to artificially inflate the price of Global Crossing stock through a scheme in which Grubman knowingly issued misleading analyst reports and routinely touted Global Crossing as a prosperous company, long after Grubman and SSB knew that Global Crossing's financials were a sham and had every reason to know it could not pay its debts as they matured. In return, SSB received lucrative investment banking business through the connivance of management and of the defendants' designees on Global Crossing's board of directors, who did nothing to correct Grubman's misstatements and exaggerations.

200. SSB and Grubman initiated their analyst coverage of Global Crossing on September 8, 1998, shortly after the IPO. Their initial report set a 12-month price target for Global Crossing stock of $29 per share and gave the stock a "1 S" rating, the highest "Buy" recommendation, targeting an expected a 30% or greater return on the stock over the next 12 to 18 months.

201. On September 21, 1998, SSB and Grubman issued a glowing report on Global Crossing, tabbing it as a "Buy" and claiming that it had "several competitive advantages." Grubman reported that Global Crossing was:

> a low-risk way to play an *enabling asset in the sweet spot of the telecom industry:* international voice, data, and IP services, and has management with extensive telecom expertise behind the helm.

(Emphasis added.) He further claimed that there was "upside" in his projected numbers for Global Crossing, projecting that revenues would reach $725.5 million in 1999, $758.8 million in 2000, $649.8 million in 2001 and $753 million in 2002. On September 21, 1998, the date of Grubman's research report, Global Crossing opened at $17.62 per share (below the IPO price). Two days later, partly in response to Grubman's research report, Global Crossing was trading at $23.00 per share on volume of 1.1 million shares, over three times the average volume of the prior week.

202. As noted above, Global Crossing's stock split two-for-one on March 9, 1999. After the split, there was a period of meteoric price gains fueled in part by Grubman's activities. In a March 11, 1999 SSB report on the telecommunications industry, Grubman repeated his "Buy" rating for Global Crossing stock. That day, Global Crossing opened at $41.31 per share and closed at $44.38 per share. Three trading days later, partly in response to Grubman's reiteration of his Global Crossing "Buy" recommendation, Global Crossing's price soared to $56.56 per share on volume of 4.7 million shares. Two days later, volume doubled to 11.5 million shares with Global Crossing

stock still trading as high as $50.06 per share. Eventually, on May 14, the price reached an all-time closing high of $61.375. Thus, Grubman's hyping of Global's stock was instrumental in setting the tender offer price for the US West transaction at $62.75 per share in June 1999, in which CCC, CIBC, and ULLICO (or its subsidiary MRCo) collectively garnered profits of nearly $1 billion. Grubman was intimately involved in the US West transaction and SSB was paid fees of $18.2 million in that connection. The US West tender offer coincided roughly in time with the FASB's issuance of FIN 43 on July 1, 1999, which Grubman basically ignored.

203. Throughout the remainder of 1999, Grubman reiterated his strong buy rating for Global's stocks: "Fundamentals and industry trends remain strong at GBLX" (July 16, 1999 and August 4, 1999 analyst reports); "Thus we aggressively reiterate our Buy rating on GBLX" (July 19, 1999 analyst report); "We would be aggressive buyers of GBLX" (August 11, 1999 analyst report).

204. By late 1999, the FCC amended the Submarine Cable Landing License Act to streamline approvals, which allowed new competitors to enter the fiber optic cable transmission market with relative ease. As a result of competitors pouring in, prices for bandwidth to Europe and Asia from North America fell more than 50% in both 2000 and 2001. Global Crossing and its directors, including defendants' designees, understood the nature of the business. Dan Cohrs, Global Crossing's CFO, acknowledged in testimony before the Energy and Commerce Committee of the United States Congress that, "We always projected prices to be declining. The nature of our business was that every business case ever prepared in the history of Global Crossing showed declining prices for capacity because of technological advances. And so the typical business case would have annual price declines of 15 to 30 percent per year." The defendants knew this and stood by while Grubman publicly ignored it.

205. Global Crossing was poorly positioned to deal with the bandwidth price decline since, as the defendants knew, it was not the highly successful, financially sound company presented in its financial statements but was really a company whose actual cash revenues were barely a sliver of its reported "cash revenues." The Company found itself burdened with a level of debt service that might have been appropriate if it had truly been a multi-billion dollar company, but the debt burden it assumed was far beyond Global Crossing's ability to handle, considering its far more modest, actual revenues.

