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Clerk of the Superior Court

AUG 05 2016

By: R. Lindsey-Cooper, Clerk

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

LABORERS' LOCAL #231 PENSION FUND,)	Case No. 37-2013-00050879-CU-BT-CTL
Individually and on Behalf of All Others)	
Similarly Situated,)	<u>CLASS ACTION</u>
)	
Plaintiff,)	PROPOSED AMENDED ORDER
)	PRELIMINARILY APPROVING
vs.)	SETTLEMENT AND PROVIDING FOR
)	NOTICE
WEBSense, INC., et al.,)	
)	JUDGE: Honorable Joan M. Lewis
Defendants.)	DEPT: C-65
)	DATE ACTION FILED: 05/30/13

~~PROPOSED~~ AMENDED ORDER PRELIMINARILY
APPROVING SETTLEMENT AND PROVIDING FOR NOTICE

1 WHEREAS, plaintiff Laborers' Local #231 Pension Fund, individually and on behalf of the
2 Class Members ("Plaintiff"), Defendants John McCormack, John B. Carrington, Charles Boesenberg,
3 Bruce T. Coleman, John F. Schaefer, Mark S. St. Clare, Gary E. Sutton, and Peter C. Waller
4 (collectively, "Defendants"), and Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch,"
5 collectively with Defendants, the "Released Signatory Parties," and together with Plaintiff, the
6 "Parties") entered into an Amended Stipulation of Settlement dated July 14, 2016 (the "Amended
7 Stipulation"), which is subject to review by this Court and which, together with the Exhibits thereto,
8 sets forth the terms and conditions for the Settlement of the claims alleged in the above-entitled action
9 (the "Action") and *Laborers' Local #231 Pension Fund, individually and on behalf of a class of all*
10 *Websense stockholders v. Merrill Lynch, Pierce, Fenner & Smith Inc.*, Case No. 12350, filed in the
11 Delaware Chancery Court on May 17, 2016 (the "Pending Delaware Action"); and the Court having
12 read and considered the Amended Stipulation and the accompanying documents; and the parties to the
13 Amended Stipulation having consented to the entry of this Order; and all capitalized terms used herein
14 having the meanings defined in the Amended Stipulation;

15 NOW, THEREFORE, IT IS HEREBY ORDERED, this ____ day of _____ 2016, that:

16 1. **Jurisdiction**. The Court has jurisdiction over the subject matter of the Action and over
17 the Parties and all members of the Class.

18 2. **Preliminary Approval of Settlement**. The Court preliminarily finds that the Settlement
19 is sufficiently fair, reasonable, and adequate to warrant providing notice of the Settlement to the Class.

20 3. **Settlement Fairness Hearing**. A hearing (the "Settlement Fairness Hearing") is hereby
21 scheduled to be held before this Court, the Superior Court of California, County of San Diego, in
22 Department C-65, 330 West Broadway, San Diego, CA 92101 on November 4, 2016, at 8:30 a.m., for
23 the following purposes: (a) to determine whether the proposed Settlement is fair, reasonable, and
24 adequate, and should be approved by the Court; (b) to determine whether the Judgment as provided
25 under the Amended Stipulation should be entered; (c) to determine whether the proposed Plan of
26 Allocation should be approved by the Court as fair, reasonable and adequate; (d) to consider Lead
27 Counsel's application for an award of attorneys' fees and expenses; and (e) to rule upon such other
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1 matters as the Court may deem appropriate. All papers in support of the Settlement, the Plan of
2 Allocation, and any application by Lead Counsel for attorneys' fees and expenses shall be filed no later
3 than fourteen (14) calendar days before the deadline for filing objections, or October 7, 2016, and any
4 reply briefs shall be served and filed on or before seven (7) calendar days before the Settlement Fairness
5 Hearing, or October 28, 2016.

