

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE ESCALA GROUP, INC. SECURITIES  
LITIGATION

Master File No. 06-cv-3518(AKH)

This Document Relates To:  
ALL ACTIONS

**NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION**

*A Federal Court authorized this Notice. This is not a solicitation from a lawyer.*

**PLEASE READ THIS NOTICE CAREFULLY!**

**THIS NOTICE EXPLAINS IMPORTANT RIGHTS YOU MAY HAVE INCLUDING YOUR POSSIBLE RECEIPT OF CASH AND STOCK FROM THE SETTLEMENT. YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU DO OR DO NOT ACT. IN ORDER TO RECOVER FROM THE SETTLEMENT, YOU MUST FILE A PROOF OF CLAIM AND RELEASE *POSTMARKED ON OR BEFORE DECEMBER 29, 2008.***

If you purchased the publicly traded common stock of Escala Group, Inc. ("Escala Common Stock") between September 5, 2003 and May 8, 2006, inclusive (the "Settlement Class Period"), you are a member of the Settlement Class ("Settlement Class" or "Settlement Class Member") and could get a payment from the Settlement described below.

**1. Statement of Settlement Class Members' Recovery:** This Notice has been sent to you pursuant to an Order of the United States District Court for the Southern District of New York (the "Court") in the class actions consolidated under the caption *In re Escala Group, Inc. Securities Litigation*, No. 06-cv-3518 (AKH) (the "Class Action"). The purpose of this Notice is to inform you of the proposed Settlement of the Class Action for \$18,000,000, consisting of \$10,000,000 in cash, plus interest, and 4 million shares of Escala Common Stock with a value of at least \$8,000,000. As of September 8, 2008, approximately \$200,000 in interest has been earned. This Notice describes the rights you may have in connection with the Settlement, what steps you may take in relation to the Settlement, and provides information about the hearing that will be held by the Court to consider the fairness, reasonableness and adequacy of the Settlement. **In order to receive proceeds from the Settlement, you will need to file a Proof of Claim and Release.**

**2. Reasons for the Settlement:** The Settlement resolves claims against Defendants and the certain other Additional Named Parties (as defined herein) in the Class Action regarding alleged violations of the federal securities laws. The Defendants deny all allegations of wrongdoing. In light of the amount of the Settlement and the immediacy of recovery to the Settlement Class Members, Lead Plaintiff believes that the proposed Settlement is fair, reasonable and adequate, and in the best interests of the Settlement Class. The Settlement provides \$10,000,000 in cash, plus interest, and 4 million shares of

Escala Common Stock with a guaranteed value of at least \$8,000,000 as compared to the risk that a similar, smaller, or no recovery would be achieved after a trial and appeals, possibly years in the future, in which the Defendants would have the opportunity to assert defenses to the claims asserted against them.

Escala will issue 4 million shares of its authorized but unissued common stock, with a guaranteed value of at least \$2 per share. The Shares will be issued free of any restrictions on transfer in accordance with the exemption from registration contained in Section 3(a)(10) under the Securities Act of 1933, as amended, and will be identical in all respects to Escala's currently outstanding common stock. Until the Shares are issued in accordance with the Stipulation, the 4 million shares shall be treated identically to the existing Escala Common Stock and shall receive all benefits, except for voting rights, that accrue to the existing Escala Common Stock (including but not limited to stock or cash dividends).

Five business days before a distribution date ("Notification Date"), Plaintiffs' Lead counsel shall notify Escala's transfer agent of the number of shares of Escala Common Stock to be distributed for the distribution and the number of shares to be distributed to each person or entity based on a total distribution for the distributions of 4 million shares. ("Notification Shares"). If the Average Closing Price per share, as defined in the Stipulation, for a particular valuation period is less than \$2 per share, Escala shall issue an additional number of Escala Common Stock for the distribution so that the value of the distribution is equivalent to the number of Notification Shares times \$2 per share.

The "Average Closing Price" for a valuation period shall mean, with respect to a Notification Date or Notice Date, as the case may be, the average of the last daily sales prices of Escala Common Stock as reported in the Pink Sheets electronic quotation system (or, if the shares of Escala Common Stock are then quoted on a stock exchange, then the average closing price on such exchange) for the 10 trading days ending at the close of trading on the day immediately prior to the Notification Date or Notice Date, as the case may be.

If on a Notification Date, the Average Closing Price for the valuation period of Escala common stock is less than \$2 per share, Escala shall have the right to "buy back" some or all of those shares in that distribution at a price equal to \$2 per share. If on a Notification Date, the Average Closing Price for the valuation period of Escala common stock exceeds \$2 per share, Escala shall have the option, exercisable in its discretion, to "buy back" some or all of the shares in that distribution at a price equal to \$4 per share, plus 50 percent of the amount by which the Average Closing Price for the Notification Date for the valuation period exceeds \$4 per share. ("Buyback Price"). For example, if the average closing price for a Notification Date is \$6 per share, then Escala will have the right to "buy back" all or any portion of the shares to be issued in that distribution at a price of \$5 per share.

In the event that the first Notification Date does not occur prior to the date (the "Six Month Date") that is 180 days following the Execution Date, then, at any time thereafter, Escala shall have the right to "buy back" some or all of the Shares that would otherwise be issued on the Distribution Dates. Escala may exercise this right by giving notice thereof to the plaintiffs' Lead Counsel (the date on which the notice is given is referred to as the "Notice Date"). The price at which Escala may buy back shares shall be as follows: (a) if the Average Closing Price for the valuation period for the Notice Date is less than \$2 per share, then \$2 per share, and (b) if the Average Closing Price for the valuation period for the Notice Date exceeds \$2 per share, then \$4 per share, plus 50 percent of the amount by which the, Average Closing Price for the Notice Date exceeds \$4 per share.

