

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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In re ABLE LABORATORIES  
SECURITIES LITIGATION

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: Case No. 05-CV-2681 (JAG) (MCA)  
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**STIPULATION AND AGREEMENT OF SETTLEMENT**

This Stipulation and Agreement of Settlement (the "Stipulation") is entered into by Lead Plaintiffs Denver Employees Retirement Plan and Deka International (Ireland) Limited (together, the "Lead Plaintiffs"), on behalf of themselves and the Class (as hereinafter defined), and Defendants Dhananjay G. Wadekar, Shashikant C. Shah, Robert J. Mauro, Garth Boehm and Iva Klemick (collectively, "Defendants"); and provides for the settlement and release of all claims and defenses asserted in the above-captioned action (the "Action"), subject to approval of the United States District Court for the District of New Jersey (the "Court") pursuant to Rule 23 of the Federal Rules of Civil Procedure.

WHEREAS:

A. Between May 23, 2005 and June 16, 2005, nine putative securities class action lawsuits were filed in the Court alleging violations of the federal securities laws by Able Laboratories, Inc. ("Able") and various of its officers, directors and employees. These lawsuits were consolidated into this Action by Order dated January 25, 2006.

B. By Order dated March 17, 2006, the Court appointed Denver Employees Retirement Plan and Deka International (Ireland) Limited as Lead Plaintiffs in the consolidated Action, and appointed the law firms of Grant & Eisenhofer P.A. and Murray Frank & Sailer LLP as co-lead counsel for the putative Class. On March 5, 2007, the Court granted a motion by Deka International (Ireland) Limited to substitute the law firm of Labaton Sucharow & Rudoff

LLP (now known as Labaton Sucharow LLP) for Murray Frank & Sailer LLP as co-lead counsel for the Class. The law firms of Grant & Eisenhofer P.A. and Labaton Sucharow LLP are together referred to herein as "Lead Counsel."

C. On June 19, 2006, Lead Plaintiffs filed a Consolidated Class Action Complaint (the "Complaint") alleging violations of the federal securities laws by the Defendants in connection with their conduct as directors, officers and/or employees of Able. Due to its bankruptcy filing on July 18, 2005, Able was not named as a defendant in the Complaint.

D. Following a hearing held on June 11, 2007, the Court issued an order denying Defendants' motions to dismiss the Complaint. On March 24, 2008, the Court (a) issued a lengthy Opinion setting forth its reasoning for the denial of the motions to dismiss, and (b) issued an Opinion and Order denying Defendants' motions for reconsideration of the denial of their motions to dismiss.

E. Carolina Casualty Insurance Company (Policy No. 1635398/1), Great American Insurance Company (Policy No. NSX5236121), U.S. Specialty Insurance Company (Policy No. 24-MGU-04-A4610), and XL Specialty Insurance Company (Policy No. ELU 87579-04) (collectively, the "Insurers") provided directors' and officers' liability insurance coverage to Able and its directors and officers with a Policy Period of November 17, 2004 to November 17, 2005. The insurance policies issued by the Insurers to Able (the "D&O Policies") provide maximum aggregate coverage of \$25,000,000. Some of the proceeds of the D&O Policies have already been used to fund certain costs of defense incurred by Defendants and other former officers and directors of Able, thus reducing the amount available to satisfy any judgment or settlement in the Action and other litigation against Able's former officers and directors to less than \$25,000,000.

F. In or about January 2008, Lead Plaintiffs and the Defendants (collectively, the “Parties”), through their counsel, commenced discussions regarding a potential settlement of the Action. To prevent further depletion of the proceeds available for settlement under the D&O Policies, Lead Plaintiffs and Defendants agreed to suspend the proceedings in the Action while settlement discussions were being pursued. Following mediation with a private mediator and several settlement conferences with the Court, the Parties reached an agreement-in-principle on March 12, 2009 regarding the terms of the Settlement, as reflected in this Stipulation. The Settlement between the Parties is part of a global settlement that also includes the settlement of two other actions pending in this Court: *Charles A. Stanziale, Jr. v. Dhananjay G. Wadekar, et al.*, Case No. 06-CV-05447 (the “Trustee Action”) and *Elnora Kirtley, et al. v. Dhananjay G. Wadekar, et al.*, Case No. 05-CV-5383 (the “Consumer Action”). The Action, The Trustee Action and the Consumer Action are collectively referred to herein as the “Able Litigation.”

G. The United States Attorney’s Office for the District of New Jersey and the Securities and Exchange Commission (“SEC”) are currently investigating Able and certain of the Defendants (the “Able Investigation”).

H. Defendants deny all allegations of wrongdoing, fault, liability or damage to Lead Plaintiffs or the Class and deny the truth of any fact alleged by the Lead Plaintiffs or the validity of any claim that was or could have been asserted in the Action or in any other litigation or proceeding. Defendants recognize, however, the uncertainty and risk inherent in any litigation, especially complex securities litigation, and the difficulties and substantial expense and length of time necessary to defend this action through trial and any appeal. To eliminate this burden, expense and risk, Defendants wish to settle the Action on the terms and conditions set forth in this Stipulation.

I. Lead Counsel have investigated the events and transactions alleged in the Complaint, researched the applicable law with respect to the claims of the Class and the potential defenses thereto, and evaluated the availability of resources from which the damages sustained by the Class may be recovered. Based upon Lead Counsel's research and investigation, Lead Plaintiffs and Lead Counsel believe the terms and conditions of this Stipulation are fair, reasonable and adequate to the Class, and in the best interests of the Class, and have agreed to settle the Action pursuant to the terms and provisions of this Stipulation, after considering the benefits that the Class will receive from the settlement, and the attendant risks of litigation.

J. The Parties recognize that the Action is being voluntarily settled after advice of counsel, and that the terms of the Settlement are fair, adequate and reasonable.

NOW THEREFORE, it is hereby STIPULATED AND AGREED, subject to approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the Parties from the Settlement, that the Action shall be compromised, settled, released and dismissed with prejudice in its entirety, upon and subject to the following terms and conditions:

#### **CERTAIN DEFINITIONS**

1. As used in this Stipulation the following terms shall have the following meanings:
  - a. "Class" means all persons or entities who purchased or otherwise acquired Able's publicly traded common stock during the Class Period (defined below); *provided, however*, that the following are expressly excluded from the Class: Able and each of its subsidiaries and affiliates; the Defendants; Nitin V. Kotak; Robert Weinstein; C. Robert Cusick; Elliot F. Hahn; Harry Silverman; David S. Tierney; Jerry I. Treppel; F. Howard Schneider; Kamlesh B. Haribhakti; Joan M. Janulis; Konstatin Ostaficiuk; Hemanshu N. Pandya;

Janet Penner; Raju Vegesna; Shailesh V. Daftari; James B. Klint; Jyotin Parikh; Jose Concepcion; Ashish Macwan; Dilip Patel; members of the immediate families of the Defendants and of the other excluded individuals listed above; all entities in which any excluded person has a controlling interest; and the legal representatives, heirs, successors, assigns or insurers of any excluded person.

b. “Class Member” means any person or entity who or which is a member of the Class and not excluded therefrom.

c. “Class Period” means the period from October 30, 2002 through and including May 18, 2005.

d. “Consumer Class” means members of the plaintiff class that is certified for settlement purposes by the Court in the Consumer Action.

e. “Claims Administrator” means the firm of The Garden City Group, Inc., which shall administer the Settlement.

f. “Proof of Claim” means the form substantially in the form attached hereto as Exhibit E, together with all supporting documentation specified therein, which Class Members shall be required to complete and return to the Claims Administrator in order to substantiate their entitlement to a share of the Settlement Fund.

g. “Authorized Claimants” means those members of the Class and/or the Consumer Class who submit timely and valid Proof of Claim forms to the Claims Administrator.

h. “Insureds” means Dhananjay G. Wadekar; Robert J. Mauro, Nitin V. Kotak, Garth Boehm, Iva Klemick; Robert Weinstein, C. Robert Cusick, Elliot F. Hahn, Harry Silverman; David S. Tierney; Jerry L. Treppel, F. Howard Schneider, Bharati S. Daftari

