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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

IN RE: : CHAPTER 7
: :
NET2000 COMMUNICATIONS, INC., *et al.* : CASE NO. 01- 11324
: : through 01-11334 (MFW)
: :
Debtors : Jointly Administered
: : Hearing Date: August 20, 2002 @ 2:30 P.M.
: : Objection Deadline: August 13, 2002 @ 4:00 P.M.

NOTICE OF TRUSTEE'S MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT
BY AND BETWEEN CHAPTER 7 TRUSTEE AND TORONTO
DOMINION (TEXAS), INC. AS AGENT FOR ITSELF ANF FOR A GROUP
OF LENDERS PURSUANT TO FED.R.BANKR.P. 9019

TO: THE DEBTOR, THE U.S. TRUSTEE, ALL CREDITORS AND ALL PARTIES REQUESTING NOTICE
PURSUANT TO FED.R.BANKR.P. 2002

Michael B. Joseph, Esquire, the Chapter 7 Trustee (the "Trustee") for the estate of
Net2000 Communications, Inc., *et al.* ("Net2000 Estate"), has filed a Motion for the Entry of an
Order Approving a Settlement Agreement By and Between the Trustee and Toronto Dominion
(Texas), Inc. as Agent for Itself and for a Group of Lenders (collectively, "Toronto Dominion")
Pursuant to Fed.R.Bankr.P. 9019 (the "Motion") which seeks the following relief: **an order
approving the Settlement Agreement by and between the Trustee and Toronto Dominion
dated July 31, 2002 ("Settlement Agreement"), which provides, *inter alia*, the following:**

(a) On July 26, 2002, the Court entered an order granting Toronto Dominion
relief from the automatic stay on an interim basis (the "Interim Order"), with respect to
certain sale proceeds which were generated from the sale of substantially all of the Debtors'
assets ("Sale Proceeds"). Contemporaneously with the entry of an order approving the
Settlement Agreement, the Interim Order granting Toronto Dominion relief from the
automatic stay shall become a final order;

(b) Upon entry of the Interim Order, Toronto Dominion received \$21.7 million
from the estate, representing \$13.3 million paid from the Trustee's account and \$8.4 million
(plus any accrued interest thereon) held by Toronto Dominion. From this amount, Toronto
Dominion agrees to satisfy the amounts due under a prior Court order approving a key
employee retention plan related to "additional consideration" owing to the Debtors'
management and Jefferies & Co. Toronto Dominion further agrees to hold \$400,000 from
this amount (the "Verizon Overage"), pending resolution of the Verizon Claim. The
Verizon Claim is defined in the Settlement Agreement as the amount determined by the
Court as Verizon's allowed administrative claim under §503 of the Bankruptcy Code
through January 21, 2002, and excludes any alleged cure claims;

(c) \$1,657,487.77 retained by the Trustee will be used to satisfy accrued, but

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unpaid expenses (the "Budgeted Administrative Claims"), including, but not limited to allowed attorney's fees of Morris, Nichols, Arsht & Tunnel (net of retainers and amounts held by that firm in escrow), allowed professional fees for counsel for the Official Committee of Unsecured Creditors, and attorneys' fees for counsel for Toronto Dominion (as to counsel fees for Toronto Dominion, they will be capped in the amount of \$325,000), Level 3 Communications, LLC's claim to reimbursement of an undrawn check in the approximate amount of \$91,000, and Verizon's alleged administrative claims accrued prior to January 21, 2002 (the "Reserve Amount");

(d) If the Reserve Amount is less than the Budgeted Administrative Expenses, then the Net2000 estate and Toronto Dominion agree to contribute equally to the additional amounts needed to pay the Budgeted Administrative Expenses, provided, however that Toronto Dominion's portion of any additional amount shall be limited to any amounts which it would receive from the estate as described in paragraph (h) hereunder;

(e) \$300,000 of the amounts to be paid for Toronto Dominion's counsel fees and expenses shall be paid directly to counsel, upon Bankruptcy Court approval of the Settlement Agreement, with the remaining \$25,000 (or applicable portion thereof) to be paid in the event additional fees and expenses are incurred. Any remaining funds of the Reserve Amount shall be retained by the Net2000 Estate to be disbursed as obligations arise or until further order of Court. The Verizon Claim is specifically excluded from the Reserve Amount.

(f) The sum of \$100,000 will be placed in a separate reserve account for the benefit of the Net2000 Estate to pay certain "wind down" expenses including, but not limited to, payment of the Trustee's bond premium in the approximate amount of \$16,000 and any unpaid wages of the Debtors' former employees in May, 2002, in the approximate amount of \$10,400 (the "Wind Down Expenses");

(g) The sum of \$500,000 ("Verizon Cap") will be set aside, which sum represents the Net2000 Estate's portion of the Verizon Claim. The Verizon Claim is defined as the amount to be determined by the Court as Verizon's allowed administrative claim pursuant to 11 U.S.C. § 503 through January 21, 2002, and specifically excludes any alleged cure claims. Any amounts awarded by the Court which exceed the Verizon Cap will be paid by the lenders from the Verizon Overage. To the extent the Court determines that the amount of the Verizon Claim is less than \$200,000, then the Net2000 Estate and Toronto Dominion will share equally in any excess up to \$200,000. The Trustee will file a motion to resolve the amount of the Verizon Claim within thirty days of the Court's approval of the Settlement Agreement;