206. In an e-mail dated March 7, 2000, entitled "It's tough to build a European business without money," Charles Mancini wrote to three other Global Crossing employees begging for their assistance in trying to get CFO Dan Cohrs to finally approve a spending plan in Europe so the Company could sign leases for data centers and offices in various European location order to develop its business. Mancini warned that if the Company did not obtain a particular site in London, the Company would have to stop working on the project. Mancini advised the email recipients that Global Crossing's European Chief Financial Officer, Donald Muir, refused to sign off on the leases because Cohrs would not allow it. Mancini concluded the e-mail by warning, "Please guys, this is getting pretty serious."

207. On March 15, 2000, Charlene Shelley, a Client Services Consultant at Global Center, sent an e-mail to Maria Funkhouser entitled, "We Are Losing Customers" in which she advised that Global Center was "losing customers left and right" as a result of its cash problems and identified several of the more recent customers the Company had lost because they were "sick of [Global Crossing's] network problems and the poor service they have received over the past year." Funkhouser responded by advising, "I want you to know that Scott and I are aware of these issues, they are nationwide!"

208. Throughout 2000, as the Insiders continued to sell stock, Grubman continued to paint a sunny picture of Global Crossing's financial condition. In the February 23, 2000 Research Call Note, Grubman stated "[w]e would be aggressive buyers of GBLX stock. We think the stock is greatly undervalued" and reiterated his $70 target price for Global Crossing's shares.

209. Two months later, Grubman was deeply involved in Global's April 2000 Secondary Offering at $33 per share, from which the Insiders (including CIBC and ULLICO) derived proceeds of more than $700 million, and SSB, as the co-lead underwriter, was paid $13 million in fees.

210. From February 17 to May 23, 2000, the market price of Global Crossing's stocks fell from $61 to $23.625. Regardless, Grubman's July 26, 2000 report on Global Crossing continued to maintain SSB's highest "Buy" rating. It stated that Grubman expected Global Crossing's August 1st reported earnings to exceed SSB's prior Second Quarter 2000 revenue estimate of $1.3 billion and Adjusted EBITDA of $383 million. Grubman also continued to set Global Crossing's target stock price at $70 per share, despite a steady two-week decline from $34.50. Grubman's report stemmed the downward momentum on July 26, with Global Crossing shares losing only $0.50 in value that day. However, by the morning of August 1, 2000, Global Crossing had slid to $24.75 per share. Grubman had to act.

211. Grubman issued yet another bullish report on August 1, 2000, after Global Crossing reported "cash revenues" of $1.4 billion and Adjusted EBITDA of $435 million for the second quarter of 2000. In that report, Grubman stated:

> The bottom line is that GBLX had a spectacular quarter in our view; it clearly is leveraging its global network, the network is being built out very rapidly and GBLX is clearly moving up the value chain in terms of offering finished products on top of the network. We believe GBLX represents one of the best overall global network assets in the world of telecom which is the key ingredient to drive products and revenues in this industry. This is especially true in

areas of acute scarcity of supply relative to demand, most notably subsea.

GBLX once again beat numbers on all accounts. They are building their network out ahead of schedule, productizing the network in a very rapid fashion, truly represent a terrific set of global assets and at current valuations we believe are being very severely mispriced in the market. We would obviously be aggressive buyers of the stock.

212. In the same August 1, 2000 report, Grubman spoke glowingly of Global Crossing's management:

> We know GBLX gets knocked for having a bunch of deal guys and investors question whether they can operate the business. The reality is they are ahead of plan in building out the network, they are productizing the network faster than scheduled so results continue to beat expectations. Leo Hindery and his team around the world truly are operating this business despite what conventional wisdom may be. The proof of that is the continued increase in revenues coming from products as opposed to capacity, the fact that the FRO [Frontier] business which was a negative grower is now a double digit grower and we believe it is Leo Hindrey's mission to operate the business as opposed to doing deals. Obviously, if they could do something like selling off the ILEC, becoming net debt free, increasing their growth rate, and getting rid of an asset that detracts from growth and value - that's fine but we would argue that GBLX's operating results take a back seat to no one.
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> * * *
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> [W]e feel GBLX is the epitome of what is driving value in telecom services.

213. In the August 1 report, Grubman "strongly reiterated" his "Buy" recommendation and his $70 target for the stock price. On Tuesday, August 1, 2000, Global Crossing's high was $26.37 per share. On each succeeding day, Global Crossing moved upward with daily highs of $29.44, $30.25 and $31.19 per share. By the following Monday, August 7, partly in response to Grubman's research report, the price of Global Crossing shares rose to $31.88 per share on volume of 10.5 million shares. Meanwhile, CCC and CIBC continued to sell off their holdings.

214. In Grubman's September 5, 2000 analyst report on Global Crossing, he retained his "Buy" rating and $70 target for Global Crossing stock. Commenting on Global Crossing's latest guidance to the market for 2000 of $5.2 billion in "cash revenue" and $1.34 billion in "adjusted EBITDA" from continuing operations, Grubman noted that, "in an industry where numbers have been guided downward, this increase in guidance by GBLX is clearly very positive." That day, 30.9 million shares of Global Crossing were traded with Global Crossing's share price holding at approximately $35.00 per share.