Executrix of The Estate of Shailesh V. Daftari, Kamlesh Haribhakti, Joan M. Janulis, Konstantin Ostaficiuk, Hemanshu N. Pandya, Janet Penner, Shashikant C. Shah and Raju Vegesna.

i. “Settlement” means the settlement contemplated by this Stipulation.

j. “Order and Final Judgment” means the proposed order to be entered approving the Settlement substantially in the form attached hereto as Exhibit A.

k. “Preliminary Approval Order” means the proposed order preliminarily approving the Settlement and directing notice thereof to the Class substantially in the form attached hereto as Exhibit B.

l. “Publication Notice” means the summary notice of the proposed Settlement and hearing for publication substantially in the form attached as Exhibit C hereto.

m. “Released Parties” means any and all of the Insureds, and each of their immediate family members, heirs, executors, administrators, successors and assigns; Insureds’ present, former and future agents, employees, attorneys, advisors, investment advisors, auditors, accountants, Insurers; any person, firm, trust, corporation, officer, director or other individual or entity which is or was related to or affiliated with any Insured, or in which any Insured has or had a controlling interest; and the present, former and future legal representatives, spouses, heirs, executors, administrators, predecessors, successors in interest and/or assigns of any of the foregoing; *provided, however*, that the term “Released Parties” does not include Able.

n. “Released Claims” shall collectively mean all direct, individual and/or class claims (including “Unknown Claims” as defined in Subparagraph q hereof), debts, demands, rights, liabilities, and causes of action of every nature and description whatsoever (including, but not limited to, any claims for compensatory damages, punitive damages, interest, attorneys’ fees, expert and/or consulting fees, and/or any other costs, expenses, liability and/or

relief, monetary, injunctive, or otherwise), whether based on federal, state, local, statutory and/or common law and/or any other law, rule or regulation, whether known or unknown, accrued or hereafter to accrue, liquidated or unliquidated, at law or in equity, matured or unmatured, concealed or hidden, whether class and/or individual in nature, (i) that have been asserted in this Action by the Lead Plaintiffs, Class Members or any of them against any of the Released Parties and/or that relate to the purchase, sale and/or acquisition of shares of the common stock of Able by the Lead Plaintiffs, Class Members or any of them during the Class Period, (ii) that could have been, and/or could in the future be, asserted in any forum by the Lead Plaintiffs, Class Members or any of them against any of the Released Parties which arise out of and/or are based upon and/or relate in anyway to the allegations, transactions, facts, matters, and/or occurrences, representations and/or omissions involved, set forth, and/or referred to in the Complaint and that relate to the purchase, sale and/or acquisition of shares of the common stock of Able by the Lead Plaintiffs, Class Members or any of them during the Class Period, and/or (iii) that arise out of and/or relate in any way to the defense and/or settlement of this Action (except for claims to enforce the Settlement).

o. “Settlement Notice” means the notice to be mailed to prospective members of the Class, substantially in the form attached as Exhibit D hereto.

p. “Plan of Allocation” refers to the manner in which the Net Settlement Fund shall be allocated among Authorized Claimants, as described in the Settlement Notice.

q. “Unknown Claims” shall collectively mean all claims, demands, rights, liabilities, and causes of action of every nature and description which any Lead Plaintiff or Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, demands, rights, liabilities, and causes of action, which, if known by him, her, or it,

might have affected his, her, or its settlement with and release of the Released Parties, or might have affected his, her, or its decision(s) with respect to this Settlement, including any decision not to object to this Settlement. The Parties stipulate and agree that, upon the Effective Date, the Lead Plaintiffs and Defendants shall expressly waive, and each of the Class Members shall be deemed to have waived, and by operation of the Order and Final Judgment shall have expressly waived, the provisions, rights and benefits of California Civil 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.**

The Lead Plaintiffs and the Defendants shall expressly waive, and each of the Class Members shall be deemed to have waived, and by operation of the Order and Final Judgment shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code § 1542. The Lead Plaintiffs, Defendants and Class Members may hereafter discover facts in addition to or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Claims, but the Lead Plaintiffs and Defendants shall expressly fully, finally, and forever settle and release, and each Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released, any and all Released Claims, known or unknown, suspected or unsuspected, contingent or noncontingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts.



Lead Plaintiffs and Defendants acknowledge, and the Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and is a key element of the Settlement.

### **THE SETTLEMENT CONSIDERATION**

2. Defendants shall cause the sum of Nine Million One Hundred Fifty Thousand Dollars (\$9,150,000) in cash (the "Settlement Payment") from the proceeds of the D&O Policies to be wire transferred into an escrow account for the benefit of the Class and the Consumer Class, as instructed by Lead Counsel for the Class and lead counsel for the Consumer Class. The Settlement Payment shall be made within thirty (30) days after the later of: (i) preliminary approval of the settlement of the later of the Action and the Consumer Action; and (ii) the date on which Lead Counsel for the Class and lead counsel for the Consumer Class provide the Insurers with payment instructions, including any tax forms or other information which is reasonably necessary to make the Settlement Payment.

3. Separate and apart from the Settlement Payment, Defendants shall cause certain Insurers to establish a reserve in the amount of Four Million Five Hundred Thousand Dollars (\$4,500,000.00) (the "Set Aside") to be established from the proceeds of the D&O Policies, from which certain of the Insurers shall pay on a first-in basis, future defense costs ("Future Costs").

4. Future Costs shall include only reasonable and necessary defense fees and costs that are covered by the D&O Policies or that the Insurers otherwise agree to pay, and that are incurred by Garth Boehm, C. Robert Cusick, Bharati S. Daftari Executrix of The Estate of Shailesh V. Daftari, Elliot F. Hahn, Kamlesh Haribhakti, Joan M. Janulis, Iva Klemick, Nitin V. Kotak, Robert J. Mauro, Konstantin Ostaficiuk, Hemanshu N. Pandya, Janet Penner, F. Howard Schneider, Harry Silverman, David S. Tierney, Jerry I. Treppel, Raju Vegesna, Dhananjay G.

Wadekar, and Robert Weinstein in connection with: (i) the Able Litigation, including, but not limited to, the drafting and finalizing of any settlement agreements and approval of the Able Litigation Settlement; (ii) the Able Investigation, including, but not limited to, reasonable fees and costs incurred in connection with interviews of the Insured(s) by the U.S. Attorney and/or SEC; and (iii) the resolution of any action by any person or entity who elects to opt-out of the Able Litigation Settlement. Future Costs do not include any defense fees and costs incurred by Shashikant C. Shah and no funds from the Set Aside shall be paid to Shashikant C. Shah or his counsel.

5. Insurers shall cause twenty-five percent (25%) of any remaining balance in the Set Aside (the "Reverter") to be paid into an escrow account for the benefit of the Class, as instructed by Lead Counsel, within thirty (30) days following the latest of: (i) final approval of the settlements in this Action, the Consumer Action and the Trustee Action; (ii) January 1, 2012; (iii) final resolution of any proceedings instituted after the signing of this agreement and before January 1, 2012 against any of the Insureds in relation to their services as a director, officer or employee of Able; and (iv) the date on which Lead Counsel provide the Insurers with payment instructions, including any tax forms or other information which is reasonably necessary to make payment of the Reverter. Beginning on March 31, 2010 and continuing until the Reserve Payment is made, the Defendants shall cause the Insurers to inform Lead Counsel in writing, on a quarterly basis, and within thirty (30) days of any written request by Lead Counsel, of the balance remaining in the Set Aside.

6. The Settlement Payment and the Reverter, if any (together, the "Settlement Fund") shall be deemed to be in the custody of the Court and shall remain subject to the

jurisdiction of the Court until such time as the funds shall be distributed or returned to the persons paying the same pursuant to this Stipulation and/or further order of the Court.

7. Lead Counsel shall serve as escrow agents of the escrow account(s) containing the Settlement Fund, and shall cause any funds in such escrow account(s) to be held by, and invested and reinvested by, one of the one hundred (100) largest banks in the United States.

8. All (i) taxes on the income of the Settlement Fund and (ii) expenses and costs incurred in connection with the taxation of the Settlement Fund (including, without limitation, expenses of tax attorneys and accountants) (collectively, "Taxes") shall be paid out of the Settlement Fund, shall be considered to be a cost of administration of the Settlement, and shall be timely paid by the escrow agents without further Order of the Court.

