

**IN THE UNITED STATES DISTRICT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE GENERAL INSTRUMENT	:	CIVIL ACTION
SECURITIES LITIGATION	:	
	:	No. 01-3051
	:	Special Management Track

ORDER AND FINAL JUDGMENT

AND NOW, on this 27th day of December, 2001, upon consideration of the Motion of Co-lead Counsel for Plaintiffs in Support of the Proposed Class Settlement and the Joint Petition for an Award of Counsel Fees and Reimbursement of Expenses, (Document No. 91), the Memorandum of Law of Plaintiffs in Support of Their Motion for Final Approval of the Proposed Settlement and the Plan of Allocation, (Document No. 89), the Memorandum of Law of Plaintiffs in Support of Their Application for Attorneys' Fees and Reimbursement of Expenses, (Document No. 90), the Memorandum of Law of Plaintiffs in Further Support of Their Motion, (Document No. 96), and the Memorandum of Law of Defendants in Support of Final Approval of Class Settlement, (Document No. 97), and having held a hearing on December 20, 2001 to determine: (1) whether the terms and conditions of the Stipulation and Agreement of Settlement dated October 23, 2001 (the "Stipulation") are fair, reasonable and adequate for the settlement of all claims asserted by the Class against the Defendants in the Second Consolidated Amended Class Action Complaint (the "Complaint") now pending in this Court under the above caption, and should be approved; (2) whether judgment should be entered dismissing the Complaint on the merits and with prejudice in favor of the Defendants and as against all persons or entities who are Class Members herein who have not requested exclusion therefrom; (3) whether to approve the Plan of Allocation as a fair and reasonable method to allocate the settlement proceeds among the Class Members; and (4) whether and in what amount to award

Plaintiffs' Counsel fees and reimbursement of expenses, and incentive awards to the Class Representatives, and for the reasons set forth in the foregoing memorandum, as well as having made the following findings and conclusions:

A The Court has jurisdiction over the subject matter of the Action, the Plaintiffs, all Class Members, and the Defendants, pursuant to 28 U.S.C. § 1331. All capitalized terms used herein shall have the meanings defined in the Stipulation.

B. By Order dated November 15, 1999, this Action was preliminarily certified to proceed as a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of all persons and entities who purchased General Instrument common stock during the period from March 21, 1995 through October 18, 1995, inclusive (the "Class Period"), and who suffered damages thereby. The facts underlying that Order have not changed since the issuance of that Order and, therefore, for the reasons provided in that Order, this lawsuit meets the requirements of Rule 23 for maintaining this law suit as a class action.

The prerequisites for a class action under Fed. R. Civ. P. 23 (a) and (b)(3) have been satisfied in that: (a) the number of Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Class; (c) the claims of the Class Representatives are typical of the claims of the Class they seek to represent; (d) the Class Representatives have and will fairly and adequately represent the interests of the Class; (e) the questions of law and fact common to the members of the Class predominate over any questions affecting only individual members of the Class; (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and (g) counsel preliminarily approved to represent the class, possess now and have possessed throughout the

litigation the requisite competence, experience, dedication, knowledge, training, objectivity and resources to adequately litigate the claims and defenses raised by the parties to this Class action and remain approved as counsel for the Class.

C. More than 24,700 individual copies of a notice of the proposed settlement and the hearing substantially in the form approved by the Court was mailed to all persons or entities reasonably identifiable, who purchased the common stock of General Instrument Corporation ("General Instrument") during the Class Period, except those persons or entities excluded from the definition of the Class, and that a summary notice of the hearing substantially in the form approved by the Court was published in the national edition of The Wall Street Journal pursuant to the direction of the Court. Such persons or entities were notified, *inter alia*, of the proposed settlement, their right to file objections, and the date of the fairness hearing. Notice of the pendency of this Action as a class action and of the proposed Settlement was given to all Class Members who could be identified with reasonable effort. This constitutes a sufficient notice process complying in all respects with the Rules of Civil Procedure, the Orders of this Court, and the constitutional requirements of due process.

D. The Court has considered all matters, including objections, submitted to it at the hearing and otherwise.

E. The Court has considered and determined the fairness and reasonableness of the Settlement, the Plan of Allocation and an award of attorneys' fees and expenses requested.

F. Settlement.

- (a) The proposed Stipulation and Agreement of Settlement, filed in this action on October 23, 2001, (Document No. 84), embodies the terms of the Proposed Settlement.
- (b) The Proposed Settlement is the result of non-collusive, intensive negotiations between experienced counsel.
- (c) For all of the reasons provided in the foregoing memorandum, the Proposed Settlement fairly, reasonably, and adequately advance the interest of the Class, and the plan of Allocation is fair and reasonable.

G. Counsel Fees and Costs. For all of the reasons provided in the foregoing memorandum, the request for counsel fees and reimbursement of expenses is fair and reasonable.

H. Incentive Awards. The request for incentive awards to four Class Representatives will be considered under a separate Order of this Court.

ACCORDINGLY IT IS HEREBY ORDERED THAT:

1. Pursuant to Rule 23 of the Federal Rules of Civil Procedure this Court finally **CERTIFIES** this action as a class action on behalf of all persons who purchased the common stock of General Instrument during the period from March 21, 1995 to October 18, 1995 and who suffered damages as a result. Excluded from the Class are the defendants (General Instrument Corporation, Forstmann Little & Co. and related entities, Daniel F. Akerson, Richard S. Friedland, Laurence L. Osterwise, Charles T. Dickson, Nicholas C. Forstmann, Theodore J. Forstmann, and Steven B. Klinsky); the officers, directors, partners, principals, affiliates, subsidiaries, and parents of any defendant; members of the immediate family of any individual

defendant; any entity in which any excluded person or entity has a controlling interest; and the legal representatives, heirs, successors, and assigns of any excluded person or entity. Also excluded from the Class are the persons and/or entities who requested exclusion from the Class as listed on Exhibit 1 annexed hereto.