215. SSB and Grubman continued their glowing analysis of Global Crossing in Grubman's September 20, 2000 report on the telecommunications industry. Despite the general market malaise with regard to telecom stocks, Grubman maintained a "1S" rating for Global Crossing and blamed the plunge of telecom stocks, in part, on other analysts' misguided comments:

> We want to take this opportunity to strongly reiterate our bullish view of the telecom services industry. We remind people that our long-term investment thesis on this industry remains unchanged despite the fact that the stock performance of the telecom services sector has fallen off a cliff.
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> * * *
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> We believe Wall Street is allowing the depression in the stock prices to dictate research. Issues that are being raised are not new and could have been raised when these stocks were 70% higher. We fundamentally believe in the growth of this industry, in the potential for value creation in this industry. But it ain't easy. Anyone who thought that this group would just go straight up was sadly mistaken. At a time like this, when the valuations are absurdly low, and there is huge capitulation on Wall Street, we thought it was a good idea to remind people where we stand. We are very aggressive on these names. Clearly, on any subset of the names we alluded to, we would be buying aggressively.

216. On September 20, Global Crossing had opened at $29.81 per share after a steady two week decline from $35.00. Once again, Grubman's report turned the tide with Global Crossing trading at $32.50 per share within a few days.

217. Throughout the remainder of 2000 and most of 2001, Grubman continued to endorse Global Crossing longer than any other analyst, recommending the stock as one of his "top picks" as late as May 2001. Other analysts deserted the Company based upon the shake-out in telecommunications stocks, but Grubman's top three picks continued to be the now notorious trio of SSB banking clients -- Global Crossing, Qwest and WorldCom.

218. A summary of Grubman's positive coverage of Global Crossing from September 1998 until October 2000 is as follows:

Date	Recommendation	Target	Comments
9/21/98	BUY	N/A	In the two days after Grubman initiated coverage Global stock price increased from $9.80 to $11.50.
3/11/99	BUY	N/A	N/A
6/17/99	BUY	$70	"Global Crossing is a low risk way to participate in the growth sweet spot of the telecom industry..."
7/16/99 & 7/19/99	BUY	$70	"Fundamentals and industry trends remain strong at GBLX." "Thus, we aggressively reiterate our Buy rating on GBLX."
8/4/99 & 8/11/99	BUY	$70	"Fundamentals and industry trends remain strong at GBLX." "We would be aggressive buyers of GBLX..."
2/23/00	BUY	$70	"We would be aggressive buyers of GBLX stock. We think the stock is greatly undervalued."
7/26/00	BUY	$70	"We expect GBLX to exceed our Q2 cash revenue estimate of $1.3 billion and adjusted EBITDA estimate of $383 million when they report their earnings on August 1st after the close."
8/1/00	BUY	$70	"We believe GBLX represents one of the best overall global network assets in the world of telecom which is the key ingredient to drive products and revenues in this industry. This is especially true in areas of acute scarcity of supply relative to demand, most notably subsea."
9/5/00 & 9/20/00	BUY	$70	"Fundamental remain strong at GBLX, allowing them to raise cash revenue and adjusted EBITDA estimates for 2000."
9/28/00	BUY	$70	"GBLX has been one of our favorite stocks in our groups & we believe GBLX has a fabulous set of global assets on which it is layering on products...."
10/11/00	BUY	$70	"GBLX is clearly undervalued, we believe, and we would buy aggressive at these levels."

219. In issuing their reports that recommended the purchase of Global Crossing stock, SSB and Grubman failed to disclose material, non-public adverse information that they possessed about Global Crossing. Specifically, SSB and Grubman (like the defendants' representatives on Global Crossing's board) knew or recklessly disregarded, *inter alia*:

- that Global Crossing's reported revenues were artificially inflated by aggressive accounting for IRU sales;
- that Global Crossing was issuing misleading "pro forma" financial reports that misstated the Company's cash revenues and earnings;
- that Global Crossing's "growth" depended almost entirely on reciprocal capacity swaps and questionable acquisitions;
- that Global Crossing was entering into economically worthless IRU Swap transactions with other telecom companies in order to boost revenue and meet quarterly revenue expectations;
- that other telecom companies with which Global Crossing did business and upon which Global Crossing depended for IRU sales were in financial trouble; and
- that Global Crossing had very limited cash flow and was running out of liquid funds, despite the fact that the Company touted its "cash" position in fraudulent "pro forma" financial reports.