9. The Parties agree that the Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1 and that Lead Counsel, as administrators of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be responsible for filing tax returns for the Settlement Fund and paying from the Settlement Fund any Taxes owed with respect to the Settlement Fund. Defendants' counsel agree to provide promptly to Lead Counsel the statement described in Treasury Regulation § 1.468B-3(e).

10. The Settlement Fund, net of any Taxes, shall be used to pay (i) the notice and administration costs as provided in Paragraph 17 hereof, and (ii) the attorneys' fee and expense award as provided in Paragraph 14 hereof. The balance of the Settlement Fund after the above payments shall be the "Net Settlement Fund" and shall be distributed to the Authorized Claimants as provided in Paragraphs 24-28 hereof.

## **MUTUAL RELEASES**

11. Pursuant to the Order and Final Judgment, upon the Effective Date of the Settlement:

a. Lead Plaintiffs and the Class Members, on behalf of themselves and their heirs, agents, executors, administrators, predecessors, successors and assigns, and their personal representatives, shall be deemed to have released and forever discharged, and shall permanently be barred and enjoined from prosecuting, any and all Released Claims. By entering this Stipulation, the Lead Plaintiffs represent and warrant that they have not assigned, hypothecated, transferred or otherwise granted any interest in the Released Claims, or any of them, to any other party or entity.

b. Defendants and the Insureds, on behalf of themselves and their heirs, agents, executors, administrators, predecessors, successors and assigns, and their personal representatives shall be deemed to have released and forever discharged, and shall permanently be barred and enjoined from prosecuting, all claims, rights, demands, suits, matters, issues or causes of action, including both known and Unknown Claims, against Plaintiffs, the members of the Class, or any of their present or former attorneys, agents, insurers and assigns, including Lead Counsel, arising out of, or relating in any way to, the institution, prosecution, or settlement of the Action (except for claims to enforce the Settlement). By entering this Stipulation, the Defendants represent and warrant that they have not assigned, hypothecated, transferred or otherwise granted any interest in any such claims to any other party or entity.

## **ENTRY OF ORDERS**

12. Promptly after this Stipulation has been fully executed, counsel for the Parties jointly shall apply to the Court for entry of the Preliminary Approval Order.

13. If the Settlement is approved by the Court following notice to the Class and a fairness hearing, counsel for the Parties shall request that the Court enter the Order and Final Judgment.

#### **ATTORNEYS' FEES AND EXPENSES**

14. Lead Counsel will apply to the Court for an award of attorneys' fees and reimbursement of expenses, plus interest, from the Settlement Fund. Defendants take no position regarding the amount of attorneys' fees or costs payable to Lead Counsel. Such attorneys' fees, expenses, and interest as are awarded by the Court from the Settlement Fund (the "Fee Award") shall be payable from the Settlement Fund to Lead Counsel immediately upon entry of the order setting forth the Fee Award, subject to Lead Counsel's obligation to make appropriate refunds or repayments to the Settlement Fund plus accrued interest at the same net rate as is earned by the Settlement Fund, if and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the fee or cost award is reduced or reversed.

15. The Released Parties shall have no responsibility for or liability with respect to any attorneys' fees, costs or expenses sought by Lead Counsel, and/or any other Person who may assert some claim thereto.

16. Except as provided herein, the Parties shall bear their own attorneys' fees and costs incurred in connection with the Action.

#### **CLAIMS ADMINISTRATION EXPENSES**

17. To pay the reasonable costs and expenses associated with the administration of the Settlement and the settlement of the Consumer Action, including without limitation, the costs of identifying members of the Class and the Consumer Class; the costs of publication, printing and dissemination of notice to members of the Class and the Consumer Class; and the administrative

expenses incurred and fees charged by the Claims Administrator in connection with providing notice and processing the submitted claims (collectively, "Claims Administration Expenses"), Lead Counsel and lead counsel for the Consumer Class may expend from the Settlement Fund, without further approval from the Court, a sum that is not in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) in the aggregate. In no event shall the Released Parties or any of them bear any responsibility or liability for any Claims Administration Expenses.

#### **ADMINISTRATION OF THE SETTLEMENT**

18. The Claims Administrator shall administer the Settlement and disburse the Net Settlement Fund under Lead Counsel's supervision and subject to the jurisdiction of the Court. Defendants' counsel shall cooperate in the administration of the Settlement to the extent reasonably necessary to effectuate its terms, but otherwise Defendants shall have no responsibility for the administration of the Settlement and shall have no liability to Lead Plaintiffs or Class Members in connection with such administration.

19. Any Class Member who does not submit a valid Proof of Claim will not be entitled to receive any of the proceeds from the Net Settlement Fund but will otherwise be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Order and Final Judgment to be entered in the Action and the releases provided for therein.

20. For purposes of determining the extent, if any, to which a member of the Class or of the Consumer Class shall be entitled to be treated as an "Authorized Claimant," the following conditions shall apply, subject to Lead Counsel's discretion to waive any such conditions in the interests of achieving substantial justice:

a. Each member of the Class and of the Consumer Class shall be required to submit a Proof of Claim, supported by such documents as are designated therein, including proof

of the claimant's loss, or such other documents or proof as the Claims Administrator, in its discretion (subject to Lead Counsel's supervision), may deem acceptable;

b. All Proofs of Claim must be submitted by the date specified in the Settlement Notice unless such period is extended by Order of the Court. Any Class Member who fails to submit a Proof of Claim by such date shall be forever barred from receiving any distribution from the Net Settlement Fund (unless, by Order of the Court, a later-submitted Proof of Claim by such Class Member is approved), but shall in all other respects be bound by all of the terms of this Stipulation and the Settlement including the terms of the Order and Final Judgment to be entered in this Action and the releases provided for herein. Provided that it is received before the motion for the Class Distribution Order is filed, a Proof of Claim shall be deemed to have been submitted when posted, if received with a postmark indicated on the envelope and if mailed by first-class mail and addressed in accordance with the instructions in the Settlement Notice. In all other cases, the Proof of Claim shall be deemed to have been submitted when actually received by the Claims Administrator;

c. Each Proof of Claim shall be submitted to and reviewed by the Claims Administrator, who, under the supervision of Lead Counsel (and, as to claims submitted by members of the Consumer Class, lead counsel for the Consumer Class), shall determine in accordance with this Stipulation the extent, if any, to which each claim shall be allowed, subject to review by the Court pursuant to Subparagraph e below;

d. Proofs of Claim that do not meet the submission requirements may be rejected. Prior to rejection of a Proof of Claim, the Claims Administrator shall communicate with the Claimant in an effort to remedy the curable deficiencies in the Proofs of Claim submitted. The Claims Administrator, under the supervision of Lead Counsel, shall notify, in a

timely fashion and in writing, all Claimants whose Proofs of Claim they propose to reject in whole or in part, setting forth the reasons therefor, and shall indicate in such notice that the Claimant whose claim is to be rejected has the right to review by the Court if the Claimant so desires and complies with the requirements of Subparagraph e below;

e. If any Claimant whose claim has been rejected in whole or in part desires to contest such rejection, the Claimant must, within twenty (20) days after the date of mailing of the notice required in Subparagraph d above, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a claim cannot be otherwise resolved, Lead Counsel (and, as to claims submitted by members of the Consumer Class, lead counsel for the Consumer Class) shall thereafter present the request for review to the Court; and

21. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to the Claimant's claim, and the claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to that Claimant's status as a member of the Class or the Consumer Class and the validity and amount of the Claimant's claim. No discovery shall be allowed on the merits of the Action or Settlement in connection with processing the Proofs of Claim.

22. Lead Counsel and lead counsel for the Consumer Class will apply to the Court, without notice to Defendants' counsel, for an order (the "Class Distribution Order") approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of the claims submitted.



23. All proceedings with respect to the administration, processing and determination of claims described by this Stipulation and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of claims, shall be subject to the jurisdiction of the Court.

#### **DISTRIBUTION TO AUTHORIZED CLAIMANTS**

24. The Claims Administrator shall determine each Authorized Claimant's pro rata share of the Net Settlement Fund based upon each Authorized Claimant's Recognized Claim (as defined in the Plan of Allocation).