(h) As to any assets recovered by the Net2000 Estate from July 24, 2002 and after, including any savings in the Reserve Amount, the Net2000 Estate and Toronto Dominion will share equally in any such recovery; provided, however, that Toronto Dominion's secured claim shall not be entitled to any distribution from (i) preference recoveries and fraudulent transfer recoveries, as defined in §§ 547 and 548 of the Bankruptcy Code, up to the gross amount of \$2,000,000; or (ii) any recoveries obtained from Cavalier East, L.L.C. and Cavalier Telephone, LLC (collectively, "Cavalier") resulting from any action which may be brought by the estate against Cavalier for recovery of a \$1.6 million purchase price adjustment from the sale of certain of the Debtors' assets (the "Purchase Price Adjustment"); and provided further, that Toronto Dominion's unsecured deficiency claim shall participate on a *pro rata* basis on any distributions made to

unsecured creditors from the Net2000 Estate (excluding preference recoveries and fraudulent transfer recoveries, as defined in §§ 547 and 548 of the Bankruptcy Code, up to the gross amount of \$2,000,000 and excluding the first \$200,000 gross proceeds received by the Trustee from the Purchase Price Adjustment);

(i) The sum of \$1,000,000, plus any accrued interest, plus Fifty (50%) percent of excess reserve, if any, for Budgeted Administrative Claims and one hundred percent (100%) of the excess Wind Down Expenses, if any, will belong to the Net2000 Estate, free and clear of all secured and unsecured claims of Toronto Dominion;

(j) The Net2000 Estate will give Toronto Dominion a general release, excepting out all obligations incurred under the Settlement Agreement, which release shall be effective upon the entry of an order approving the Settlement Agreement; and

(k) Nothing in the Settlement Agreement shall affect or otherwise impair the right of the Operating Telephone Company Subsidiaries of Verizon Communications Inc. (“Verizon”) to argue that (i) if Verizon is successful in any appeal that is pending and asserts that an assignment or transfer of the Debtors’ contracts with Verizon has, or should have, occurred under section 365 of the Bankruptcy Code, that Verizon is entitled to payment of cure amounts from the sale proceeds (which cure amounts shall include any unpaid pre-petition charges as well as any unpaid post-petition charges through the date of assumption) (the “Cure Claim”) or (ii) if Verizon has any unpaid administrative claims, whether arising pre-closing or post-closing (the “Administrative Expense Claim”), that Verizon is entitled to receive payment of the Administrative Expense Claim from the sale proceeds. Verizon shall be entitled to make a claim against Toronto Dominion for payment of the Cure Claim or the Administrative Expense Claim out of the Sale Proceeds distributed to Toronto Dominion, and the Court shall retain jurisdiction to determine Verizon’s right to receive the Cure Claim or the Administrative Expense Claim out of the previously distributed Sale Proceeds;

(l) Should Verizon successfully assert the Cure Claim or Administrative Expense Claim (in excess of the Verizon Cap) against Toronto Dominion, then Toronto Dominion agrees to pay such claims from the Sale Proceeds paid to Toronto Dominion, and Toronto Dominion shall not have any claim against the funds carved out for the benefit of the Net2000 Estate pursuant to the Settlement Agreement entered into with the Trustee as a result of such payment;

(m) Nothing contained in the Settlement Agreement is an admission by Toronto Dominion or a waiver of Toronto Dominion’s rights to object to or oppose Verizon’s claims;

(n) Nothing contained in the Settlement Agreement is an admission by the Trustee or a waiver of the Trustee’s rights to object to or oppose Verizon’s claims; and

(o) Nothing contained in the Settlement Agreement shall constitute a waiver of any claims that the Net2000 Estate may have against Cavalier or any defenses which Cavalier may have to any claims asserted against it by the Net 2000 Estate.

The Settlement Agreement by and between Michael B. Joseph, Chapter 7 Trustee and

Toronto Dominion is attached as an exhibit to the proposed form of order submitted to the Court at the time the Motion was filed.

1. You are required to file a response to the motion on or before August 13, 2002 at 4:00 p.m. prevailing Delaware time. If a copy of the Motion and the proposed form of order (with the attached Settlement Agreement) are not enclosed, you may obtain them by calling counsel for the Trustee at the number listed below.

2. At the same time, you must also serve a copy of the response on the Trustee's attorneys so as to be received by them on or before August 13, 2002 at 4:00 p.m.:

Bradford J. Sandler, Esquire
ADELMAN LAVINE GOLD AND LEVIN,
a Professional Corporation
Wilmington Trust Bldg., 11th Floor
1100 North Market Street
Wilmington , Delaware 19801
Telephone: (302) 654-8200
Facsimile: (302) 654-8217

**A HEARING ON THE MOTION WILL BE HELD ON AUGUST 20, 2002 AT 2:30 P.M.
IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT
MAY GRANT THE RELIEF DEMANDED IN THE MOTION WIHOUT FURTHER
NOTICE OR HEARING.**

Dated: August 1, 2002
Wilmington, Delaware

ADELMAN LAVINE GOLD AND LEVIN,
a Professional Corporation

By: /s/

Bradford J. Sandler, Esquire
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1100 North Market Street
Wilmington , Delaware 19801
(302) 654-8200
Counsel for Michael B. Joseph, Esquire
Chapter 7 Trustee
and

ADELMAN LAVINE GOLD AND LEVIN,
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