2. The Settlement is **APPROVED** as fair, reasonable and adequate; the Class Members and the parties are directed to consummate the Settlement in accordance with the terms and provisions of the Stipulation dated October 23, 2001. (Document No. 84).

3. The Complaint is **DISMISSED** with prejudice and without costs, except as provided in said Stipulation, as against the Defendants.

4. Class Members and the successors and assigns of any of them (except those members specifically excluded) are permanently **BARRED** and **ENJOINED** from instituting, commencing or prosecuting, either directly or in any other capacity, any and all claims, demands, rights or causes of action, damages, costs, losses, expenses, compensation or liabilities of any nature whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, including both known claims and Unknown Claims, that have been or could have been asserted in any forum by Plaintiffs or the Class Members or any of them, or the successors or assigns of any of them, whether directly, indirectly, representatively or in any other capacity, against any of the Released Parties arising out of purchases of General Instrument common stock during the Class Period which have been or could have been asserted by any Class Member which arise out of, or relate in any way to the allegations, transactions, facts, matters, or occurrences, representations or omissions involved, set forth or referred to in this Action (the "Settled Claims") against any and all of the Defendants, and with respect to each of the

Defendants, their past and present directors, officers, employees, partners, principals, agents, underwriters, issuers, insurers, co-insurers, reinsurers, shareholders, attorneys, accountants, auditors, banks and investment bankers, advisors, personal and legal representatives, predecessors, successors, indemnitors, indemnitees, parents, subsidiaries, divisions, joint ventures, assigns, spouses, heirs, estates, associates, related and affiliated entities, any entity in which any of them has a controlling interest, any members of their immediate families, any trust of which any of them is the settlor or which is for the benefit of any of them and/or member(s) of their families, and anyone claiming by, through or under any of the foregoing, whether by statute, rule, contract or otherwise (the "Released Parties"). The Settled Claims are compromised, settled, released, discharged and dismissed as against the Released Parties on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

5. The Defendants and the successors and assigns of any of them, are permanently **BARRED** and **ENJOINED** from instituting, commencing or prosecuting, either directly or in any other capacity, any and all claims, rights or causes of action or liabilities whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, including both known claims and Unknown Claims, that have been or could have been asserted in the Action or any forum by the Defendants or any of them or the successors and assigns of any of them against any of the Plaintiffs, Class Members or their attorneys, which arise out of or relate in any way to the institution, prosecution, or settlement of the Action (the "Settled Defendants' Claims") against any of the Plaintiffs, Class Members or their attorneys. The Settled Defendants' Claims are compromised, settled, released, discharged and dismissed on the merits and with prejudice by virtue of the proceedings herein and this Order and Final Judgment.

6. Neither this Order and Final Judgment, the Stipulation, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any of the documents or statements referred to therein shall be:

(a) offered or received against the Defendants as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any of the Defendants with respect to the truth of any fact alleged by Plaintiffs or the validity of any claim that had been or could have been asserted in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action, or of any liability, negligence, fault, or wrongdoing of the Defendants;

(b) offered or received against the Defendants as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any oral or written representation approved or made by any Defendant, or against the Plaintiffs and the Class as evidence of any infirmity in the claims of Plaintiffs and the Class;

(c) offered or received against the Defendants or against the Plaintiffs or the Class as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any of the parties to the Stipulation, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; provided, however, that Defendants may refer to the Stipulation to effectuate the liability protection granted them thereunder;

(d) construed against the Defendants or the Plaintiffs and the Class as an admission, concession or presumption that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; or

(e) construed as or received in evidence as an admission, concession or presumption against Plaintiffs or the Class or any of them that any of their claims are without merit or that damages recoverable under the Complaint would not have exceeded the Settlement Fund.

7. The Plan of Allocation is **APPROVED** as fair and reasonable, and Plaintiffs' Counsel and the Claims Administrator are directed to administer the Stipulation in accordance with its terms and provisions.

8. Plaintiffs' Counsel are awarded 33 $\frac{1}{3}$ % of the Settlement Amount in fees, which the Court finds to be fair and reasonable, and \$1,851,773.86 in reimbursement of expenses, which amounts shall be paid to Plaintiffs' Co-Lead Counsel from the Settlement Fund with interest from the date such Settlement Fund was funded to the date of payment at the same net rate that the Settlement Fund earns. The award of attorneys' fees shall be allocated among Plaintiffs' Counsel in a fashion which, in the opinion of Plaintiffs' Co-Lead Counsel, fairly compensates Plaintiffs' Counsel for their respective contributions in the prosecution of the Action.

9. This Court shall retain jurisdiction over the parties and the Class Members for all matters relating to this Action, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Order and Final Judgment, and including any application

for fees and expenses incurred in connection with administering and distributing the settlement proceeds to the Class Members.

10. All parties shall comply with their obligations under the Settlement and Plan of Allocation.

11. Without further order of the Court, the parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

12. There is no just reason for delay in the entry of this Order and Final Judgment and immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54 (b) of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that the Stipulation and Agreement of Settlement dated October 23, 2001, (Document No. 84), is hereby made part of the record of this case, is incorporated into this Order by reference thereto, and as such shall have the full force and effect of the Order of this Court.

LOWELL A. REED, JR., S.J.