**3. Statement of Average Amount of Damage Per Share:** Lead Plaintiff and the Defendants do not agree on the average amount of damages per share that would be recoverable if Lead Plaintiff had prevailed on each claim alleged. The issues on which the parties disagree include, but are not limited to: (a) the appropriate economic model for determining the amount by which Escala Common Stock was

allegedly artificially inflated (if at all) during the Settlement Class Period; (b) the amount by which Escala Common Stock was allegedly artificially inflated (if at all) during the Settlement Class Period; (c) the various market forces influencing the trading price of Escala Common Stock at various times during the Settlement Class Period; (d) the extent to which external factors, such as general market conditions, influenced the trading price of Escala Common Stock at various times during the Settlement Class Period; (e) the extent to which the various matters that Lead Plaintiff alleged were false or misleading influenced (if at all) the trading price of Escala Common Stock at various times during the Settlement Class Period; (f) the extent to which the various allegedly material facts that Lead Plaintiff alleged were omitted influenced (if at all) the trading price of Escala Common Stock at various times during the Settlement Class Period; and (g) whether the statements allegedly made or facts allegedly omitted were actionable under the federal securities laws.

Lead Plaintiff’s damages expert estimates that approximately 7,188,402 shares of Escala Common Stock traded during the Settlement Class Period and were damaged. Based upon the Plan of Allocation discussed below, and assuming that the owners of all damaged Escala Common Stock elect to participate in the Settlement, the average recovery per share could be approximately \$2.50, before deduction of any fees, expenses, costs and awards described herein. The actual amount disbursed to Settlement Class Members who submit timely and valid Proofs of Claim and Releases (“Authorized Claimants”) may be more or less than this figure.

**4. Statement of Attorneys’ Fees and Expenses:** Lead Counsel has not received any payment for its services in conducting this litigation on behalf of Lead Plaintiff and the Settlement Class Members, nor has it been reimbursed for its out-of-pocket expenditures. If the Settlement is approved by the Court, Lead Counsel will apply to the Court for attorneys’ fees not to exceed 22% of the settlement proceeds and reimbursement of expenses not to exceed \$250,000 to be paid from the settlement proceeds. If the amount requested by Lead Counsel is approved by the Court, the average cost would be approximately \$0.55 per share. The Court shall decide the reasonableness of the fees and reimbursement of expenses.

**5. Identification of Lead Plaintiff’s Representatives:** For further information regarding this settlement you may contact Robert N. Kaplan, Donald R. Hall, or Jeffrey P. Campisi, Kaplan Fox & Kilsheimer LLP, 850 Third Avenue, New York, NY 10022. The telephone number is (212) 687-1980. **DO NOT CONTACT THE COURT.**

| <b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b> |             |  |
|---|-------------|--|
|   | <b>DATE</b> |  |
| <b>SUBMIT A PROOF OF CLAIM AND RELEASE FORM</b>         |             | The only way to get a payment that results in the release of claims against the Defendants and others. (See ¶¶49-52)   |
| <b>EXCLUDE YOURSELF</b>                                 |             | Get no payment. This is the only option that allows you to ever be part of any other lawsuit against the Defendants with respect to the claims in this case. (See ¶¶56-58) |
| <b>TELL THE COURT YOUR VIEWS</b>                        |             | Write to the Court and explain why you do not like or like the Settlement. (See ¶¶62-66)   |
| <b>REQUEST NOTICE OF CHANGE OF PLAN OF ALLOCATION</b>   |             | You may request to be notified if the plan of allocation of the Settlement is modified in any manner, including by Court order. (See ¶45)                                  |
| <b>GO TO A HEARING</b>                                  |             | Ask to speak in Court about the fairness of the Settlement. (See ¶¶10, 63)   |
| <b>DO NOTHING</b>                                       |             | Get no payment. Give up your rights (release   |

|  |  |
|--|--|
|  | claims). (See ¶¶53-55). Alternatively, submit a claim. (See ¶¶49-52) |
|--|--|

**WHY DID I GET THIS NOTICE?**

6. You or someone in your family may have purchased shares of Escala Common Stock during the Settlement Class Period. The Court sent you this Notice because, as a potential Settlement Class Member, you have a right to know about a proposed Settlement of the Class Action and your options, before the Court decides whether to approve the Settlement. A class action is a lawsuit in which one or more persons sue on behalf of all other persons who have similar claims.

7. If the Court approves the Settlement, and after any objections and appeals are resolved, a claims administrator approved by the Court will make payments from the Settlement Fund to eligible claimants pursuant to the Settlement.

8. The Court in charge of this case is the United States District Court for the Southern District of New York, and the case is known as *In re Escala Group, Inc. Securities Litigation*, No. 06-cv-3518 (AKH). The plaintiff in this lawsuit is the Court-appointed Lead Plaintiff, the Virginia Retirement System (“Lead Plaintiff” or “VRS”). The entities and people who have been sued are Escala Group, Inc. (“Escala”), Greg Manning, Larry Crawford, Jose Miguel Herrero, Esteban Perez, Greg Roberts, Juan Antonio Cano and Amper, Politziner & Mattia, P.C. (“AP&M”) (collectively, the “Defendants”) as well as additional former defendants Afinsa Bienes Tangibles S.A. (“Afinsa”), Auctentia S.L. (“Auctentia”), Anthony Bongiovanni, Scott S. Rosenblum, James Davin, and Mark Segall (together, the “Additional Named Parties”). This settlement would settle and release all claims against the Defendants and the Additional Named Parties. Your interests have been represented in this lawsuit by Court-appointed Lead Counsel, Kaplan Fox & Kilsheimer LLP, 850 Third Avenue, New York, NY 10022 (“Lead Counsel” or “Kaplan Fox”).

9. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. The purpose of this Notice is to inform you of the terms of the proposed Settlement and to inform you of a hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the proposed Settlement and to consider the application for attorneys’ fees and reimbursement of litigation expenses.

10. The Settlement Hearing will be held on December 2, 2008, at 4 p.m., before the Honorable Alvin K. Hellerstein, United States District Judge, at the United States District Court for the Southern District of New York, 500 Pearl Street, Courtroom 14D, New York, NY 10007 (the “Settlement Hearing”). The purpose of the Settlement Hearing will be to determine: (a) whether the settlement for \$10,000,000 in cash, plus interest, and 4 million shares of Escala Common Stock with a value of at least \$8,000,000 should be approved as fair, just, reasonable and adequate to Lead Plaintiff and the Settlement Class; (b) whether the proposed plan to distribute the Settlement proceeds (the “Plan of Allocation”) is fair, just, reasonable and adequate; (c) whether the application by Lead Counsel for an award of attorneys’ fees and expenses should be approved and the extent of a reasonable fee; and (d) whether the Class Action should be dismissed with prejudice against the Defendants and the Additional Named Parties.

11. The Court may adjourn or continue the Settlement Hearing without further notice to the Settlement Class. The issuance of this Notice is not an expression of the Court’s opinion on the merits of any claim in the lawsuit, and the Court still has to decide whether to approve the Settlement. If the Court approves the Settlement, payments will be made after appeals, if any, are resolved and after the processing of all claims. Please be patient.

### **HOW DO I KNOW IF I AM PART OF THIS SETTLEMENT?**

12. By order of the Court dated September 19, 2008, all persons and entities that purchased Escala Common Stock during the Settlement Class Period are eligible to participate in the Settlement, with the exception of the Defendants and the Additional Named Parties, their corporate affiliates, any entity in which any excluded person has a controlling interest, and their heirs, successors and assigns. Also excluded from the Settlement is any person or entity that files a request for exclusion in accordance with the requirements set forth in this Notice (see ¶56).

**RECEIPT OF THIS NOTICE DOES NOT NECESSARILY MEAN THAT YOU ARE A SETTLEMENT CLASS MEMBER OR ARE ENTITLED TO RECEIVE PROCEEDS FROM THE SETTLEMENT. IF YOU WISH TO PARTICIPATE IN THE SETTLEMENT, YOU MUST MAIL THE PROOF OF CLAIM AND RELEASE, POSTMARKED ON OR BEFORE DECEMBER 29, 2008 (SEE ¶¶49-52).**

### **WHAT RECOVERY DOES THE SETTLEMENT PROVIDE?**

13. The total monetary value of the Settlement is at least \$18,000,000, which is comprised of \$10,000,000 in cash, plus interest, and 4 million shares of Escala Common Stock a value of at least \$8,000,000 (the "Settlement Amount"). Under certain circumstances, Escala has the option to pay additional cash instead of some or all of the 4 million shares of Escala Common Stock. Attorneys' fees and expenses, notification costs, and claim administration costs will be deducted from the Settlement Amount. The Settlement Amount minus these fees, costs, expenses, and awards (the "Distribution Amount") shall be distributed to the Settlement Class.

14. The average expected recovery will depend on a number of factors including when and for what price Settlement Class Members purchased and/or sold their shares of Escala Common Stock, and the total number of shares for which timely and valid Proofs of Claim and Releases are submitted by Authorized Claimants.

### **WHY IS THERE A SETTLEMENT?**

15. Under the proposed Settlement, the Court will not decide in favor of either the Lead Plaintiff or the Defendants. By agreeing to a Settlement, both the Lead Plaintiff and the Defendants avoid the costs and risk of a trial, and the Settlement Class Members are compensated.

16. In light of the amount of the Settlement and the immediacy of recovery to the Settlement Class, Lead Plaintiff believes that the proposed Settlement is fair, reasonable and adequate, and in the best interests of Settlement Class Members. The Settlement provides a substantial benefit, namely \$10,000,000 in cash, plus interest, and 4 million shares of Escala Common Stock with a value of at least \$8,000,000, as compared to the risk that a similar, smaller, or no recovery would be achieved after a trial and appeals, possibly years in the future, in which the Defendants would have the opportunity to assert defenses to the claims asserted against them.

### **WHAT MIGHT HAPPEN IF THERE WERE NO SETTLEMENT?**

17. If there were no Settlement and Lead Plaintiff failed to establish any essential legal or factual element of its claims, neither Lead Plaintiff nor the Settlement Class would recover anything from the Defendants. Also, if the Defendants were successful in proving any of their defenses, the Settlement Class likely would recover substantially less than the amount provided in the Settlement, or nothing at all.