6 4. The Court reserves the right to approve the Settlement with or without modification and
7 with or without further notice to the Class and may adjourn the Settlement Fairness Hearing without
8 further notice to the Class. The Court reserves the right to enter the Judgment approving the Settlement
9 regardless of whether it has approved the Plan of Allocation and/or Lead Counsel's request for an award
10 of attorneys' fees and expenses. Any order (or lack of order) regarding the Plan of Allocation or any
11 awards of attorneys' fees and expenses shall not affect or delay the Judgment from becoming Final.

12 5. **Approval of Notice.** The Court approves the form, substance and requirements of the
13 Notice of Proposed Settlement of Class Action (the "Notice"), the Proof of Claim and Release (the
14 "Proof of Claim"), and the Summary Notice of Proposed Settlement of Class Action (the "Summary
15 Notice"), annexed hereto as Exhibits A-1, A-2, and A-3, respectively.

16 6. **Notice.** The form and content of the Notice, and the method set forth herein of notifying
17 the Class of the Settlement and its terms and conditions, meet the requirements of California law and
18 due process, constitute the best notice practicable under the circumstances, and shall constitute due and
19 sufficient notice under Rule 3.769(f) of the California Rules of Court to all persons and entities entitled
20 thereto. All reasonable expenses incurred in notifying Class Members, as well as administering the
21 Settlement Fund, shall be paid as set forth in the Amended Stipulation. In the event the Settlement is
22 not approved by the Court, or otherwise fails to become Final, neither Plaintiff nor any of its counsel
23 shall have any obligation to repay any amounts actually and properly disbursed, or due and owing from
24 the Settlement Fund as of the date the Settlement or Amended Stipulation is terminated, up to
25 approximately \$80,000.00.

1 7. **Retention of Claims Administrator and Manner of Notice.** The Court approves the
2 appointment of Gilardi & Co. LLC as the Claims Administrator to administer the notice procedure and
3 the processing of claims under the supervision of Lead Counsel as set forth more fully below:

4 (a) The Claims Administrator shall cause the Notice and the Proof of Claim,
5 substantially in the forms annexed hereto, to be mailed, by First-Class Mail, postage prepaid, within
6 seven (7) calendar days of entry of this Order, to all Class Members, as previously identified in
7 connection with mailing of the Notice of Pendency of Class Action;

8 (b) The Claims Administrator shall cause the Summary Notice to be published in the
9 *Wall Street Journal*, within ten (10) calendar days after the mailing of the Notice; and

10 (c) Not later than fourteen (14) days before the deadline for filing objections, Lead
11 Counsel shall file with the Court a declaration showing timely compliance with the foregoing mailing
12 requirements.

13 8. **Nominee Purchasers.** Banks, brokerage firms, institutions, and other Persons who are
14 nominees that held Websense common stock at the closing of the acquisition of Websense by Vista on
15 June 25, 2013 for the beneficial interest of other Persons (“Nominees”), must, within 10 days of
16 receiving the Notice, either (a) send a copy of the Notice and Proof of Claim by First-Class Mail to all
17 such beneficial owners; or (b) provide a list of the names and addresses of such beneficial owners to the
18 Claims Administrator, pursuant to instructions set forth in the Notice. The Claims Administrator shall
19 make available additional copies of the Notice and Proof of Claim form to any Nominees requesting the
20 same for the purpose of distribution to beneficial owners, or shall send copies of the Notice and Proof of
21 Claim by First-Class Mail to any beneficial owners whose addresses are provided by Nominees.

22 9. **Submission of Proof of Claim Forms.** Any Class Member who wishes to participate in
23 the distribution of the Net Settlement Amount must take the following actions and be subject to the
24 following conditions:

25 (a) Within 90 calendar days after the date as set by the Court to mail notice to the
26 Class, each Person claiming to be a Settlement Payment Recipient shall be required to submit to the
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1 Claims Administrator a completed Proof of Claim, substantially in a form contained in Exhibit A-2
2 attached hereto and as approved by the Court, signed under penalty of perjury.