25. The Plan of Allocation is not a necessary term of this Stipulation and it is not a condition of this Stipulation that any particular Plan of Allocation be approved.

26. Each Authorized Claimant shall be allocated a pro rata share of the Net Settlement Fund based on his or her Recognized Claim compared to the total Recognized Claims of all accepted Authorized Claimants. This is not a claims-made settlement. Neither the Defendants nor the Insurers shall be entitled to the return of any settlement monies once the Effective Date occurs. Defendants shall have no involvement in reviewing or challenging Proofs of Claim.

27. Once the Class Distribution Order has been entered and the Effective Date has occurred, the Claims Administrator shall, under the direction of Lead Counsel and lead counsel for the Consumer Class and without further order of the Court, distribute the Net Settlement Fund to Authorized Claimants in accordance with this Stipulation and the Plan of Allocation.

28. Following the initial distribution of the Net Settlement Fund to Authorized Claimants, if any funds remain in the Net Settlement Fund by reason of uncashed bank drafts or otherwise, then, after the Claims Administrator has made reasonable and diligent efforts to have Authorized Claimants cash their bank drafts, any balance remaining in the Net Settlement Fund

six months after the initial distribution of such funds shall be re-distributed, after payment of any unpaid costs or fees incurred in administering the Net Settlement Fund for such re-distribution, to Authorized Claimants who have cashed their bank drafts and who would receive at least \$10.00 from such re-distribution. If after six months after such re-distribution any funds shall remain in the Net Settlement Fund, then such balance shall be contributed to non-sectarian, not-for-profit, 501(c)(3) organization(s) designated by Lead Counsel and lead counsel for the Consumer Class.

#### **EFFECTIVE DATE OF SETTLEMENTS, WAIVER OR TERMINATION**

29. The Effective Date of the Settlement shall be the date when all of the following shall have occurred:

- a. entry of the Preliminary Approval Order in all material respects in the form annexed hereto as Exhibit B;
- b. approval by the Court of the Settlement, following notice to the Class and a hearing as prescribed by Rule 23 of the Federal Rules of Civil Procedure; and
- c. entry by the Court of an Order and Final Judgment, in all material respects in the form set forth in Exhibit A annexed hereto, and the expiration of any time for appeal or review of such Order and Final Judgment, or, if any appeal is filed and not dismissed, after such Order and Final Judgment is upheld on appeal in all material respects and is no longer subject to review upon appeal or review by writ of certiorari, or, in the event that the Court enters an order and final judgment in a form other than those provided above (“Alternative Judgment”) and none of the Parties elect to terminate the Settlement, the date that such Alternative Judgment becomes final and no longer subject to appeal or review.

30. Each of the Parties shall have the right to terminate the Settlement and this Stipulation by providing written notice of their election to do so ("Termination Notice") to counsel for all other Parties hereto within thirty (30) days after: (a) the Court's declining to enter the Preliminary Approval Order in any material respect; (b) the Court's refusal to approve this Stipulation or any material part of it; (c) the Court's declining to enter the Order and Final Judgment in any material respect; (d) the date upon which the Order and Final Judgment is modified or reversed in any material respect by the United States Court of Appeals for the Third Circuit or the Supreme Court of the United States; or (e) the date upon which an Alternative Judgment with respect to the Settlement is modified or reversed in any material respect by the United States Court of Appeals for the Third Circuit or the Supreme Court of the United States.

31. If prior to the Settlement Hearing, the aggregate number of shares of Able common stock purchased or otherwise acquired by persons who would otherwise be Class Members, but who submit timely and valid requests for exclusion from the Class, exceeds the sum specified in a separate "Supplemental Agreement" between the Parties, Defendants shall have, in their sole and absolute discretion, the option to terminate this Stipulation in accordance with the procedures set forth in the Supplemental Agreement. The Supplemental Agreement will not be filed with the Court unless and until a dispute among the Parties concerning its interpretation or application arises. For purposes of this paragraph and the Supplemental Agreement, a request for exclusion will not be deemed valid and timely unless it (a) includes all of the information required by the Notice, and (b) is postmarked by the date set forth in the Notice. In the event Defendants elect to terminate the Stipulation pursuant to this paragraph and the Supplemental Agreement, Defendants shall include with their notice of termination a written explanation of the calculations by which they determined that the threshold set forth in the

Supplemental Agreement has been exceeded. If Lead Plaintiffs contest whether that threshold has been exceeded, they shall notify Defendants in writing within five (5) business days after receiving the notice of termination. If the parties cannot resolve the dispute within five (5) business days thereafter, the matter shall be submitted promptly to the Court for resolution.

32. If prior to the Settlement Hearing, the aggregate number of persons who purchased a pharmaceutical product manufactured by Able Labs from October 1999 to the present who would otherwise be members of the Consumer Class, but who submit timely and valid requests for exclusion from the Consumer Class, exceeds the sum specified in a separate supplemental agreement between the parties in the Consumer Action, Defendants shall have, in their sole and absolute discretion, the option to terminate this Stipulation. For purposes of this paragraph, a request for exclusion from the Consumer Class will not be deemed valid and timely unless it (a) includes all of the information required by the Consumer Class notice, and (b) is postmarked by the date set forth in the Consumer Class notice. In the event Defendants elect to terminate the Stipulation pursuant to this paragraph, Lead Plaintiffs may contest whether the relevant threshold has been exceeded, by notifying Defendants' counsel in writing within five (5) business days after receiving the notice of termination. If the parties cannot resolve the dispute within five (5) business days thereafter, the matter shall be submitted promptly to the Court for resolution.

33. Except as otherwise provided herein, in the event the Settlement is terminated or fails to become effective for any reason, then the Parties shall be deemed to have reverted to their respective status in the Action as of March 11, 2009, and, except as otherwise expressly provided, the Parties shall proceed in all respects as if the Settlement and any related orders had not been entered, and any portion of the Settlement Payment previously paid by or on behalf of

Defendants, together with any interest earned thereon, less any Taxes due or paid with respect to such income, and less Claims Administration Expenses actually incurred and paid or payable from the Settlement Fund as of the date the Settlement is terminated, as that date is determined pursuant to the applicable terms of the Stipulation (not to exceed \$250,000.00 without the prior approval of the Court), shall be returned promptly to the person(s) and or entity(ies) who made such payment(s). Any amounts deducted shall be applied against the primary insurer, Carolina Casualty Insurance Company.

#### **BAR ORDER AND JUDGMENT REDUCTION PROVISIONS**

34. The Order and Final Judgment shall include an order that bars all claims by any person against Defendants for contribution arising out of the Action and bars all claims by Defendants against any person for contribution arising out of the Action, other than a person whose liability has been extinguished by the Settlement, each to the fullest extent permitted by 15 U.S.C. § 78u-4(f)(7) and any other applicable law or regulation.

#### **NO ADMISSION OF WRONGDOING**

35. This Stipulation, whether or not consummated, and any proceedings taken pursuant to it:

a. shall not be offered or received against any Defendant as evidence of, or construed as or deemed to be evidence of, any admission, concession or presumption against any Defendant with respect to the truth of any fact alleged by Lead Plaintiffs or the validity of any claim that was or could have been asserted in the Action or in any other litigation or proceeding, or the deficiency of any defense that was or could have been asserted in the Action or in any other litigation or proceeding, or of any liability, negligence, fault, or wrongdoing of any Defendant;

b. shall not be offered or received against any Defendant as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by any Defendant;

c. shall not be offered or received against any Defendant as evidence of a presumption, concession or admission of any liability, negligence, fault or wrongdoing, or in any way referred to for any reason as against any Defendant, in any other civil, criminal or administrative action or proceeding;

d. shall not be offered or received against Lead Plaintiffs or any member of the Class as evidence of, or construed as or deemed to be evidence of, any admission, concession or presumption against Lead Plaintiffs or any member of the Class that any of their claims are without merit or are subject to any infirmities, or that damages recoverable under the Complaint would not have exceeded the Settlement Payment; and

e. shall not be construed as an admission or concession by any of the Parties that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial.