## WHAT IS THIS CASE ABOUT? WHAT HAS HAPPENED SO FAR?

### Background

18. During the Settlement Class Period, Defendant Escala, which was formerly known as Greg Manning Auctions, Inc., was a global integrated network of companies in the collectibles market with operations in North America, Europe and Asia as well as on the Internet. During the Settlement Class Period, Escala operated through three sales platforms: auctions, merchant/dealer operations and trading; and in two segments: collectibles and trading. During the Settlement Class Period, (i) Greg Manning served as the Company's Chief Executive Officer until September 28, 2005 and was President of the Company's North American and Asian Philatelic Auction Division and First Vice Chairman of the Board; (ii) Larry Crawford was Escala's Chief Financial Officer and Executive Vice President; (iii) Esteban Perez was a director of Escala and Chairman of the Board of Directors and was Chief Corporate Strategy Officer of Escala; (iv) Jose Miguel Herrero was appointed as President and CEO of Escala on September 28, 2005 and was a director of the Company; (v) Greg Roberts was a director of Escala and President of Escala's Coin Division; (vi) Juan Antonio Cano was Vice-Chairman and Managing Director of Afinsa and a 49% stockholder of Afinsa, and (vii) Amper, Politziner & Mattia, P.C. was Escala's auditor during the Settlement Class Period.

19. On May 9, 2006, it was disclosed that Spanish police arrested at least four people and raided the offices of Escala's parent company, Afinsa, in Madrid, Spain as part of a probe into an alleged stamp investment fraud. Reportedly, the operation formed part of an investigation launched by Spain's National Court, tax authorities and financial crime prosecutors over a pyramid scheme based on overpriced stamps. Later on May 9, 2006, Escala disclosed that it had been advised that Spanish judicial authorities collected documents from Afinsa and that the Spanish authorities were also collecting documents at the Company's offices in Madrid.

### The Class Action

20. The following complaints were commenced in the United States District Court for the Southern District of New York, on or after May 9, 2006:

|     | <b>Case</b>  | <b>Civil No.</b> | <b>Date Filed</b> |
|-----|--|------------------|-------------------|
| 1.  | <i>Barend Cohen, v. Escala Group, Inc., et al.</i>   | 06-3518 (AKH)    | 5/9/2006          |
| 2.  | <i>Wendy M. Schulman Kalman, v. Escala Group, Inc., et al.</i>   | 06-3644 (AKH)    | 5/12/2006         |
| 3.  | <i>Henri Roman, v. Escala Group, Inc., et al.</i>  | 06-3699 (AKH)    | 5/15/2006         |
| 4.  | <i>Frank Do, v. Escala Group, Inc., et al.</i>   | 06-3740 (AKH)    | 5/16/2006         |
| 5.  | <i>Elvira Everette, v. Escala Group, Inc., et al.</i>  | 06-3929 (AKH)    | 5/23/2006         |
| 6.  | <i>Trustee Abe E. Miller, for the Abe E. Miller and Inez V. Miller Living Trust, v. Escala Group, Inc., et al.</i> | 06-4324 (AKH)    | 6/8/2006          |
| 7.  | <i>Spring Partners v. Manning et al.</i>   | 06-3980 (AKH)    | 5/24/2006         |
| 8.  | <i>Hammer et al v. Escala Group, Inc. et al.</i>   | 06-4049 (AKH)    | 5/26/2006         |
| 9.  | <i>Eddy Lovaglio, v. Escala Group, Inc., et al.</i>  | 06-4681 (AKH)    | 6/19/2006         |
| 10. | <i>Shapiro et al v. Escala Group, Inc., et al.</i>   | 06-4919 (RCC)    | 6/23/2006         |

21. On July 10, 2006, VRS and certain parties moved pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA") to: 1) consolidate the cases; 2) appoint a Lead Plaintiff; and 3) appoint lead counsel.

22. On August 31, 2006, these actions were consolidated for all purposes under the caption *In re Escala Group, Inc. Securities Litigation*, No. 06-cv-3518 (AKH), and the Court appointed VRS as Lead Plaintiff and Kaplan Fox as Lead Counsel.

23. On October 13, 2006, Lead Plaintiff filed a Consolidated Amended Class Action Complaint (the “CAC”) alleging violations of the federal securities laws, specifically, violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (“Exchange Act”), and Rule 10b-5 promulgated thereunder. The Complaint was brought on behalf of a purported class of all persons (with certain exceptions) who purchased the publicly traded common stock of Escala during the Settlement Class Period. On June 1, 2007, Lead Plaintiff filed a Second Consolidated Amended Class Action Complaint (the “Complaint”).

### **The Claims**

24. The Complaint alleges that certain of the Defendants participated in a scheme with Escala’s parent company, Afinsa, under which stamps with little or no value were given artificially inflated values through various means including sham auctions, auctioning parts of collections and valuing the remainder of the collections at the high price of the few valuable stamps that were auctioned, sales of stamps at artificially inflated prices with related parties and manipulating the alleged value of stamps published in catalogs. The purported scheme allegedly caused Escala’s reported revenues, gross profit, net income and inventory to be materially overstated. It is alleged that Defendants made materially false and misleading statements in Escala’s financial reports filed with the SEC for its fiscal years 2003, 2004 and 2005 (ended June 30) and the quarters ended September 30, 2003, December 31, 2003 and March 31, 2004, September 30, 2004, December 31, 2004 and March 31, 2005, and September 30, 2005, and December 31, 2005, by failing to disclose that Escala’s sales of stamps to Afinsa were part of the purported scheme. The Complaint sets forth further details of Defendants’ alleged wrongdoing.

### **Procedural History**

25. On December 18, 2006, certain of the Defendants and certain of the Additional Named Parties moved pursuant to Rules 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure and the PSRLA to dismiss the CAC.