3 (b) Except as otherwise ordered by the Court, all Class Members who fail to timely
4 submit a Proof of Claim within such period, or such other period as may be ordered by the Court, shall
5 be forever barred from receiving any payments pursuant to the Amended Stipulation and the Settlement
6 set forth therein, but will in all other respects be subject to and bound by the provisions of the Amended
7 Stipulation, the releases contained therein, and all determinations and judgments in this Action,
8 including the Judgment. Notwithstanding the foregoing, Lead Counsel may, in their discretion, accept
9 for processing late submitted claims so long as the distribution of the Net Settlement Amount to
10 Settlement Payment Recipients is not materially delayed, but shall incur no liability for declining to
11 accept a late-submitted claim.

12 (c) As part of the Proof of Claim, each Class Member shall submit to the jurisdiction
13 of the Court with respect to the claim submitted, and shall (subject to effectuation of the Settlement)
14 release all Released Plaintiff's Claims as provided in the Amended Stipulation.

15 10. **Exclusions from the Class.** All Class Members, regardless of whether they submit a
16 Proof of Claim, shall be bound by all determinations and judgments in this Action, including the
17 Judgment, unless they validly requested exclusion from the Class in response to the Notice of Pendency
18 of Class Action sent to Class Members on or about January 26, 2016. Class Members who validly
19 requested exclusion from the Class shall not be entitled to receive any payment out of the Net
20 Settlement Amount as described in the Amended Stipulation and Notice.

21 11. **Objections to the Settlement.** The Court will consider objections to the Settlement, the
22 Plan of Allocation, and the Fee and Expense Application. Any Person wanting to object may do so in
23 writing and/or by appearing at the Settlement Fairness Hearing. A Class Member who appears at the
24 Settlement Fairness Hearing need not file a written objection for the Court to consider his, her, or its
25 objection. To the extent any Person wants to object in writing, such objections and any supporting
26 papers, accompanied by proof of Class membership, shall be filed with the Clerk of the Court, Superior
27 Court of the State of California, County of San Diego, 330 West Broadway, San Diego, CA 92101, and
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1 copies of all such papers served no later than October 21, 2016, which is fourteen (14) calendar days
2 prior to the date scheduled herein for the Settlement Fairness Hearing, and mailed to the Parties'
3 counsel at the addresses included in the Notice. If an objector hires an attorney to represent him, her or
4 it for the purposes of making a written objection, the attorney must both effect service of a notice of
5 appearance on counsel listed above and file it with the Court by no later than October 21, 2016. A
6 Class Member who files a written objection does not have to appear at the Settlement Fairness Hearing
7 for the Court to consider his, her or its objection. Any Class Member who does not make his, her, or its
8 objection in the manner provided shall be deemed to have waived such objection and shall be foreclosed
9 from making any objection to the fairness or adequacy of the Settlement set forth in the Amended
10 Stipulation, to the Plan of Allocation, or to any Fee and Expense Award. Any submissions by the
11 Parties in opposition or response to objections shall be filed and served at least seven calendar days
12 prior to the Settlement Fairness Hearing.

13 12. **Service of Papers.** Counsel for the Parties shall promptly furnish each other with copies
14 of all objections that come into their possession.

15 13. **Termination of Settlement.** This Order shall become null and void, and shall be
16 without prejudice to the rights of the Parties, if the Settlement or Amended Stipulation is terminated in
17 accordance with the Amended Stipulation. In such event, paragraph ¶8.4 of the Amended Stipulation
18 shall govern the rights of the Parties.

19 14. **Stay on Litigating Settled Claims.** All proceedings in the Action, other than such
20 proceedings as may be necessary to carry out the terms and conditions of the Settlement, are hereby
21 stayed until further order of this Court. The Parties have also agreed to stay all further proceedings in
22 the Pending Delaware Action. Pending final determination of whether the Settlement should be
23 approved, the Plaintiff, all Class Members, and each of them, and anyone who acts or purports to act on
24 their behalf, shall not institute, prosecute, continue, maintain or assert, and are hereby barred and
25 enjoined from instituting, prosecuting, continuing, maintaining or asserting, any action that asserts the
26 Released Plaintiff's Claims against any Released Defendant Party, including the Pending Delaware
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1 Action, and shall not assist any Person in instituting, prosecuting, participating, continuing, maintaining
2 or asserting any Released Plaintiff's Claim against any Released Defendant Party.