#### **MISCELLANEOUS PROVISIONS**

36. All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein.

37. Lead Plaintiffs will not opt out of the Class or the Settlement, and in the event that other Class Members opt out of the Class or the Settlement and pursue individual litigation against Defendants based upon the facts and circumstances described in the Complaint, Lead Counsel will not represent any such Class Members in such litigation.

38. If a case is commenced in respect of any Defendant or Insurer under Title 11 of the United States Code (Bankruptcy), or a trustee, receiver or conservator is appointed under any similar law, and in the event of the entry of a final order of a court of competent jurisdiction determining the transfer of money to the Settlement Fund or any portion thereof by or on behalf of any Defendant or Insurer to be a preference, voidable transfer, fraudulent transfer or similar transaction and any portion thereof is required to be returned, and such amount is not promptly deposited to the Settlement Fund by others, then, at the election of Lead Counsel, the parties shall jointly move the Court to vacate and set aside the releases given and Order and Final Judgment entered pursuant to this Stipulation; and, the Order and Final Judgment shall be null and void, and the Parties shall be restored to their respective positions in the litigation as of March 11, 2009 and any cash amounts in the Settlement Fund shall be returned as provided in paragraph 33 above.

39. This Stipulation may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by all Parties or their successors-in-interest.

40. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

41. The administration and consummation of the Settlement shall be under the authority of the Court and the Court shall retain jurisdiction for the purpose of entering orders providing for awards of attorneys' fees and expenses to Lead Counsel and enforcing the terms of this Stipulation.

42. The waiver by one party of any breach of this Stipulation by any other party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

43. This Stipulation and its exhibits constitute the entire agreement among the Parties concerning the Settlement, and no representations, warranties, or inducements have been made by any party hereto concerning the Settlement other than those contained and memorialized in such documents.

44. This Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

45. This Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties.

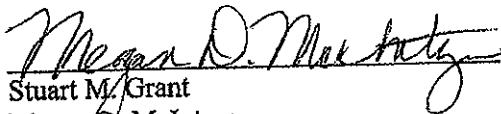
46. This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Parties, it being recognized that it is the result of arm's-length negotiations between the Parties and all Parties have contributed substantially and materially to the preparation of this Stipulation.

47. All counsel and any other person executing this Stipulation, or any related settlement documents, warrant and represent that they have the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

48. Lead Counsel and Defendants' counsel shall cooperate fully with one another in seeking Court approval of the Preliminary Approval Order and the Settlement, and in promptly agreeing upon and executing all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement.



Agreed to as of December 30, 2009.



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Megan D. McIntyre  
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Retirement Plan and Co-Lead Counsel for the  
Class*



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*Counsel for Defendants Robert J. Mauro  
and Garth Boehm*

Agreed to as of December 30, 2009.

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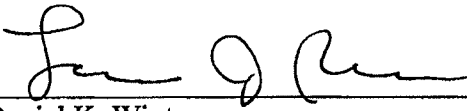
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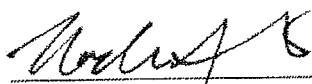
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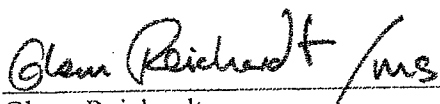
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*Counsel for Defendant Shashikant C. Shah*

# Exhibit A

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

----- X  
:  
In re ABLE LABORATORIES :  
SECURITIES LITIGATION :  
:  
:  
----- X

Case No. 05-CV-2681 (JAG) (MCA)

**ORDER AND FINAL JUDGMENT**

On \_\_\_\_\_, a hearing was held before this Court to determine: (1) whether the terms and conditions of the Stipulation and Agreement of Settlement dated \_\_\_\_\_, 2009 (the “Stipulation”), including the releases provided for in the Stipulation, are fair, reasonable and adequate for the settlement of all claims asserted by the Class against the Defendants in the Complaint now pending in this Court under the above caption, and should be approved; (2) whether judgment should be entered dismissing the Action with prejudice; (3) whether the proposed Plan of Allocation for the Net Settlement Fund is fair and reasonable and should be approved; and (4) whether and in what amount to award Plaintiffs’ Lead Counsel fees and reimbursement of expenses.

The Court having considered all matters submitted to it at the hearing and otherwise; and it appearing that notice of the hearing substantially in the form approved by the Court was posted on the Claims Administrator’s and Lead Counsel’s websites and mailed to all persons or entities reasonably identifiable who purchased the securities at issue in this Action 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 on one occasion in the national edition of *Investor’s Business Daily*; and the Court having considered and determined the fairness and reasonableness of the award of attorneys’ fees and

expenses requested; and all capitalized terms used herein having the meanings as set forth and defined in the Stipulation;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order and Final Judgment incorporates and makes a part hereof:

(a) the Stipulation and the exhibits thereto, which were filed with the Court on \_\_\_\_\_, 2009; and

(b) the Settlement Notice and Publication Notice, both of which were filed with the Court on \_\_\_\_\_, 2009.

2. The Court has jurisdiction over the subject matter of the Action, and personal jurisdiction over the Plaintiffs, all Class Members, the Defendants, and the Insurers for purposes of enforcing the Settlement.

3. The Court finds that the Class preliminarily certified in the Preliminary Approval Order meets all of the requirements of Federal Rule of Civil Procedure 23(a) and (b)(3) for the reasons set out in the Preliminary Approval Order. The Court therefore finally certifies the Class for settlement purposes consisting of all persons and entities who purchased or otherwise acquired publicly traded common stock of Able during the period from October 30, 2002 through and including May 18, 2005; provided, however, that the Class excludes: Able and each of its subsidiaries and affiliates; the Defendants; Nitin V. Kotak; Robert Weinstein; C. Robert Cusick; Elliot F. Hahn; Harry Silverman; David S. Tierney; Jerry I. Treppel; F. Howard Schneider; Kamlesh B. Haribhakti; Joan M. Janulis; Konstatin Ostaficiuk; Hemanshu N. Pandya; Janet Penner; Raju Vegesna; Shailesh V. Daftari; James B. Klint; Jyotin Parikh; Jose Concepcion; Ashish Macwan; Dilip Patel; members of the immediate families of the Defendants and of the other excluded individuals listed above; all entities in which any excluded person has

a controlling interest; and the legal representatives, heirs, successors, assigns or insurers of any excluded person. Also excluded from the Class are the following persons and entities, who the Court finds have properly excluded themselves by filing valid and timely requests for exclusion in accordance with the requirements set forth in the Settlement Notice.

4. The Court finds that Lead Plaintiffs and Lead Counsel have fully and adequately represented the Class for purposes of prosecuting the Action and entering into and implementing the Settlement and have satisfied the requirements of Federal Rule of Civil Procedure 23(a)(4).

5. The Court finds that the distribution of the Settlement Notice, the publication of the Publication Notice, and the notice methodology: (i) were all implemented in accordance with the Preliminary Approval Order; (ii) constituted the best practicable notice; (iii) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action, of the effect of the Settlement including the releases, of their right to object to the proposed Settlement or to Lead Counsel's application for fees and expenses, of their right to exclude themselves from the Class, and of their right to appear at the Fairness Hearing; (iv) were reasonable and constituted due, adequate, and sufficient notice to all persons or entities entitled to receive notice; and (v) met all applicable requirements of the Federal Rules of Civil Procedure, the United States Constitution, (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995 (15 U.S.C. § 78u-4, *et seq.*) (the "PSLRA"), the Rules of the Court, and any other applicable law.

6. The Settlement is hereby fully and finally approved as fair, reasonable and adequate, and the Parties are directed to consummate the Settlement in accordance with the terms and provisions of the Stipulation. The Court approves the Plan of Allocation and all other documents submitted to the Court in connection with the implementation of the Settlement.

7. Lead Plaintiffs and all Class Members who have not previously excluded themselves from the Class, and their heirs, agents, executors, administrators, predecessors, successors and assigns, and their personal representatives, are hereby deemed to have released and forever discharged, and are hereby permanently barred and enjoined from prosecuting any and all Released Claims against the Released Parties.