220. In return for consistently touting Global Crossing's stocks, SSB received well over $120 million in investment banking fees by assisting the Insiders in various financing transactions that enabled them to profit while the Company slid into bankruptcy.

3. Citigroup's Role In Global Crossing's Disastrous Acquisition Program

a. Acquisitions

221. Grubman counseled Winnick and Global Crossing's board on how to accomplish the appearance of growth by acquiring other companies with Global Crossing's artificially inflated stock and through loans from investors who believed that the Company was financially sound. SSB received fees of over $50 million for its advisory role in this acquisition strategy. In 1999 and 2000, with the help of Grubman and SSB, Global Crossing made the following acquisitions for an aggregate price of over $15 billion:

i. Global Marine

222. On July 2, 1999, the Company acquired Cable & Wireless Marine (later renamed Global Marine Systems), a submarine cable maintenance and installation company, for approximately $906 million in cash. The acquisition of this business purportedly increased Global Crossing's ability to install and maintain its undersea global network on a cost-effective basis. However, Global Crossing and its advisors at SSB knew that there was already a capacity glut and that the undersea cable business was "drying up." This business had dramatically declined in value before the acquisition, and continued to do so thereafter. Citigroup was an arranger of the bridge loan for that acquisition.

ii. Frontier Corporation

223. On September 28, 1999, Global Crossing acquired Frontier Corporation in a stock-for-stock merger valued at approximately $9.5 billion based on stock prices at the time of the acquisition. Frontier was one of the largest long distance telecommunications companies in the United States and one of the leading providers of facilities-based integrated communications and Internet services, including a long distance business, an ILEC ("Incumbent Local Exchange Carrier")

business and GlobalCenter, a web-hosting business. Wholesale layoffs at Frontier were necessary after the merger, and income was well below projections.

224. The proposed Frontier merger was announced in March of 1999. Grubman was an influential figure in its planning and negotiation, and SSB was paid $20 million in advisory fees for the project. Initially, SSB wanted Grubman to refrain from writing about Global Crossing for at least six months after the announcement of the deal. But Winnick, worried about losing his most bullish analyst, objected, and SSB allowed Grubman to resume writing reports two months later. The Frontier merger closed in September 1999.

iii. Racal Telecom

225. On or about November 28, 1999, Global Crossing agreed to purchase a group of telecommunications companies known as Racal Telecom. This agreement involved the purchase of all of the issued and outstanding stock of Racal Telecommunications Limited, Racal Telecommunications Networks Limited and Racal Internet Services Limited, all of which were English companies, as well as all of the issued and outstanding stock of Racal Telecommunications, Inc., a Delaware corporation, for the approximate sum of £1 billion.

226. To finance the Racal acquisition, and provide working capital for the acquired entities, a Global subsidiary entered into a revolving credit agreement and a term loan in the total amount of £675 million. Citibank was an arranger, Security Trustee and Facility Agent for the lending syndicate.

iv. IXnet/IPC

227. On June 15, 2000, Global Crossing acquired IXnet, Inc. and its parent company, IPC Communications, Inc., in a stock-for-stock merger valued at $2.1 billion based on stock prices at the time of the acquisition. Global Crossing later disposed of IPC's Trading Systems business and IXNet's Asian operations as described below.

228. Most of the acquisitions which Global Crossing made were questionable at best and demonstrated a miserable level of underwriting due diligence, as shown by the following sorry history of dispositions of parts or all of the acquired companies.

b. Dispositions

i. GlobalCenter

229. During September 2000, Global Crossing entered into a definitive merger agreement under which Exodus Communications, Inc. would acquire Global Crossing's GlobalCenter web hosting services division. The sale was completed in January 2001 and Global Crossing received approximately 108.15 million shares of Exodus common stock. The value of the shares was $1.918 billion, based on the closing sales price of Exodus common stock prior to the closing of the transaction, but this stock position was illiquid. By September 30, 2001, the investment in Exodus was worth $0 following Exodus' bankruptcy filing on September 26, 2001 – resulting in a loss of $1.918 billion for Global Crossing.

ii. ILEC

230. On July 11, 2000, Global Crossing entered into an agreement to sell its ILEC business, acquired in the acquisition of Frontier, to Citizens Communications for $3.65 billion in cash.

iii. IXnet/IPC Asia

231. On July 10, 2001, Global Crossing sold to Asia Global Crossing the Asian operations of IXnet and IPC, as well as territorial rights to Australia and New Zealand, in exchange for 26.8 million shares of Asia Global Crossing common stock. This increased Global Crossing's ownership in Asia Global Crossing by 2% to 58.9% at the time of the transaction closing. Asia Global Crossing was a debtor in related bankruptcy proceedings and Global Crossing's investment became worthless.