3 15. **Escrow Funds.** All funds held by the Escrow Agent pursuant to the Amended
4 Stipulation shall be deemed and considered to be *in custodia legis* of the Court, and shall remain subject
5 to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the
6 Amended Stipulation and/or further order(s) of the Court.

7 16. **Adjournment.** The Court may adjourn or continue the Settlement Fairness Hearing
8 without further written notice.

9 17. **Retention of Jurisdiction.** The Court retains exclusive jurisdiction over the Action to
10 consider all further matters arising out of or connected with the Settlement. The Court may approve the
11 Settlement, with such modifications as may be agreed by the Parties, if appropriate, without further
12 notice to the Class.

13 IT IS SO ORDERED.

14
15 DATED: _____

8/5/16

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HONORABLE JOAN M. LEWIS
JUDGE OF THE SUPERIOR COURT

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is 655 West Broadway, Suite 1900, San Diego, California 92101.

2. That on July 14, 2016, declarant served the attached [PROPOSED] AMENDED ORDER PRELIMINARILY APPROVING SETTLEMENT AND PROVIDING FOR NOTICE on the parties in the within action by email addressed as follows:

Counsel for Plaintiff(s):

Name	Firm	Email
Randall J. Baron David T. Wissbroecker David A. Knotts Esther Lee Jaime McDade (para)	Robbins Geller Rudman & Dowd LLP	randyb@rgrdlaw.com dwissbroecker@rgrdlaw.com dknotts@rgrdlaw.com elee@rgrdlaw.com imcdade@rgrdlaw.com
Patrick J. O'Hara	Cavanagh & O'Hara	patrick@cavanagh-ohara.com

Counsel for Defendant(s):

Name	Firm	Email
Koji Fukumura Peter Adams Craig TenBroeck Nathaniel Cooper Cynthia Deatruck (para)	Cooley LLP	kfukumura@cooley.com padams@cooley.com ctenbroeck@cooley.com ncooper@cooley.com deatruckca@cooley.com

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 14, 2016, at San Diego, California.



DEBORAH D. HAYES

1 ROBBINS GELLER RUDMAN
& DOWD LLP
2 RANDALL J. BARON (150796)
DAVID T. WISSBROECKER (243867)
3 DAVID A. KNOTTS (235338)
EUN JIN LEE (264208)
4 655 West Broadway, Suite 1900
San Diego, CA 92101
5 Telephone: 619/231-1058
619/231-7423 (fax)

6 Attorneys for Plaintiff
7
8

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN DIEGO

11 LABORERS' LOCAL #231 PENSION FUND,) Case No. 37-2013-00050879-CU-BT-CTL
Individually and on Behalf of All Others)
12 Similarly Situated,) CLASS ACTION
Plaintiff,) NOTICE OF PROPOSED SETTLEMENT OF
13 vs.) CLASS ACTION
14 WEBSense, INC., et al.,) JUDGE: Honorable Joan M. Lewis
15) DEPT: C-65
Defendants.) DATE ACTION FILED: 05/30/13
16)

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18 EXHIBIT A-1
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1 **TO: ALL HOLDERS OF WEBSense, INC. (“WEBSense”) COMMON STOCK WHO**
2 **RECEIVED CONSIDERATION FOR THEIR SHARES IN THE ACQUISITION OF**
3 **WEBSense BY VISTA EQUITY PARTNERS (“VEP”) (TOGETHER WITH**
4 **TOMAHAWK ACQUISITIONS, LLC AND TOMAHAWK MERGER SUB, INC.,**
5 **“VISTA”) AT THE PRICE OF \$24.75 PER SHARE, FIRST ANNOUNCED ON MAY 20,**
6 **2013**

7 **THIS NOTICE WAS AUTHORIZED BY THE COURT. IT IS NOT A LAWYER**
8 **SOLICITATION. PLEASE READ THIS NOTICE CAREFULLY AND IN ITS**
9 **ENTIRETY.**