8. Defendants and the Insureds and their heirs, agents, executors, administrators, predecessors, successors and assigns, and their personal representatives, are hereby deemed to have released and forever discharged, and are hereby permanently barred and enjoined from prosecuting, all claims, rights, demands, suits, matters, issues or causes of action, including both known and Unknown Claims, against Lead Plaintiffs, the members of the Class, or any of their present or former attorneys, agents, insurers and assigns, including Lead Counsel, arising out of, or relating in any way to, the institution, prosecution, or settlement of the Action (except for claims to enforce the Settlement).

9. The Court hereby bars all claims (a) by any person or entity against Defendants for contribution arising out of the Action, and (b) by Defendants against any person or entity for contribution arising out of the Action, other than a person whose liability has been extinguished by the Settlement, each to the fullest extent permitted by 15 U.S.C. § 78u-4(f)(7) and any other applicable law or regulation.

10. Neither this Order and Final Judgment, the Stipulation, nor any of their terms and provisions, nor any of the negotiations or proceedings connected with them, nor any of the documents or statement referred to therein shall be:

(a) offered or received against any Defendant as evidence of, or construed as or deemed to be evidence of, any admission, concession or presumption against any Defendant with



respect to the truth of any fact alleged by Lead Plaintiffs or the validity of any claim that was or could have been asserted in the Action or in any other litigation or proceeding, or the deficiency of any defense that was or could have been asserted in the Action or in any other litigation or proceeding, or of any liability, negligence, fault, or wrongdoing of any Defendant;

(b) offered or received against any Defendant as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by any Defendant;

(c) offered or received against any Defendant as evidence of a presumption, concession or admission of any liability, negligence, fault or wrongdoing, or in any way referred to for any reason as against any Defendant, in any other civil, criminal or administrative action or proceeding (except a proceeding to enforce the Settlement);

(d) offered or received against Lead Plaintiffs or any member of the Class as evidence of, or construed as or deemed to be evidence of, any admission, concession or presumption against Lead Plaintiffs or any member of the Class that any of their claims are without merit or are subject to any infirmities, or that damages recoverable under the Complaint would not have exceeded the amount of the Settlement Fund; or

(c) construed as an admission or concession by any of the Parties that the consideration to be given hereunder represents the amount that could be or would have been recovered after trial.

11. The Court finds that all parties to the Stipulation and their counsel have complied with each requirement of Rule 11 of the Federal Rules of Civil Procedure as to all proceedings herein.

12. The law firms of Grant & Eisenhofer P.A. and Labaton Sucharow LLP, as Lead Counsel for the Class, are hereby awarded \$\_\_\_\_\_ in attorneys' fees and \$\_\_\_\_\_ in reimbursement of expenses, which the Court finds to be fair and reasonable and which shall be paid to Lead Counsel from the Settlement Fund in accordance with the terms of the Stipulation.

13. Exclusive jurisdiction is hereby retained over the Parties, the Insurers 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 members of the Class.

14. Without further approval from the Court, the Parties are hereby authorized to agree to and adopt such amendments and modifications of the Stipulation or any exhibits attached to the Stipulation as (i) are not materially inconsistent with this Order and Final Judgment, and (ii) do not materially limit the rights of Class Members under the Stipulation.

15. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any provision of the Stipulation.

16. The Action, which the Court finds was filed on a good faith basis in accordance with the PSLRA and Rule 11 of the Federal Rules of Civil Procedure based upon all publicly available information, is hereby dismissed, on the merits and with prejudice as of the Effective Date, without fees or costs except as otherwise provided in this Order and Final Judgment.

DATED: \_\_\_\_\_

\_\_\_\_\_  
HONORABLE JOSEPH A. GREENAWAY, JR.  
UNITED STATES DISTRICT JUDGE

# Exhibit B

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

In re ABLE LABORATORIES SECURITIES LITIGATION	X : : : : X	Case No. 05-CV-2681 (JAG) (MCA)
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**PRELIMINARY APPROVAL ORDER**

WHEREAS, the parties having made application, pursuant to Rule 23 of the Federal Rules of Civil Procedure, for an order preliminarily approving the proposed settlement of the above-captioned action (“Action”) in accordance with the Stipulation and Agreement of Settlement dated \_\_\_\_\_, 2009 (“Stipulation”), which sets forth the terms and conditions for a settlement (“Settlement”) of the Action and for the release of certain claims and the dismissal of the Action with prejudice upon the terms and conditions set forth therein;

WHEREAS, the Court has not certified the Action as a class action, but is being asked to preliminarily certify a Class, for purposes of the Settlement, consisting of all persons and entities who purchased or otherwise acquired publicly traded common stock of Able Laboratories, Inc. (“Able”) during the period from October 30, 2002 through and including May 18, 2005 (the “Class Period”); provided, however, that Lead Plaintiffs’ proposed definition of the Class excludes: Able and each of its subsidiaries and affiliates; the Defendants; Nitin V. Kotak; Robert Weinstein; C. Robert Cusick; Elliot F. Hahn; Harry Silverman; David S. Tierney; Jerry I. Treppel; F. Howard Schneider; Kamlesh B. Haribhakti; Joan M. Janulis; Konstatin Ostaficiuk; Hemanshu N. Pandya; Janet Penner; Raju Vegesna; Shailesh V. Daftari; James B. Klint; Jyotin Parikh; Jose Concepcion; Ashish Macwan; Dilip Patel; members of the immediate families of the Defendants and of the other excluded individuals listed above; all entities in which any excluded

person has a controlling interest; and the legal representatives, heirs, successors, assigns or insurers of any excluded person.

WHEREAS, the Court having read and considered the Complaint, the Stipulation and the exhibits attached to the Stipulation, and being familiar with the negotiations and circumstances leading to the Settlement, and having heard and considered arguments by counsel for the parties in favor of preliminary approval of the Settlement;

WHEREAS, the Court finds, upon a preliminary evaluation, that the proposed Settlement appears to fall within the range of possible approval criteria, as it provides a beneficial result for the Class and appears to be the product of good faith, informed and non-collusive negotiations between experienced and able counsel for the settling parties;

WHEREAS, the Court also finds, upon a preliminary evaluation, that the Class should be apprised of the Settlement, allowed to file objections thereto and to appear at the Fairness Hearing, or alternatively, be afforded a reasonable opportunity to opt out of the Action;

WHEREAS, the Court finds, upon a preliminary evaluation, that the Publication Notice and Settlement Notice attached to the Stipulation as Exhibits C and D, respectively, and the methodology described in Paragraph 4 of this Order for the publication and dissemination of such Settlement Notice and Publication Notice: (i) are the best practicable notice; (ii) are reasonably calculated, under the circumstances, to apprise Class members of the pendency of the Action and of their right to object or exclude themselves from the proposed Settlement and object to Lead Counsel's application for attorneys' fees; (iii) are reasonable and constitute due, adequate and sufficient notice to all persons and entities entitled to receive notice; and (iv) meet all applicable requirements of the Federal Rules of Civil Procedures, the United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of

1995 (15 U.S.C. § 78u-4, *et seq.*) (the “PSLRA”), the Rules of the Court and any other applicable law; and

WHEREAS, unless otherwise stated herein, all defined terms contained herein shall have the same meanings set forth in the Stipulation;

NOW THEREFORE, IT IS HEREBY ORDERED:

1. **Preliminary Class Findings** – For purposes of the Settlement of this Action, the Court preliminarily finds that the requirements of the Federal Rules of Civil Procedure, the United States Constitution, the Rules of the Court and any other applicable law have been met as to the Class described in the paragraphs above in that:

(a) The identities of the Class members are likely to be ascertainable from records kept by Able and/or its agents, and from other objective criteria, and the Class members are so numerous that their joinder before the Court would be impracticable;

(b) Lead Plaintiffs have alleged numerous questions of fact and law common to the Class;

(c) Based on allegations in the Action that Defendants engaged in misconduct uniformly affecting members of the proposed Class, the Court preliminarily finds that the claims of the Lead Plaintiffs in the Action are typical of the claims of the proposed Class;

(d) The Court finds that Lead Plaintiffs will fairly and adequately protect the interest of the proposed Class in that (i) the interests of Lead Plaintiffs and the nature of their alleged claims are consistent with those of the members of the Class, (ii) there appear to be no conflicts between or among the Lead Plaintiffs and the Class, (iii) Lead Plaintiffs have been and appear to be capable of continuing to be active participants in both the prosecution and the settlement of the Action, and (iv) Lead Plaintiffs and the Class members are represented by

qualified, reputable counsel who are experienced in preparing and prosecuting large, complex securities fraud class actions; and

(e) The Court preliminarily finds that questions of law or fact common to members of the Class predominate over any questions affecting only individual members of the Class and that a class-action resolution in the manner proposed by the Stipulation would be superior to other available methods for a fair and efficient adjudication of the Action. In making these preliminary findings, the Court has considered, among other factors, (i) the interest of the Class members in individually controlling the prosecution or defense of separate actions, (ii) the impracticability or inefficiency of prosecuting or defending separate actions, (iii) the extent and nature of any litigation concerning these claims already commenced, and (iv) the desirability of concentrating the litigation of the claims in a particular forum.