iv. IPC

232. As noted above, IPC and its wholly owned subsidiary, IXnet, were acquired in a stock-for-stock merger transaction on June 15, 2000. On November 16, 2001, the Company entered into an agreement to sell IPC's trading system unit to Goldman Sachs Capital Partners 2000 for $360 million.

v. Asia Global Crossing

233. The Asia Global Crossing joint venture was established on November 24, 1999. Global Crossing contributed to the joint venture development rights in East Asia Crossing, an approximately 11,000 mile undersea network that would link several countries in eastern Asia, and a 58% interest in Pacific Crossing, an undersea system connecting the United States and Japan. Softbank Corporation and Microsoft Corporation each contributed $175 million in cash to Asia Global Crossing and together committed to purchases of at least $200 million in capacity on the network over a three-year period.

234. On November 17, 2002, Asia Global Crossing and one of its wholly owned subsidiaries, Asia Global Crossing Development Company ("AGCDC"), filed voluntary petitions for relief under the Bankruptcy Code. These Chapter 11 proceedings were converted into Chapter 7 liquidation proceedings on or about June 11, 2003.

4. Citigroup Was Motivated By Excessive Fees

235. As a *quid pro quo* for Grubman's unflagging support of Global Crossing's stock, SSB received $121.6 million in fees.

5. Salomon's Compensation System Encouraged Grubman To Falsify His Research Reports

236. While testifying before Congress, Citigroup's General Counsel, Sherburne, confirmed that part of Grubman's bonus compensation was determined by investment banking

revenues and the "level of interest that Firm clients have in the securities recommended" by Grubman.

237. Grubman's compensation was driven by his active assistance in attracting investment banking transactions to SSB. In an August 7, 2002 letter to the House Committee on Financial Services, Citigroup admitted that Grubman's compensation was linked to the investment banking revenues he generated. Although he had the distinction in 2000 and 2001 of being the worst of Salomon's more than 100 analysts, as rated by Salomon's retail sales force, Grubman reportedly earned $20 million in 1999, and is estimated to have pocketed at least $30 million in bonuses from 1999 through 2001.

238. Beginning in 1997, SSB paid "helper's fees" to analysts as a percentage of the investment banking fees generated by the transactions on which the analysts worked. From 1997 to 2001, SSB took in almost $1 billion in investment banking fees from telecom companies -- more than any other Wall Street firm. From Global Crossing alone, Citigroup was paid over *$120 million* in investment banking and advisory fees, as well as millions in stock sale profits, as a reward for aiding the Insiders in their scheme to artificially inflate the price of the Company's stock.

239. Although SSB purportedly had a five tiered rating system for stocks, ranging from buy - outperform - neutral - underperform - sell with five degrees of risk from low-risk to venture, SSB's rating was actually a three-category system of buy/neutral/sell with virtually no Sell or Underperform ratings for more than 1000 stocks they rated from 1998 through 2000.

240. In or about February 2001, Jay Mandelbaum, the global head of SSB's retail stock-selling division, stated that SSB's "research was basically worthless" and threatened to terminate his division's contribution to the research budget. However, during the Relevant Period, SSB did not change its rating systems, and the de facto three-category rating system remained throughout 2001.

241. These allegedly "independent" analyst research reports and ratings were used covertly to lure investment banking business. Although investment banks, including SSB, have long assured investors that their investment banking and research departments were separated by a so-called "Chinese Wall" to prevent conflicts of interest, in fact the concept of a "Chinese Wall" at Wall Street investment banking firms, and in particular SSB, was illusory.

VI. COUNTS

Count 1 - Recovery of Preferential Payments and Fraudulent Transfers Against All Defendants

242. The allegations in all preceding paragraphs of this Complaint are incorporated herein by reference.

243. Global Crossing transferred or caused to be transferred to Insiders, including the defendants, the following:

Insider	Transfers	Date of Transfer	Purported Rationale
MRCo.	$194,696	March 24, 1998	Advances granted with respect to the ASA transactions.
CIBC Oppenheimer	$7.0 million	May 18, 1998	Fees collected for role as initial purchaser on $800,000,000 Senior Notes.
CIBC	$2.03 million	May 18, 1998	Fees collected for role as lender in $104,000,000 loan to make payments on the PC-1 construction project.
CIBC Oppenheimer	$5.52 million	June, 1998	Fees collected for role as lender in $850,000,000 non-recourse project debt for PC-1