10 **I. WHY SHOULD I READ THIS NOTICE?**

11 This Notice is given pursuant to an order issued by the Superior Court of California, County of
12 San Diego (the “Court”). This Notice serves to inform you of the proposed settlement of the above
13 class action lawsuit (the “Settlement”) and the hearing (the “Settlement Fairness Hearing”) to be held
14 by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, as set forth in the
15 Amended Stipulation of Settlement dated July 14, 2016 (the “Amended Stipulation”),¹ entered into by
16 and among the following: Plaintiff Laborers’ Local #231 Pension Fund (“Plaintiff”), Defendants John
17 McCormack, John B. Carrington, Charles Boesenberg, Bruce T. Coleman, John F. Schaefer, Mark S. St.
18 Clare, Gary E. Sutton, and Peter C. Waller (collectively, “Defendants”), and Merrill Lynch, Pierce,
19 Fenner & Smith, Inc. (“Merrill Lynch,” and collectively with Defendants, the “Released Signatory
20 Parties”). Upon and subject to the terms and conditions hereof, Plaintiff, on behalf of itself and the
21 Class (as defined in the Amended Stipulation and herein), on the one hand, and each of the Released
22 Signatory Parties on the other hand (collectively, the “Parties”), intend this Settlement to be a final and
23 complete resolution of all disputes between Plaintiff and the Released Defendant Parties (as defined
24 herein) with respect to the above-captioned action (the “Action”) as well as the Pending Delaware
25 Action as defined below. This Notice is not an expression of any opinion by the Court as to the merits
26 of the claims or defenses asserted in any lawsuit.

27 ¹ The Amended Stipulation and all of its Exhibits can be viewed at
28 www.websenseshareholderlitigation.com. All capitalized terms used herein have the same meanings as
the terms defined in the Amended Stipulation.

1 **II. WHAT IS THE STATUS OF THE CASE?**

2 **A. Background and Description of the Action**

3 On May 20, 2013, Websense announced that it had entered into a definitive merger agreement
4 (the “Merger Agreement”) with Vista, under which Vista agreed to acquire Websense through a tender
5 offer for \$24.75 per share in cash (the “Tender Offer”). On May 28, 2013, Vista commenced the
6 Tender Offer.

7 On May 30, 2013, Plaintiff filed a putative class action complaint on behalf of Websense
8 common stockholders in this Court alleging, among other things, that the members of Websense’s
9 Board of Directors (“Board” or “Defendants”) breached their fiduciary duties in connection with Vista’s
10 acquisition of Websense (the “Acquisition”), and that Websense and Vista aided and abetted those
11 breaches.²

12 On June 25, 2013, the Tender Offer closed and Vista completed the Acquisition.

13 On or around August 22, 2014, the Court overruled demurrers filed by Defendants and sustained
14 the demurrers filed by Websense and Vista. By order entered December 2, 2014, the Court dismissed
15 Websense and Vista with prejudice from the Action.

16 On or around May 1, 2015, the Court granted Plaintiff’s Motion for Class Certification and
17 entered an Order defining the Class as: “All holders of Websense, Inc. (‘Websense’) common stock
18 who received consideration for their shares in the acquisition of Websense by Vista Equity Partners
19 (‘VEP’) (together with Tomahawk Acquisitions, LLC and Tomahawk Merger Sub, Inc., ‘Vista’) at the
20 price of \$24.75 per share, first announced on May 20, 2013. Excluded from the Class are defendants
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22 ² In addition, the following two actions alleging similar claims on behalf of the same putative class of
23 Websense common stockholders were filed in this Court but subsequently voluntarily dismissed:
24 *Coyne v. Websense, Inc., et al.*, Case No. 37-2013-00050566-CU-SL-CTL, filed May 23, 2013 and
25 voluntarily dismissed on July 17, 2013; and *Krieger v. Websense, Inc., et al.*, Case No. 37-2013-
26 00050132-CU-SL-STL, filed May 23, 2013 and voluntarily dismissed on July 17, 2013 (collectively,
27 the “Related Actions”). The following two actions were also filed in the Delaware Chancery Court:
28 *Willner v. Websense, Inc., et al.*, Case No. 8614, filed on May 31, 2013, and voluntarily dismissed on
February 24, 2014 (the “*Willner Action*”); and *Laborers’ Local #231 Pension Fund, individually and on
behalf of a class of all Websense stockholders v. Merrill Lynch, Pierce, Fenner & Smith Inc.*, Case No.
12350, filed on May 17, 2016 and which on June 27, 2016, the parties advised the Delaware Chancery
Court that they had agreed to defer all further proceedings (the “*Pending Delaware Action*” and together
with the *Willner Action*, the “*Delaware Litigation*”).

