

In re Nortel Networks Corporation Securities Litigation 05-MD-1659 (LAP) "Nortel II"

COURT: United States District Court for the Southern District of New York
CASE NUMBER: 05-md-1659
CLASS PERIOD: 04/24/2003 - 04/27/2004
CASE LEADERS: Max W. Berger, John Rizio-Hamilton, Hannah Ross

Securities fraud class action on behalf of persons and entities who purchased or acquired the common stock of Nortel Networks Corporation ("Nortel" or the "Company") during the period from April 24, 2003 through April 27, 2004.

BLB&G and Lead Plaintiffs Obtain \$1.07 Billion Recovery for Nortel Investor Class

BLB&G clients the Ontario Teachers' Pension Plan Board ("Ontario Teachers") and the Treasury of the State of New Jersey and its Division of Investment ("New Jersey") were appointed as Co-Lead Plaintiffs ("Lead Plaintiffs") for the Class, and BLB&G was appointed Lead Counsel for the Class by the court in July 2004. This action is one of two separate securities fraud class actions ("Nortel I" and "Nortel II") currently pending against the Company in the Southern District of New York. Ontario Teachers' and the New Jersey Department of the Treasury were appointed to head the prosecution of the Nortel II case, the second of two major cases arising from the disclosure of significant accounting improprieties at Nortel in recent years. (The earlier "Nortel I" class period is October 24, 2000 through February 15, 2001.)

On February 8, 2006, BLB&G and Lead Plaintiffs announced that they and another plaintiff had reached an historic agreement in principle with Nortel to settle litigation pending against the Company for approximately \$2.4 billion in cash and Nortel common stock (all figures in US dollars). The Nortel II portion of the settlement totaled approximately \$1.07 billion.

On March 17, 2006, Nortel announced that Nortel's insurers had agreed to pay \$228.5 million toward the settlement, bringing the total amount of the global settlement to approximately \$2.7 billion.

The settlement, which is subject to a number of conditions, is part of a global settlement between Nortel (and certain of its current and former officers and directors) and the Lead Plaintiffs of the two class actions.

The contingent settlement announced on February 8, 2006 settles the securities fraud claims being prosecuted against the Company and certain of its directors in "Nortel II", as well as the claims asserted in the earlier "Nortel I" case. The total consideration being paid by the Company to the two investor classes is comprised of \$575,000,000 in cash, plus 14.5% of the current equity of the Company (628,667,750 million shares). Based on the \$3.02 closing price of Nortel common stock on February 7, 2006, the equity portion of the settlement is worth approximately \$1.9 billion. In addition, Nortel will contribute one-half of any recovery it receives as a result of its ongoing Canadian litigation against former Nortel CEO Frank Dunn, former CFO Douglas Beatty and former Controller Michael Gollogly, all of whom were terminated for cause in April 2004, for the return of compensation and bonus monies. As announced on March 17, 2006, Nortel's insurance carriers will contribute an additional \$228.5 million toward the settlement, which payments will not reduce the amounts payable by Nortel.

The parties' settlement in principle remains subject to at least two significant conditions: (1) the approval of all required court, securities regulatory and stock exchange approvals; and (2) the resolution of all pending and proposed Canadian class actions commenced against Nortel and certain other defendants following Nortel's announcement of revised financial guidance during 2001, and the Company's revisions of its 2003 financial results and restatement of other prior periods effected during the first half of 2005.

On April 21, 2006, the Court endorsed the Hon. Robert W. Sweet to oversee settlement discussions and to coordinate the remaining proceedings to effect the settlement, particularly in light of the need to work with the Canadian Courts in doing so. Judge Sweet agreed to coordinate efforts toward effecting the agreement-in-principle.

On June 29, 2006, the Court granted preliminary approval of the Stipulation and Agreement of Settlement.