2. **Preliminary Class Certification for Settlement Purposes** – Based on the findings set out in paragraph 1 above, the Court preliminarily certifies a Class for settlement purposes under Fed. R. Civ. P. 23(a) and (b)(3), consisting of all persons and entities who purchased or otherwise acquired publicly traded securities of Able during the period from October 30, 2002 through and including May 18, 2005; provided, however, that the Class excludes Able and each of its subsidiaries and affiliates; the Defendants; Nitin V. Kotak; Robert Weinstein; C. Robert Cusick; Elliot F. Hahn; Harry Silverman; David S. Tierney; Jerry I. Treppel; F. Howard Schneider; Kamlesh B. Haribhakti; Joan M. Janulis; Konstatin Ostaficiuk; Hemanshu N. Pandya; Janet Penner; Raju Vegesna; Shailesh V. Daftari; James B. Klint; Jyotin Parikh; Jose Concepcion; Ashish Macwan; Dilip Patel; members of the immediate families of the Defendants and of the other excluded individuals listed above; all entities in which any excluded person has a controlling interest; and the legal representatives, heirs, successors, assigns or

insurers of any excluded person. Also excluded from the Class is any person or entity who or which properly excludes himself, herself or itself by filing a valid and timely request for exclusion in accordance with the requirements set forth in the Settlement Notice.

3. **Preliminary Approval of Settlement** – The Court hereby preliminarily approves the Settlement, as embodied in the Stipulation, as being fair, reasonable and adequate as to the Class members, subject to further consideration at the Fairness Hearing described below.

4. **Fairness Hearing** – A hearing (the “Fairness Hearing”) shall be held before this Court on \_\_\_\_\_ at \_\_\_\_\_ before the Honorable Joseph A. Greenaway, Jr. in Courtroom 3 of the Martin Luther King, Jr. Post Office Building & United States Courthouse, 50 Walnut Street, Newark, New Jersey 07101. The purpose of the Fairness Hearing will be to determine whether the proposed Settlement on the terms and conditions provided for in the Stipulation is fair, reasonable and adequate to the Class and should be approved by the Court; whether the proposed Plan of Allocation is fair and reasonable and should be approved; whether the Final Judgment as provided in the Stipulation should be entered herein; and whether Lead Counsel’s application for attorneys’ fees and expenses should be granted.

5. **Approval of Form and Content of Notice** – The Court approves, as to form and content, the Publication Notice and the Settlement Notice attached to the Stipulation as Exhibits C and D, respectively, and finds that the mailing and publication of the Settlement Notice and the publication of the Publication Notice in the manner and form set forth in Paragraph 6 of this Order meet the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Securities Exchange Act of 1934, as amended by Section 21D(a)(7) of the PSLRA, 15 U.S.C. § 78u-4(a)(7), and due process, and is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons and entities entitled thereto.



6. **Retention of Claims Administrator and Manner of Notice** – Lead Counsel are hereby authorized to retain The Garden City Group, Inc. (“Claims Administrator”) to supervise and administer the notice procedure as well as the processing of claims as more fully set forth below:

(a) Not later than \_\_\_\_\_, 2009, Lead Counsel shall cause the Publication Notice, substantially in the form attached to the Stipulation as Exhibit C, to be published on one occasion in the national edition of *Investor’s Business Daily*;

(b) Not later than \_\_\_\_\_, 2009, Lead Counsel shall cause a copy of the Settlement Notice substantially in the form attached to the Stipulation as Exhibit D, as well as a Proof of Claim form substantially in the form attached to the Stipulation as Exhibit E, to be mailed by first-class mail to all Class members who can be identified with reasonable effort;

(c) Not later than \_\_\_\_\_, 2009, Lead Counsel shall publish the Settlement Notice on their respective firm websites and shall instruct the Claims Administrator to cause the Settlement Notice to be posted on the Claims Administrator’s website, where the Settlement Notice shall remain posted through the date of the Fairness Hearing; and

(d) Not later than seven (7) days prior to the Fairness Hearing, Lead Counsel shall file with the Court proof, by affidavit or declaration, of such publication and mailing.

7. **Nominee Procedures** – Nominees who purchased or acquired Able securities for the benefit of another person or entity during the Class Period shall be requested to (a) send the Settlement Notice and the Proof of Claim form to all such beneficial owners within ten (10) days after receipt thereof, or (b) send a list of the names and addresses of such beneficial owners to the Claims Administrator within ten (10) days of receipt thereof in which event the Claims Administrator shall promptly mail the Settlement Notice and Proof of Claim form to such

beneficial owners. Nominees who choose to follow alternative procedure (a) above shall be directed to, upon completion of the mailing, send a statement to the Claims Administrator confirming that the mailing was made as directed.

8. **Exclusion From the Class** – All Class members who do not timely and validly request exclusion from the Class shall be bound by all proceedings, determinations, orders and judgments in the Action relating to the Settlement, including, but not limited to, the releases provided for therein and in the Final Judgment, whether favorable or unfavorable to the Class. Class members who wish to exclude themselves from the Class shall request exclusion within the time and in the manner set forth in the Settlement Notice, including mailing or delivering a written request for exclusion such that it is postmarked by \_\_\_\_\_, 2009 [**at least 28 days prior to Fairness Hearing**], to: Able Laboratories Securities Litigation, c/o The Garden City Group, Inc. P.O. Box \_\_\_\_\_, Merrick, New York 11566, as provided in the Settlement Notice.

9. **Submission of Proof of Claim Forms** – Class members who wish to participate in the Settlement shall complete and submit Proof of Claim forms in accordance with the instructions contained therein. Unless the Court orders otherwise, all Proof of Claim forms must be submitted to the Claims Administrator by first-class mail, postmarked by \_\_\_\_\_, 2009. Any Class Member who does not validly and timely submit a Proof of Claim shall be barred from sharing in the distribution of the proceeds of the Settlement, unless otherwise ordered by the Court.

10. **Appearance and Objections at Fairness Hearing** – Any Class member may enter an appearance in the Action, at their own expense, individually or through counsel of their own choice, in which case such counsel must file with the Clerk of Court and deliver to Lead

Counsel and Defendants' counsel a notice of appearance such that it is received by \_\_\_\_\_, 2009, or as the Court may otherwise direct. Any Class member who does not enter an appearance will be represented by Lead Counsel. Any Class member may appear and show cause, if he, she or it has any such cause, why the proposed Settlement of the Action should or should not be approved as fair, reasonable and adequate, or why a Final Judgment should or should not be entered thereon, or why the Plan of Allocation should or should not be approved, or why Lead Counsel's application for attorneys' fees and expenses should or should not be granted; provided, however, that no Class member or any other person or entity shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement, or, if approved, the Final Judgment to be entered thereon approving the same, or the order approving the Plan of Allocation, or the attorneys' fees and expenses to be awarded to Lead Counsel, unless that person or entity has filed written objections and copies of any such papers and briefs with the Clerk of the Court for the United States District Court for the District of New Jersey, on or before \_\_\_\_\_, 2009, and unless copies of such written objection papers and briefs are received by each of the following:

Megan D. McIntyre, Esquire  
GRANT & EISENHOFER, P.A.  
1201 N. Market Street  
Wilmington, DE 19801

Stuart M. Glass, Esquire  
GOODWIN PROCTER LLP  
Exchange Place  
Boston, MA 02109

Roderick L. Thomas, Esquire  
WILEY REIN LLP  
1776 K Street, N.W.  
Washington, DC 20006

Thomas A. Dubbs, Esquire  
LABATON SUCHAROW LLP  
140 Broadway  
New York, NY 10005

Daniel K. Winters, Esquire  
REED SMITH LLP  
599 Lexington Avenue  
New York, NY 10022

The objections and/or briefs filed by the objecting Class member must contain a statement of his, her or its objection, as well as the specific reasons, if any, for each objection, including the legal support the Class member wishes to bring to the Court's attention and any evidence the Class member wishes to introduce in support of his, her or its objection. Any Class member who does not make his, her or its objection in the manner provided herein shall be deemed to have waived such objection and shall be forever barred and foreclosed from making any objection to the fairness, reasonableness or adequacy of the proposed Settlement, to the Plan of Allocation, or to the award of attorneys' fees and expenses to Lead Counsel.