1 and any person, firm, trust, corporation or other entity related to or affiliated with any defendant (the
2 ‘Class’).”

3 From the spring of 2014 through April 2016, Plaintiff and Defendants conducted extensive
4 adversarial discovery, whereby Plaintiff and Defendants, former parties, and subpoenaed non-parties
5 combined to produce approximately 144,623 pages of documents. Plaintiff and Defendants additionally
6 propounded, and responded to, interrogatories, request for admission and document requests.

7 During this same period, Plaintiff also took the depositions of 10 fact witnesses, located across
8 the country. The fact witnesses deposed included all but two members of the Websense Board, a
9 representative of Merrill Lynch, several former Websense executives and employees, and several non-
10 parties.

11 On December 11, 2015, Plaintiff filed a motion for leave to file a fourth amended complaint (the
12 “Fourth Amended Complaint,” filed as Exhibit A to the Zachariah Declaration in Support of
13 Defendants’ Motion to Seal, Docket No. 211) in order to add Merrill Lynch as a defendant.

14 Between March 25, 2016 and April 22, 2016, Plaintiff and Defendants identified their experts
15 and exchanged expert reports.

16 On or around April 27, 2016, while Plaintiff and Defendants were engaged in summary
17 judgment briefing (with the hearing on the Motion for Summary Judgment scheduled to take place on
18 June 24, 2016 and trial to begin July 29, 2016), Plaintiff and Defendants entered into a settlement term
19 sheet to resolve the claims against Defendants in this Action (the “Initial Settlement”) with substantial
20 assistance of mediator Robert A. Meyer, Esq.

21 On May 11, 2016, Plaintiff and Defendants entered into a Stipulation of Settlement regarding
22 the Initial Settlement.

23 On May 17, 2016, Plaintiff filed a complaint under seal in the Pending Delaware Action against
24 Merrill Lynch, alleging aiding and abetting Defendants’ purported breaches of fiduciary duties in
25 connection with the Acquisition.

26 On June 3, 2016, the Court entered an Order preliminarily approving the Initial Settlement.

27 On June 6, 2016, Merrill Lynch filed a motion to intervene and a motion to enforce the
28 protective order in this Action.

1 On June 8, 2016, Merrill Lynch filed an opening brief in support of its motion to dismiss, stay,
2 or strike the complaint in the Pending Delaware Action.

3 On June 20, 2016, after an exchange of letters between counsel, Merrill Lynch filed an amended
4 opening brief in support of its motion to dismiss, stay, or strike the complaint in the Pending Delaware
5 Action.

6 Settlement negotiations continued between Plaintiff and Merrill Lynch, and an agreement in
7 principle was reached on June 22, 2016 to settle Plaintiff's and the Class' claims against Merrill Lynch
8 as part of an amended stipulation of settlement in this Action.

9 On June 23, 2016, the Parties appeared before this Court to advise it of the agreement in
10 principle between Plaintiff and Merrill Lynch and to ask the Court to vacate the current deadlines in
11 connection with the Initial Settlement so that the Parties could negotiate an amended stipulation of
12 settlement to include Merrill Lynch. This Court vacated its prior preliminary settlement approval order
13 in connection with the Initial Settlement, and scheduled a preliminary approval hearing on the
14 anticipated unified settlement for August 5, 2016 (which hearing would follow briefing).