Court Grants Final Approval of Settlements in Nortel II and Nortel I

As set forth in the Notice, the Settlement is contingent on approvals from the Courts in both Nortel II and Nortel I in the U.S. and Canada. The status of the Nortel II and Nortel I settlement approvals in the U.S., Ontario and Quebec, and of the Nortel I settlement approval in British Columbia, are as follows:

- A joint Settlement Fairness Hearing was held on October 26, 2006 in both Nortel II and Nortel I before the Honorable Loretta A. Preska (Nortel II) and the Honorable Richard M. Berman (Nortel I) at the Daniel Patrick Moynihan United States Courthouse. On December 26, 2006, by separate orders, Judges Preska and Berman granted final approval of the Nortel II and Nortel I Settlements.
- The joint Nortel II and Nortel I Settlement Fairness Hearing in the Ontario National Action was held on November 6, 2006 in the Ontario Superior Court of Justice before the Honorable Warren K. Winkler. On January 18, 2007, both settlements were approved in a joint decision released by Justice Winkler.
- The joint Nortel II and Nortel I Settlement Fairness Hearing in the Quebec Action was held on November 16 and 17, 2006 in the Superior Court of Quebec before the Honorable Michele Monast. No decision has yet been entered by Justice Monast.
- The Nortel I Settlement Fairness Hearing was held on November 27, 2006 in the Supreme Court of British Columbia before the Honorable H.M. Groberman. On January 19, 2007, Justice Groberman issued the Court's Reasons for Judgment approving the Nortel I settlement.

The claims administration process has concluded and the net settlement fund has been fully disbursed. This matter is considered closed.

Background

On July 1, 2004, the Honorable George B. Daniels appointed BLB&G clients the Ontario Teachers' and New Jersey as Co-Lead Plaintiffs and BLB&G as Lead Counsel for the Class in this securities fraud class action.

On September 10, 2004, Co-Lead Plaintiffs filed their Consolidated Class Action Complaint on behalf of a class of persons and entities who purchased or acquired the securities of Nortel Networks Corporation during the period from April 24, 2003 through April 27, 2004. As defendants in the action, Co-Lead Plaintiffs named Nortel Networks, former Nortel CEO Frank Dunn, former Nortel CFO Douglas Beatty, former Nortel Controller Michael Gollogly, and Audit Committee members John Edward Cleghorn, Robert Ellis Brown, Robert Alexander Ingram, Guylaine Saucier and Sherwood Hubbard Smith, Jr.

Nortel supplies products and services that support the Internet and other public and private data, voice and multimedia communications networks using wireline and wireless technologies. The action charges Nortel and certain of its officers and directors with violations of the Securities Exchange Act of 1934 alleging that the defendants knowingly or, at a minimum, recklessly made false and misleading statements with respect to Nortel's financial results during the relevant period.

In a press release on March 15, 2004, Nortel delayed filing its annual report and admitted it may have to restate its previously issued financial results while the timing of certain accruals and provisions in 2003 and earlier periods were re-examined. In response to this delay in filing, the price of the Company's shares declined dramatically. Then on April 28, 2004, the Company fired its CEO, CFO and Controller, announced that its 2003 restatement would be worse than earlier planned, and that the disclosure of its financial results for Q1 2004 would be indefinitely delayed. The Company is currently under investigation by the Securities and Exchange Commission, the Ontario Securities Commission and the United States Attorney's Office for the Northern District of Texas, Dallas Division.

In January 2005, Nortel and former officers Frank Dunn and Michael Gollogly withdrew their motions to dismiss Lead Plaintiffs' complaint. Lead Plaintiffs withdrew their claims against the individual members of Nortel's Audit Committee, reserving their right to re-assert those claims if, during the course of discovery, Lead Plaintiffs discover that it would be in the best interest of the Class to do so.

On February 15, 2005, with the defendants' motions to dismiss withdrawn, Lead Plaintiffs began document discovery. Over the next several months, defendants produced more than twenty million pages of documents. During the course of reviewing the documents, Lead Plaintiffs learned information to support re-asserting the claims against the Audit Committee. On September 16, 2005, Lead Plaintiffs filed a Second Consolidated Amended Class Action Complaint on behalf of the Class reasserting those claims.

Case Documents

- Notice of Pendency and Certification of Class Actions and Proposed Settlements, Motions for Attorneys' Fees and Settlement Fairness Hearings
- September 24, 2021 - Order to Amend Distribution Plan to Allow for Additional Distributions
- July 16, 2021 - Notice of Motion
- July 16, 2021 - Notice of Motion - Exhibit 1 [Proposed Order]
- July 16, 2021 - Memorandum of Law
- July 16, 2021 - Declaration of Stephanie Amin-Giwner
- July 16, 2021 - Exhibit A
- July 16, 2021 - Exhibit B
- July 16, 2021 - Exhibit C
- July 16, 2021 - Proposed Order
- September 16, 2005 - Second Consolidated Amended Complaint
- December 26, 2006 - Order and Final Judgement