26. The Court held oral argument on April 17, 2007 on the Defendants’ motions to dismiss and, on April 20, 2007, issued an Opinion and Order granting in part and denying in part the motions to dismiss and granting Lead Plaintiff leave to file an amended complaint.

27. On June 1, 2007, Lead Plaintiff filed the Complaint, amending the allegations concerning Defendants Crawford, Roberts, Herrero, Perez and Cano. On or about July 5, 2007, each of these Defendants moved to dismiss the Complaint.

28. The Court held oral argument on September 25, 2007 concerning the motions to dismiss of Crawford, Roberts, Herrero, Perez and Cano and on October 2, 2007, the Court denied such motions.

29. On October 30, 2007, Lead Plaintiff moved the Court to certify a class and appoint VRS as Class Representative and Kaplan Fox as Counsel to the class.

30. Afinsa and Auctentia had been, but are not currently, defendants in this Class Action because the United States Bankruptcy Court for the Southern District of New York entered separate

orders granting recognition of Afinsa's and Auctentia's respective insolvency proceedings in Spain, and, among other things, enjoined continuation of this litigation against Afinsa and Auctentia.

31. Lead Plaintiff, through its counsel, transmitted a Summons and the Complaint to the central authority in Spain for service of process on Defendants Albertino de Figueiredo ("A. Figueiredo"), Carlos de Figueiredo ("C. Figueiredo"), and Emilio Ballester ("Ballester"), through the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters. Lead Plaintiff's counsel was informed that the central authority in Spain served Ballester. A. Figueiredo, C. Figueiredo, and Ballester, have not appeared in this litigation.

### **Events that Led to the Settlement**

32. Beginning in December 2007, the Parties engaged in a mediation with an experienced mediator concerning the possibility of settlement. During the mediation, the strengths/weaknesses of the claims were discussed and debated.

33. Negotiations between the Parties concerning the terms of the Settlement continued until September 2008, at which time a Stipulation of Settlement ("Stipulation") with the Defendants was executed. A copy of the Stipulation has been filed with the Court.

34. Throughout the settlement negotiations, various consultants and experts, including individuals with expertise in estimating potential damages in cases involving allegations of securities fraud, advised the Lead Plaintiff.

### **WHAT ARE THE LEAD PLAINTIFF'S REASONS FOR THE SETTLEMENT?**

35. Lead Plaintiff believes that its claims have merit and that the evidence developed to date supports those claims. However, Lead Plaintiff recognizes and acknowledges the expense and length of continued proceedings, trial and appeals. Lead Plaintiff also has taken into account the uncertain outcome and the risk of any litigation, especially in complex actions such as the Class Action, as Lead Plaintiff is also mindful of the inherent problems of proof under and possible defenses to the federal securities law violations asserted in the Class Action, including the defenses asserted by Defendants during the litigation, in motions and on the pleadings, and in settlement negotiations.

36. The Settlement was reached as part of arms-length negotiations before an experienced mediator concerning the Parties' divergent views about the merits and value of the claims.

37. In light of the foregoing, Lead Plaintiff believes that the Settlement set forth in the Stipulation confers substantial benefits upon the Settlement Class. Based on its evaluation, Lead Plaintiff has determined that the Settlement set forth in the Stipulation is in the best interests of the Settlement Class.

### **WHY HAVE DEFENDANTS AGREED TO THE SETTLEMENT?**

38. The Defendants have denied and continue to deny each and all of the claims and contentions alleged by the Lead Plaintiff on behalf of the Settlement Class. The Defendants also have denied and continue to deny, among other things, the allegations that the price of Escala Common Stock was artificially inflated by reasons of alleged misrepresentations, non-disclosures or otherwise, or that any harm was caused by the conduct alleged. The Defendants believe that they fully disclosed their true opinions about Escala and made no misrepresentations of material facts.



39. Nonetheless, the Defendants have concluded that further conduct of the Class Action would be protracted and expensive, and that it is desirable that the Class Action be fully and finally settled in the manner and upon the terms and conditions set forth in the Stipulation in order to limit further expense, inconvenience and distraction, to dispose of the burden of protracted litigation, and to permit the operation of the Defendants' businesses without further distraction and diversion caused by continuation of the Class Action. The Defendants also have taken into account the uncertainty and risks inherent in any litigation, especially in complex cases such as this litigation.

40. The Defendants have, therefore, determined that it is desirable and beneficial to them that the Class Action be settled in the manner and upon the terms and conditions set forth in the Stipulation. The Defendants entered into the Stipulation without in any way acknowledging any fault, liability, or wrongdoing of any kind.

### **HOW MUCH WILL MY PAYMENT BE? WHAT IS THE PLAN OF ALLOCATION?**

41. Your share (if any) of the recovery will depend on the number of valid Proofs of Claim and Releases that Settlement Class Members send in, how many shares of Escala Common Stock you bought, and when you bought and sold your shares.

42. The Defendants have agreed to pay \$10,000,000 in cash, plus interest, and 4 million shares of Escala Common Stock with a value of at least \$8,000,000. Attorneys' fees and expenses, notification costs, any compensatory award to the Lead Plaintiffs, and claims administration costs will be deducted from the Settlement Amount. The Settlement Amount minus these fees, costs, expenses and awards shall be distributed to the Settlement Class.