15 On June 27, 2016, Plaintiff advised the court presiding over the Pending Delaware Action of the
16 agreement in principle between Plaintiff and Merrill Lynch to resolve Plaintiff's and the Class' claim
17 against Merrill Lynch as part of a proposed, unified settlement to be presented to the Court for approval,
18 and that, pending approval, the parties in the Pending Delaware Action have agreed to defer all further
19 proceedings in the Pending Delaware Action.

20 On July 14, 2016, the Parties entered into the Amended Stipulation, which sets forth the
21 complete terms of the Settlement.

22 THE COURT HAS NOT RULED AS TO WHETHER THE RELEASED
23 SIGNATORY PARTIES ARE LIABLE TO PLAINTIFF OR TO THE CLASS. THIS
24 NOTICE IS NOT INTENDED TO BE AN EXPRESSION OF ANY OPINION BY
25 THE COURT WITH RESPECT TO THE TRUTH OF THE ALLEGATIONS IN ANY
26 LAWSUIT OR THE MERITS OF THE CLAIMS OR DEFENSES ASSERTED. THIS
27 NOTICE IS SOLELY TO ADVISE YOU OF THE PROPOSED SETTLEMENT
28 THEREOF AND YOUR RIGHTS IN CONNECTION WITH THAT SETTLEMENT.

26 **III. WHAT IS THE MONETARY VALUE OF THE PROPOSED SETTLEMENT?**

27 The Settlement, if approved, will result in the creation of a cash settlement fund of \$40,000,000
28 (the "Settlement Amount"). The Settlement Amount, plus accrued interest (the "Settlement Fund") and

1 minus the costs of this Notice and all costs associated with the administration of the Settlement, as well
2 as attorneys' fees and expenses, as approved by the Court (the "Net Settlement Amount"), will be
3 distributed to Class Members (as defined herein) who submit valid and timely Proof of Claim forms
4 (the "Settlement Payment Recipients") pursuant to the Plan of Allocation that is described in the next
5 section of this Notice.

6 **IV. WHAT IS THE PROPOSED PLAN OF ALLOCATION?**

7 Your share of the Net Settlement Amount will depend on how many shares of Websense
8 common stock you held at the time of the closing of the Acquisition and the number of valid Proofs of
9 Claim that Class Members send in.

10 Distributions will be made to the Settlement Payment Recipients after all claims have been
11 processed and after the Court has finally approved the Settlement. The Net Settlement Amount will be
12 disbursed by the Claims Administrator to the Settlement Payment Recipients and will be allocated on a
13 per-share basis amongst the Settlement Payment Recipients. Any distribution will require a \$10.00
14 minimum.

15 If there is any balance remaining in the Net Settlement Amount after six months from the date of
16 distribution of the Net Settlement Amount (whether by reason of tax refunds, uncashed checks, or
17 otherwise), such funds shall be used: (a) first, to pay any amounts mistakenly omitted from the initial
18 disbursement; (b) second, to pay any additional settlement administration fees, costs, and expenses,
19 including those of Lead Counsel as may be approved by the Court; and (c) finally, to make a second
20 distribution to claimants who cashed their checks from the initial distribution and who would receive at
21 least \$10.00, after payment of the estimated costs, expenses, or fees to be incurred in administering the
22 Net Settlement Amount and in making this second distribution, if such second distribution is
23 economically feasible. These redistributions shall be repeated, if economically feasible, until the
24 balance remaining in the Net Settlement Amount is de minimis and such remaining balance shall then
25 be distributed to the Children's Rights Litigation Committee of the ABA Litigation Section.

26 Class Members who do not submit acceptable Proofs of Claim will not share in the Settlement
27 proceeds. The Settlement and the final Judgment releasing the Released Defendant Parties and
28 dismissing this Action will nevertheless bind all Class Members.

1 Please contact the Claims Administrator if you disagree with any determinations made by the
2 Claims Administrator regarding your Proof of Claim. If you are unsatisfied with the determinations,
3 you may ask the Court, which retains jurisdiction over all Class Members and the claims administration
4 process, to decide the issue by submitting a written request.