[illegible]	[illegible]	[illegible]	[illegible]
CIBC	670,000 pre-IPO shares of Global Crossing common stock valued at the time of the IPO at $12,730,000.	August 14, 1998	Fees received in connection with the ASA Buyout Agreement.
ULLICO	366,579 pre-IPO shares of Global Crossing common stock valued at the time of the IPO at $6,965,001.	August 14, 1998	Fees received in connection with the ASA Buyout Agreement.
CIBC	$2.8 million	November 24, 1998	Fees collected for role as underwriter of $200,000,000 Secured Bridge Loan.
CIBC	$1.79 million	November 25, 1998	Fees collected for role as lender in the MACL credit agreement re: $260,000,000 non-recourse loan for MAC Project.
CIBC Oppenheimer	$4.3 million	December 2, 1998	Fees collected for role as initial purchaser of $500,000,000 in Senior Exchangeable Preferred Stock
CCC	$249.3 million corporate opportunity to sell Global Crossing common Stock to US West	June 28, 1999	Tender offer
CIBC	$554.0 million corporate opportunity to sell Global Crossing common stock to US West	June 28, 1999	Tender offer

[illegible]	[illegible]	[illegible]	[illegible]
ULLICO/MRCo.	$192.7 million corporate opportunity to sell Global Crossing common stock to US West	June 28, 1999	Tender offer
CIBC	$.6 million	July 2, 1999	Fees collected for role as arranger of $600,000,000 ten-day demand note issued by Global Marine Systems.
CIBC	$2.8 million	July 2, 1999	Fees collected for role as arranger of $3,000,000,000 Senior Secured Credit Facility.
CIBC World Markets	$1.5 million	November 12, 1999	Fees collected for role as initial purchaser of $2,000,000,000 in unsecured Senior Notes issued by Global Crossing Holdings.
CIBC	$.8 million	December 15, 1999	Fees collected for role as initial purchaser of $650,000,000 of aggregate liquidation preference convertible preferred stock.
CIBC	$223.35 million corporate opportunity to sell previously unregistered Global Crossing common stock to the public.	April, 2000	"Piggyback registration" pursuant to Registration Rights Agreement of August 1998
ULLICO	$84.75 million corporate opportunity to sell previously unregistered Global Crossing common stock to the public	April, 2000	"Piggyback registration" pursuant to Registration Rights Agreement of August 1998
CIBC	$1.0 million	July 28, 2000	Fees collected for role as arranger of $1,250,000,000 Senior Secured Credit Facility.
CIBC World Markets	$1.071 million	October 6, 2000	Fees collected for role as lead underwriter of $459,000,000 Asia Global Crossing IPO.

[illegible]	[illegible]	[illegible]	[illegible]
CIBC Oppenheimer	$.3 million	October 13, 2000	Fees collected for role as arranger in the $1,000,000,000 FSTI Bridge Loan.

244. These amounts transferred to the defendants are voidable under §550 of the Bankruptcy Code and N.Y. Debtor and Creditor Law ("NYUFCA") §§273-274.

245. For reasons stated herein, each of these transfers was made for no consideration; was without fair consideration; or was made for less than a reasonably equivalent value.

246. At the time these transfers were made, Global Crossing was insolvent or was left, as a result of the transfers, with unreasonably small capital.

Count 2 - Breach of Fiduciary Duty of Loyalty Against All Defendants

247. The Estate Representative realleges and incorporates by reference the allegations in all preceding paragraphs of this Complaint.

248. Defendants ULLICO, MRCO, CIBC, CIBC Oppenheimer, CIBC Wood Gundy, CIBC World Markets, and CCC designated and controlled directors of Global Crossing and/or its subsidiaries, who in turn owed Global Crossing fiduciary duties of loyalty. These duties required defendants' designees at all times to act faithfully on behalf of Global Crossing and to conduct themselves in a manner they reasonably believed to be in the best interest of the Company. As part of their fiduciary duties, defendants' designated directors were at all times required to be honest and candid and to make full disclosures in connection with their dealings with the Company and its Board of Directors. Further, in their communications with investors and creditors, those directors were obligated to communicate honestly, candidly and completely in all material respects.

249. Defendants' designated directors, together with others identified herein, dominated and controlled Global Crossing's board. By virtue of the acts and omissions described herein,

defendants' designated directors acted together and with others to repeatedly violate their fiduciary duties of loyalty to Global Crossing and aid and abet similar violations by others – violations for which defendants are responsible.

250. Defendants' designated directors violated their duties of loyalty by causing Global Crossing to recognize revenue improperly with respect to each of the IRU sale and swap transactions described herein, for the purpose and with the effect of manipulating and misstating Global Crossing's financial condition and enriching themselves and their principals.

251. Defendants' designated directors also breached their fiduciary duty of loyalty to Global Crossing by causing to be reported in Global Crossing's financial statements the financial effects of these IRU transactions as though they were valid and in compliance with applicable accounting and other requirements, when, as described herein, they were not. With respect to those same transactions, defendants' directors violated their duties to conduct themselves honestly, candidly and with full disclosure in their dealings with the Company and its Board of Directors.