43. To receive a portion of the Distribution Amount, Settlement Class Members must complete a Proof of Claim and Release and mail it and all required documentation to the Claims Administrator **postmarked on or before December 29, 2008**. Settlement Class Members who do not submit acceptable Proofs of Claim and Releases will not share in the settlement proceeds. Settlement Class Members who do not submit either a request for exclusion or an acceptable Proof of Claim and Release will nevertheless be bound by the Settlement and the Final Judgment and Order of Dismissal of the Court ("Final Judgment"), dismissing the claims against the Defendants and the Additional Named Parties.

44. A claim will be calculated as follows:

For Escala Common Stock purchased between September 5, 2003 and May 8, 2006:

- a. No claim will be recognized for any shares of Escala Common Stock purchased between September 5, 2003 and May 8, 2006 which were not owned as of the close of trading on May 8, 2006.
- b. For Escala Common Stock purchased between September 5, 2003 and May 8, 2006 and sold between May 9, 2006 and August 4, 2006, an Authorized Claimant's Recognized Loss shall be the lesser of: (i) the difference, if a loss, between the purchase price and the PSLRA 90-day average price on the date of sale; (ii) the difference, if a loss, between the purchase price and the actual sales price on the date of sale; or (iii) \$19.84 per share.
- c. For Escala Common Stock purchased between September 5, 2003 and May 8, 2006 and owned as of the close of trading on August 4, 2006, an Authorized

Claimant's Recognized Loss shall be the lesser of: (i) the difference, if a loss, between the purchase price and \$6.04; or (ii) \$19.84 per share.

In processing claims, the first-in, first-out basis will be applied to purchases and sales.

The common stock is to be issued in the Settlement pursuant to an exemption from registration under the Securities Act of 1933, as amended, provided in Section 3(a)(10) of the Act. If at the time of distribution, the "Blue Sky" laws of a particular state do not exempt the stock from registration for residents of that state, then residents of that state who have submitted valid claims shall receive an equivalent amount of cash instead of stock.

THIS NOTICE (AND PROOF OF CLAIM AND RELEASE FORM) SHALL NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY ANY SECURITY, NOR SHALL THERE BE A SALE OF ANY SECURITY, IN ANY JURISDICTION IN WHICH SUCH OFFER, SOLICITATION OR SALE WOULD BE UNLAWFUL.

FOR NEW HAMPSHIRE RESIDENTS:

NEITHER THE FACT THAT A REGISTRATION STATEMENT OR AN APPLICATION FOR A LICENSE HAS BEEN FILED UNDER CHAPTER 421-B OF THE NEW HAMPSHIRE REVISED STATUTES WITH THE STATE OF NEW HAMPSHIRE NOR THE FACT THAT A SECURITY IS EFFECTIVELY REGISTERED OR A PERSON IS LICENSED IN THE STATE OF NEW HAMPSHIRE CONSTITUTES A FINDING BY THE SECRETARY OF STATE THAT ANY DOCUMENT FILED UNDER RSA 421-B IS TRUE, COMPLETE AND NOT MISLEADING. NEITHER ANY SUCH FACT NOR THE FACT THAT AN EXEMPTION OR EXCEPTION IS AVAILABLE FOR A SECURITY OR A TRANSACTION MEANS THAT THE SECRETARY OF STATE HAS PASSED IN ANY WAY UPON THE MERITS OR QUALIFICATIONS OF OR RECOMMENDED OR GIVEN APPROVAL TO, ANY PERSON, SECURITY OR TRANSACTION. IT IS UNLAWFUL TO MAKE, OR CAUSE TO BE MADE, TO ANY PROSPECTIVE PURCHASER, CUSTOMER, OR CLIENT ANY REPRESENTATION INCONSISTENT WITH THE PROVISIONS OF THIS PARAGRAPH.

45. Lead Plaintiff may alter the Plan of Allocation plan set forth in paragraph 44 (subject to Court approval) without any further notice to Settlement Class Members, unless such Settlement Class Members expressly request notice of alteration of the Plan of Allocation. Therefore, in order to receive such notice, you must send a request no later than November 13 2008 by contacting the Claims Administrator as set forth below.

46. The Court has reserved jurisdiction to allow, disallow, or adjust the claim of any members of the Settlement Class on equitable grounds.

47. No person shall have any claim against Lead Plaintiff's Counsel, the Claims Administrator or other agent designated by Lead Plaintiff's Counsel, or any Defendant or any Defendants' counsel or the Additional Named Parties or their counsel based on any distribution made substantially in accordance with the Stipulation and the Plan of Allocation, or further orders of the Court.

48. The Court also may modify the Plan of Allocation without further notice to the Settlement Class.

## **HOW DO I PARTICIPATE IN THE SETTLEMENT? WHAT DO I NEED TO DO?**

49. If you fall within the Settlement Class as defined above, you will remain a Settlement Class Member unless you elect to be excluded therefrom. If you do not request to be excluded from the Settlement Class, you will be bound by any judgment entered in the Class Action whether or not you file a Proof of Claim and Release, including the dismissal with prejudice of any Released Claims (as defined in Section VII of the Proof of Claim and Release) you may possess against the Defendants under Federal law, or the law of any state.

50. If you wish to remain a Settlement Class Member, you need do nothing (other than timely request and file a Proof of Claim and Release if you wish to participate in the distribution of the Settlement Amount). Your interests will be represented by Lead Plaintiff's Counsel. If you choose, you may enter an appearance individually or through your own counsel at your own expense.

**51. To participate in the distribution of the Settlement Amount, you must timely complete and return the Proof of Claim and Release form.**

52. The Proof of Claim and Release must be **postmarked on or before November 13, 2008**, and mailed to the Claims Administrator at the address set forth in ¶72. Unless the Court orders otherwise, if you do not timely submit a valid Proof of Claim and Release, you will be barred from receiving any distribution from the Settlement Amount, but will in all other respects be bound by the provisions of the Stipulation and the Final Judgment.