5 The Released Signatory Parties and their counsel will have no responsibility or liability
6 whatsoever for the investment of the Settlement Fund, the distribution of the Net Settlement Amount,
7 the Plan of Allocation or the payment of any claim. Plaintiff and Lead Counsel, likewise, will have no
8 liability for their reasonable efforts to execute, administer, and distribute the Settlement.

9 **V. DO I NEED TO CONTACT LEAD COUNSEL IN ORDER TO
10 PARTICIPATE IN DISTRIBUTION OF THE SETTLEMENT FUND?**

11 No. If you have received this Notice and timely submit your Proof of Claim to the designated
12 address, you need not contact Lead Counsel. If you did not receive this Notice but believe you should
13 have, or if your address changes, please contact the Claims Administrator at:

14 *Websense Shareholder Litigation*
15 Claims Administrator
16 c/o Gilardi & Co. LLC
17 P.O. Box 40007
18 College Station, TX 77842-4007
19 Phone: 1-844-833-3853
20 www.websenseshareholderlitigation.com

21 **VI. THERE WILL BE NO PAYMENTS IF THE AMENDED STIPULATION IS
22 TERMINATED**

23 The Amended Stipulation may be terminated under several circumstances outlined in it. If the
24 Amended Stipulation is terminated, the Action and the Pending Delaware Action will proceed as if the
25 Amended Stipulation had not been entered into.

26 **VII. WHAT ARE THE REASONS FOR SETTLEMENT?**

27 The Court has not reached any final decisions in connection with Plaintiff's claims. Instead, the
28 Parties have agreed to this Settlement, and in doing so, the Parties have avoided the cost, delay and
uncertainty of further litigation.

As in any litigation, Plaintiff and the Class would face an uncertain outcome if they did not
agree to the Settlement. The Parties expected that if Plaintiff succeeded, the Released Signatory Parties

1 would file appeals that would postpone final resolution of the case. Continuation of the case could
2 result in a judgment greater than this Settlement. Conversely, continuing the case could result in no
3 recovery at all or a recovery that is less than the amount of the Settlement.

4 Plaintiff and Lead Counsel believe that this Settlement is fair and reasonable to the members of
5 the Class. They have reached this conclusion for several reasons. Specifically, if the Settlement is
6 approved, the Class will receive a significant monetary recovery. Additionally, Lead Counsel believe
7 that the significant and immediate benefits of the Settlement, when weighed against the significant risk,
8 delay and uncertainty of continued litigation, are an excellent result for the Class.

9 The Released Signatory Parties deny that they are liable to the Plaintiff and the Class and deny
10 that the Plaintiff or the Class have suffered any recoverable damages in the Action or the Pending
11 Delaware Action.

12 **VIII. WHO REPRESENTS THE CLASS?**

13 The Court appointed the law firm of Robbins Geller Rudman & Dowd LLP to represent you and
14 other Class Members. These lawyers are called Lead Counsel. These lawyers will apply to the Court
15 for payment of attorneys' fees and expenses from the Settlement Fund; you will not be otherwise
16 charged for their work. If you want to be represented by your own lawyer, you may hire one at your
17 own expense.

18 **IX. HOW WILL THE PLAINTIFF'S LAWYERS BE PAID?**

19 Lead Counsel will file a motion for an award of attorneys' fees and expenses that will be
20 considered by the Court at the Settlement Fairness Hearing. Lead Counsel will apply for an award of
21 up to 27% of the Settlement Fund, or up to \$10,800,000, plus payment of expenses incurred in
22 connection with the Action and the Pending Delaware Action in an amount not to exceed \$375,000.00,
23 to be paid from the Settlement Fund. Class Members are not personally liable for any such fees or
24 expenses.

25 The attorneys' fees and expenses requested will be the only payment to Lead Counsel for their
26 efforts in achieving this Settlement and for their risk in undertaking this representation on a wholly
27 contingent basis. Lead Counsel have committed significant time and expenses in litigating this case for
28 the benefit of the Class. To date, Lead Counsel have not been paid for their services in conducting this