252. Further, defendants' designees, acting together, breached their fiduciary duties of loyalty by causing Global Crossing to enter into transactions by which they and their principals obtained and sold Global Crossing stock at inflated prices while they possessed material knowledge of the Company's true financial state, all of which was not clearly disclosed to the Company's creditors. The Estate Representative seeks the disgorgement of all proceeds of such sales in an amount to be determined at trial as described herein.

253. By virtue of the acts and omissions described herein, these defendants' designated directors also breached their duties of loyalty by causing Global Crossing to enter into self-dealing transactions including the ASAs, transactions with U.S. West, and the 2000 Secondary Offering, in which they and their principals derived an improper benefit at the expense of the Company.

254. Defendants ULLICO, MRCO, CIBC, CIBC Oppenheimer, CIBC Wood Gundy, CIBC World Markets, and CCC are liable for the breaches of fiduciary duty committed by their designated directors at their direction and for their benefit.

255. As a direct and proximate result of defendants' actions and omissions, Global Crossing was injured and damaged in amounts to be determined at trial in at least the following ways: (1) its debt was wrongfully expanded out of all proportion to its ability to repay and it became insolvent and thereafter bankrupt; (2) it incurred and continues to incur substantial legal and administrative costs, as well as the costs of governmental investigations; (3) its relationships with its customers, suppliers and employees were undermined; and (4) its assets were dissipated so that its creditors could not be paid.

Count 3 - Breaches of Fiduciary Duties of Due Care, Good Faith, and Fair Dealing Against All Defendants

256. The Estate Representative realleges and incorporates by reference the allegations in all preceding paragraphs of this Complaint.

257. Defendants' designated directors at Global Crossing and/or its subsidiaries owed Global Crossing fiduciary duties which required those directors at all times to act in good faith on behalf of Global Crossing, to exercise the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and to conduct themselves in a manner they reasonably believed to be in the best interest of the Company and its creditors. As part of their fiduciary duties, those directors were at all times required to be honest and candid and to make complete disclosure in their dealings with the Company and its Board of Directors. Further, in their communications with investors and creditors, the directors were obligated to do so honestly, candidly and completely in all material respects.

258. Defendants' designated directors, together with others identified herein, dominated and controlled Global Crossing's board. By virtue of the acts and omissions described herein, defendants' designated directors acted together and with others to repeatedly violate their fiduciary duties of good faith, due care, and fair dealing to Global Crossing, and aided and abetted similar violations by others -- violations for which defendants are responsible.

259. These directors violated their duties of fair dealing by causing Global Crossing to recognize revenue improperly with respect to each of the transactions described herein, for the purpose and with the effect of manipulating and misstating Global Crossing's financial condition and obtaining benefits for the entities that had designated them to the board, to the detriment of the Company.

260. Defendants' designated directors also breached their fiduciary duties of good faith, fair dealing, and due care to Global Crossing by reporting or causing to be reported in Global Crossing's financial statements the financial effects of transactions including sales and swaps of IRUs as though they were valid and in compliance with applicable accounting and other requirements, when, as described herein, they were not. With respect to those same transactions, defendants' designated directors violated their duties to conduct themselves honestly, candidly and with full disclosure in their dealings with the Company and its Board of Directors.

261. Further, defendants' designated directors breached their fiduciary duties of fair dealing and due care by causing Global Crossing's communications with its investors and creditors pertaining to these transactions and their effects on Global Crossing's financial statements to be materially misleading and incomplete.

262. By virtue of the acts and omissions described herein, defendants' designated directors also breached their duty of fair dealing, due care and good faith by causing Global Crossing to enter

into self-dealing transactions including the ASAs, transactions with US West, and the 2000 Secondary Offering, from which they and their principals derived an improper benefit at the expense of the Company.

263. Defendants are liable for the breaches of fiduciary duty committed by their designated directors at their direction and for their benefit.

264. As a direct and proximate result of defendants' actions and omissions, Global Crossing was injured and damaged in at least the following ways: (1) its debt was wrongfully expanded out of all proportion to its ability to repay and it became insolvent and thereafter bankrupt; (2) it was forced to incur and continues to incur substantial legal and administrative costs, as well as the costs of governmental investigations; (3) its relationships with its customers, suppliers and employees were undermined; and (4) its assets were dissipated so that its creditors could not be paid.

Count 4 - Corporate Waste and Violation of New York Business Corporation Law Section 720 Against All Defendants

265. The Estate Representative realleges and incorporates by reference the allegations in all preceding paragraphs of this Complaint.