## **WHAT RIGHTS AM I GIVING UP BY AGREEING TO THE SETTLEMENT?**

53. If the Settlement is approved, the Court will enter the Final Judgment and Order of Dismissal. The Final Judgment will dismiss the claims against the Defendants and the Additional Named Parties with prejudice and provide that Lead Plaintiff and all other Settlement Class Members, except those who validly and timely request to be excluded from the Settlement Class, shall upon the entry of the Final Judgment be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished and discharged the Released Parties from all Released Claims (including Unknown Claims as defined in Section VII of the Proof of Claim and Release). Released Claims are defined as any and all actions, suits, claims, debts, demands, rights, causes of action, proofs of claim or liabilities of every nature and description whatsoever (including, but not limited to, claims for damages, interest, attorneys' fees, expert or consulting fees, and any other costs, expenses, or liability whatsoever), whether based in law or equity, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, matured or not matured, pursuant to federal, state, local, statutory or common law, or any other law, rule or regulation, whether foreign or domestic, including both known claims and Unknown Claims, whether or not concealed or hidden, (including but not limited to claims for securities fraud, negligence, gross negligence, professional negligence, breach of duty of care and/or breach of duty of loyalty, fraud, breach of fiduciary duty, aiding or abetting a breach of fiduciary duty, breach of contract, unjust enrichment, or violations of any statutes, rules, duties or regulations), that have been or could have been or could in the future be asserted in any forum, whether foreign or domestic, by Lead Plaintiff, any member of the Settlement Class, or their successors, assigns, executors, administrators, representatives, attorneys, agents, affiliates, and partners, and any Persons they represent or any of them, whether brought directly or indirectly against any of the Released Parties, which arise out of, are based on, or relate in any way, directly or indirectly, to any of the allegations, acts, transactions, facts, events, matters, occurrences, representations or omissions involved, set forth, alleged or referred to, in the Action, or which could have been alleged in the Action based upon the facts alleged in the CAC or the Complaint, and which arise out of, are based upon, or relate in any way, directly or indirectly, to the purchase, sale, or voting of any Escala Common Stock by any Settlement Class member during the Settlement Class Period.

54. The Released Claims contemplated by this Settlement shall extend to Unknown Claims and each of the Lead Plaintiff and Settlement Class Members shall be deemed to have waived, and by operation of the Final Judgment shall have waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or Spain, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

55. If the Settlement is approved, Settlement Class Members who have not requested exclusion from the Settlement Class will release all Released Claims, even if they bring, or have brought a lawsuit, arbitration or other proceeding against the Released Parties relating to the Released Claims. If you have such proceedings, you should consult legal counsel as to whether you should exclude yourself from this Settlement pursuant to the procedures set forth in ¶56 below in order to preserve your rights.

**IF I DO NOT WANT TO PARTICIPATE IN THE SETTLEMENT, HOW DO I EXCLUDE MYSELF?**

56. **You may request to be excluded from the Settlement Class.** To do so, you must mail a written request to the Claims Administrator at: Escala Securities Litigation Exclusions, c/o Complete Claim Solutions, LLC, P.O. Box \_\_\_\_, West Palm Beach, FL 33416. The request for exclusion must: (a) state your name, address, and telephone number; (b) provide documentation reflecting all purchases and sales of Escala Common Stock made during the Settlement Class Period, including the dates, the number of shares, and price paid or received per share for each such purchase or sale; and (c) state that you wish to be excluded from the Settlement Class. **TO BE VALID, A REQUEST FOR EXCLUSION MUST STATE ALL OF THE FOREGOING INFORMATION. YOUR EXCLUSION REQUEST MUST BE RECEIVED ON OR BEFORE NOVEMBER 13, 2008.**

57. If you submit a valid and timely request for exclusion, you shall have no rights under the Settlement, shall not share in the distribution of funds from the Settlement, and shall not be bound by the Stipulation or the Final Judgment.

58. **If you do exclude yourself from the Settlement Class, your ability to subsequently initiate a litigation, arbitration or other proceeding against the Defendants or the Additional Named Parties concerning the Released Claims may be impacted by the relevant Statute of Limitations. You should consult your own legal counsel concerning this issue.**

**WHAT PAYMENTS ARE THE ATTORNEYS FOR THE SETTLEMENT CLASS AND THE LEAD PLAINTIFF SEEKING FOR THEIR WORK IN THIS CASE?**

59. Lead Counsel has not received any payment for its services in pursuing this lawsuit on behalf of the Settlement Class, nor have they been reimbursed for their considerable out-of-pocket expenses. Lead Counsel intends to apply to the Court for an award of attorneys' fees on behalf of all Plaintiffs' Counsel not to exceed 22% of the Settlement Amount. In addition, Lead Counsel intends to apply for reimbursement of litigation expenses advanced in connection with the Class Action in an amount not to exceed \$250,000. All such fees and expenses will be paid out of the Settlement Amount.

**ARE THERE OTHER CONDITIONS THAT MAY AFFECT**

## **THE SETTLEMENT OR AN AWARD THEREFROM?**

60. The Settlement is conditioned upon the occurrence of certain events. Those events include, among other things: (a) entry of the Final Judgment by the Court, as provided for in the Stipulation; and (b) expiration of the time to appeal from the Final Judgment, or if an appeal is taken, a final resolution of the appeal in favor of the Final Judgment. If, for any reason, any one of the conditions described in the Stipulation is not met, that Stipulation might be terminated and, if terminated, will become null and void, and the parties to that Stipulation will be restored to their respective positions as of the execution of the Stipulation.