266. As directors of Global Crossing and/or its subsidiaries, defendants' designees owed Global Crossing the fiduciary duty to avoid waste of corporate assets. These duties required defendants' designees at all times to act on behalf of Global Crossing and to conduct themselves in a manner they reasonably believed to be in the best interests of the Company. As part of their fiduciary duties, defendants' designees at all times were required to be honest and candid and to make complete disclosure in their dealings with the Company and its Board of Directors. Defendants' designees were also required to deal with the Company's assets in a manner calculated to further the best interests of the Company.

267. As referenced herein, defendants, acting through their designated directors on the Company's board of directors, knowingly misappropriated to themselves, in bad faith and contrary to the Company's best interests, excessive compensation in the form of fees and other improper benefits, constituting a waste of corporate assets.

268. Defendants also knowingly misappropriated to themselves various corporate opportunities, including the opportunity to sell Global Crossing securities to US West and in the public marketplace, which constituted a waste of corporate assets.

269. Such diversions of the Company's assets to defendants were made in bad faith and contrary to the Company's interests, were knowingly unlawful, lacked adequate consideration and lacked appropriate corporate authority.

270. As referenced herein, Global Crossing was not given any consideration for such property, and such transfers were without a legitimate corporate purpose.

Count 5 – Imposition of Constructive Trust Against All Defendants

271. The Estate Representative realleges and incorporates by reference the allegations in all preceding paragraphs of this Complaint.

272. The Estate Representative has no adequate remedy at law.

273. Defendants ULLICO, the CIBC Defendants, and CCC were unjustly enriched by their receipt of Global Crossing shares in connection with the 1998 buyout of the ASAs.

274. Defendants ULLICO, the CIBC Defendants, and CCC were unjustly enriched through their sales of restricted Global Crossing shares in the June 1999 US tender offer

275. In equity and good conscience, ULLICO, the CIBC Defendants, and CCC ought not to retain any proceeds of such sales, which amounted to $192,688,809.50, $553,991,638.00, and $249,330,285.25, respectively.

276. Defendants ULLICO and the CIBC Defendants were unjustly enriched through their sales of Global Crossing stock to the public in April 2000 in the Secondary Offering.

277. In equity and good conscience, ULLICO and the CIBC Defendants ought not to retain any proceeds of such sales, which amounted to $84,749,280 and $220,379,214 respectively.

278. All defendants were unjustly enriched in respect of other transactions in Global Crossing securities from 1998 through 2001, in amounts to be proven at trial.

279. A constructive trust and equitable lien should be imposed upon the amounts by which the defendants were unjustly enriched in all these transactions, for the benefit of the Company and its unsatisfied creditors.

Count 6 – Forfeiture of Compensation Against All Defendants

280. The Estate Representative realleges and incorporates by reference the allegations in all preceding paragraphs of this Complaint.

281. Defendants are required to forfeit all compensation, including investment opportunities and the value of opportunities to sell Global Crossing stock, which each defendant received after the first date upon which it or its designees breached their fiduciary duties or aided and abetted in the breach of fiduciary duties to Global Crossing.

Count 7 – Accounting Against All Defendants

282. The Estate Representative realleges and incorporates by reference the allegations in all preceding paragraphs of this Complaint.

283. Defendants ULLICO, MRCO, the CIBC Defendants, and CCC are required to account to the Estate Representative for all compensation, including all investment opportunities and opportunities to sell Global Crossing stock, received while its designees served as directors of Global Crossing.

284. These Defendants are also accountable to the Estate Representative for all gains realized by them from transactions in Global Crossing stock as a result of their use of material non public information during the Relevant Period.

VII. AD DAMNUM CLAUSE

WHEREFORE, Plaintiff demands judgment as follows:

A. Avoiding and setting aside the transfers identified in Count 1.

B. Directing each respective transferee of the transfers identified in Count 1 to return to the Estate the property transferred or pay the value of such property plus prejudgment interest thereon.

C. Awarding compensatory damages in favor of Plaintiff against the defendants, jointly and severally, for all damages sustained as a result of defendants' wrongdoing, in an amount to be proven at trial, including interest thereon.

D. Imposing a constructive trust for the benefit of the Estate Representative upon all proceeds of defendants' sales of Global Crossing stock.

E. Directing the forfeiture by defendants of all compensation, including investment opportunities, received after the first date upon which defendants breached or aided and abetted in the breach of fiduciary duties to Global Crossing.

F. Directing an accounting by defendants ULLICO, MRCO, CIBC, CIBC Oppenheimer, CIBC Wood Gundy, CIBC World Markets, and CCC for all compensation, including investment opportunities, received while defendants' designates served as directors of Global Crossing.

Dated: New York, New York
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Respectfully submitted,

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