61. Escala and AP&M also have the right to terminate the Settlement under certain circumstances, including if the total loss associated with shares that request exclusion from the settlement exceeds a certain amount.

## **WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT AND RELATED MATTERS? DO I HAVE TO COME TO THE HEARING? MAY I SPEAK AT THE HEARING IF I DON'T LIKE THE SETTLEMENT OR OTHER MATTERS REFERENCED IN THIS NOTICE?**

62. If you do not wish to object to the proposed Settlement, the Plan of Allocation, or the application for attorneys' fees and reimbursement of litigation expenses, you need not attend the Settlement Hearing scheduled for December 2, 2008 at 4 p.m.

63. Any Settlement Class Member who has not validly and timely requested to be excluded from the Settlement Class, and who objects to any aspect of the Settlement, the Plan of Allocation, or the application for attorneys' fees, costs and expenses may appear and be heard at the Settlement Hearing. Any such Settlement Class Member must submit a written notice of objection, which must be received on or before November 13, 2008, to each of the following: (i) Clerk of the Court, United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York 10007; (ii) Kaplan Fox & Kilsheimer LLP, Robert N. Kaplan, Esq., Donald R. Hall, Esq., Jeffrey P. Campisi, Esq. 850 Third Avenue, New York, New York 10022 (Lead Counsel for Lead Plaintiff and the proposed Class); and (iii) Goodwin Procter LLP, Stephen D. Poss, Exchange Place, Boston, Massachusetts 02109 (on behalf of Defendants and the Additional Named Parties).

64. The notice of objection must demonstrate the objecting Settlement Class Member's membership in the Settlement Class, including documentation reflecting the number of shares of Escala Common Stock purchased and sold during the Settlement Class Period, and must contain a statement of the reasons for objection. Only Settlement Class Members who have submitted written notices of objection and related documentation in this manner will be entitled to be heard at the Settlement Hearing, unless the Court orders otherwise.

65. The Settlement Hearing may be delayed from time to time by the Court without further written notice to the Settlement Class. If you intend to attend the Settlement Hearing, you should confirm the date and time with Lead Counsel.

66. Unless otherwise ordered by the Court, any Settlement Class Member who does not object in the manner described herein will be deemed to have waived any objection and shall be forever foreclosed from making any objection to the proposed Settlement, the application for attorneys' fees and reimbursement of litigation expenses, and/or the proposed Plan of Allocation. Settlement Class Members do not need to appear at the hearing or take any other action to indicate their approval.

**WHAT IF I AM A BROKER, BANK OR OTHER NOMINEE  
THAT BOUGHT SHARES ON SOMEONE ELSE'S BEHALF?**

67. If you hold or held any Escala Common Stock purchased during the Settlement Class Period as nominee for a beneficial owner, then, within ten (10) days after your receive this Notice, you must either: (a) provide a list of the names and addresses of such beneficial owners to the Claims Administrator, **preferably in an MS Excel data table, setting forth (i) title/registration; (ii) street address; (iii) city/state/zip; electronically in MS Word or WordPerfect files; or on computer-generated mailing labels (label size Avery 5162);** or (b) send a copy of this Notice by first class mail to all such beneficial owners, providing written confirmation to the Claims Administrator of having done so. If you choose to mail the Notice yourself, you may obtain (without cost to you) as many additional copies of this document as you will need to complete the mailing by contacting the Claims Administrator as set forth in ¶72, below.

68. Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement of **reasonable** administrative costs actually incurred in connection with forwarding the Notice and Proof of Claim and Release and which would not have been incurred but for the obligation to forward the Notice, after submission to the Claims Administrator of appropriate documentation.

**CAN I SEE THE COURT FILE?  
WHOM SHOULD I CONTACT IF I HAVE QUESTIONS?**

69. This Notice is a summary only and does not describe all of the details of the Stipulation. Nothing in this Notice can vary or supersede the terms of the Stipulation. For full details of the matters discussed in this Notice, you may desire to review the Stipulation filed with the Court, which may be inspected during business hours, at the office of the Clerk of the Court, United States Courthouse, United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York 10007.

70. You may also review, at [www.completeclaimssolutions.com](http://www.completeclaimssolutions.com), the Stipulation, the Notice, the Proof of Claim and Release, the Order Preliminarily Approving Settlement and Scheduling Final Settlement Hearing. These documents will be available on or before October 9, 2008. The papers filed in support of the Settlement, and the applications for an award of attorneys' fees and expenses for Lead Counsel will be available after they are filed with the Court.

71. If you have any questions about the settlement of the Class Action, you may contact Lead Plaintiff's Counsel by writing: KAPLAN FOX & KILSHEIMER LLP, Robert N. Kaplan, Esq., Donald R. Hall, Esq., Jeffrey P. Campisi, Esq., 850 Third Avenue, New York, New York 10022.

72. If you need additional copies of this Notice, or if you have a question about filing a claim, you may contact the Claims Administrator at: Escala Securities Litigation, c/o Complete Claim Solutions, LLC, P.O. Box \_\_\_\_\_, West Palm Beach, FL 33416, [www.completeclaimssolutions.com/escala](http://www.completeclaimssolutions.com/escala), Phone: (561) 651-7788.

**DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE**

Dated: September 19, 2008

BY ORDER OF THE COURT