11. **Stay of Proceedings** – All proceedings in the Action are stayed until further order of the Court, except as may be necessary to implement the Settlement or comply with the terms of the Stipulation.

12. **Fees and Expenses** – All reasonable costs incurred in identifying and notifying Class members, as well as in administering the Settlement, shall be paid as set forth in the Stipulation. In the event the Settlement is not approved by the Court, or otherwise fails to become effective, neither the Lead Plaintiffs nor Lead Counsel shall have any obligation to repay to Defendants or the Insurers the reasonable and actual costs incurred as of the date the Settlement is terminated, as that date is determined pursuant to the applicable terms of the Stipulation, of providing notice to the Class and of administration, up to a maximum of \$250,000. At or after the Fairness Hearing, the Court shall determine whether Lead Counsel's application for attorneys' fees and expenses shall be approved. Neither Defendants nor Defendants' counsel shall have any responsibility for any application for attorneys' fees or expenses submitted by Lead Counsel, and such matters will be considered separately from the fairness, reasonableness and adequacy of the Settlement.

13. **Continuance of Hearing** – The Court reserves the right to adjourn the date of the Fairness Hearing without further notice to Class members and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modifications as may be agreed to by the parties to the Stipulation, if appropriate, without further notice to the Class.

IT IS SO ORDERED.

DATED: \_\_\_\_\_, 2009

\_\_\_\_\_  
HONORABLE JOSEPH A. GREENAWAY, JR.  
UNITED STATES DISTRICT JUDGE

# Exhibit C

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

IN RE ABLE LABORATORIES  
SECURITIES LITIGATION

Master File No.  
05-CV-2681 (JAG) (MCA)

**SUMMARY NOTICE OF PENDENCY AND PROPOSED  
SETTLEMENT OF CLASS ACTION AND FAIRNESS HEARING**

TO: ALL PERSONS WHO PURCHASED OR OTHERWISE ACQUIRED  
PUBLICLY TRADED COMMON STOCK OF ABLE LABORATORIES, INC.  
BETWEEN OCTOBER 30, 2002 AND MAY 18, 2005, INCLUSIVE.

This notice relates to a federal securities class action on behalf of purchasers of Able Laboratories, Inc. ("Able") common stock, asserting claims pursuant to Sections 10(b), 18, 20(a) and 20A of the Securities Exchange Act of 1934 against certain former officers and directors of Able.

YOU ARE HEREBY NOTIFIED that pursuant to an Order of the United States District Court for the District of New Jersey dated \_\_\_\_\_, 2009, a hearing will be held before the Honorable Joseph A. Greenaway, Jr., United States District Judge, on \_\_\_\_\_, 2009 at \_\_\_\_:\_\_\_\_ m. in Courtroom 3 of the Martin Luther King, Jr. Post Office Building & United States Courthouse, 50 Walnut Street, Newark, New Jersey 07101, for the purpose of determining, among other things, (i) whether this Action should be certified as a class action, (ii) whether the proposed Settlement of this Action for no less than \$9,150,000 in cash is fair, reasonable, and adequate and should be approved; (iii) whether, thereafter, this Action should be dismissed with prejudice as set forth in the Stipulation and Agreement of Settlement dated \_\_\_\_\_, 2009; (iv) whether the proposed Plan of Allocation of the Settlement proceeds is fair and reasonable and should be approved; and (iv) the reasonableness of an application by plaintiffs' co-lead counsel for the payment of attorney's fees and expenses. The Court has expressly reserved the right to reschedule the hearing from time to time without further notice.

If you purchased or otherwise acquired publicly traded Able common stock between October 30, 2002 and May 18, 2005, inclusive, you may be a member of the Class and your rights may be affected by this Action and the proposed Settlement. You may, but are not required to, enter an appearance through an attorney in connection with the hearing. If you have not received the detailed Notice of Pendency and Proposed Settlement of Class Action and Fairness Hearing (the "Notice") and a Proof of Claim form, you may obtain them free of charge by downloading them from [www.gardencitygroup.com](http://www.gardencitygroup.com); by sending an e-mail to \_\_\_\_\_@gardencitygroup.com; by calling the claims administrator toll-free at \_\_\_\_-\_\_\_\_-\_\_\_\_; or by writing to Able Laboratories Securities Litigation, c/o The Garden City Group, Inc., P.O. Box \_\_\_\_\_, Merrick, New York \_\_\_\_\_.

If you are a member of the Class and wish to share in the Settlement money, you must submit a Proof of Claim no later than \_\_\_\_\_, 2009 establishing that you are entitled to recovery. As further described in the Notice, you will be bound by any judgment entered in the Action, regardless of whether you submit a Proof of Claim, unless you request to be excluded from

the Class, in writing to the above address, no later than \_\_\_\_\_, 2009. Any objections to the Settlement, Plan of Allocation or application for attorney's fees and expenses must be filed and served, in accordance with the procedures set forth in the Notice, no later than \_\_\_\_\_, 2009.

Inquiries, other than requests for copies of the Notice or a Proof of Claim form, may be directed to plaintiffs' co-lead counsel: Megan D. McIntyre, Esq., Grant & Eisenhofer P.A., 1201 North Market Street, Wilmington, DE 19801, 302-622-7000; and Thomas A. Dubbs, Esq., Labaton Sucharow LLP, 140 Broadway, New York, NY 10005, 800-321-0476.

**PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.**

Dated: \_\_\_\_\_, 2009

BY ORDER OF THE UNITED  
STATES DISTRICT COURT FOR  
THE DISTRICT OF NEW JERSEY



# Exhibit D

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

IN RE ABLE LABORATORIES  
SECURITIES LITIGATION

Master File No.  
05-CV-2681 (JAG) (MCA)

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

This Notice provides important information concerning the pendency and settlement (the “Settlement”) of a class action lawsuit (the “Action”) brought by Lead Plaintiffs Denver Employees’ Retirement Plan and Deka International (Ireland) Limited (together, “Plaintiffs”), on behalf of themselves and the Class described herein, against certain former officers and directors of Able Laboratories, Inc. (“Able” or the “Company”), alleging violations of the federal securities laws.

***IF YOU PURCHASED OR OTHERWISE ACQUIRED SHARES OF  
PUBLICLY TRADED COMMON STOCK OF ABLE LABORATORIES, INC.  
BETWEEN OCTOBER 30, 2002 AND MAY 18, 2005, INCLUSIVE, YOU MAY BE  
ENTITLED TO RECEIVE MONEY FROM A CLASS ACTION SETTLEMENT.***

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

- The Settlement resolves a securities class action (“Action”) brought by investors in Able, alleging that the price of Able’s common stock was artificially inflated as a result of false statements and fraudulent conduct by certain former officers and directors of Able (the “Defendants”) concerning the Company’s ability to manufacture saleable generic drug products and its compliance with the requirements of the Food & Drug Administration (“FDA”).
- The Settlement will provide a settlement fund of no less than \$9.15 million for the benefit of (i) persons (the “Class”) who purchased or otherwise acquired shares of publicly traded Able common stock between October 30, 2002 and May 18, 2005, inclusive (the “Class Period”), and (ii) persons who purchased drug products manufactured by Able during the Class Period and who are members of the class in a separate consumer fraud class action (the “Consumer Class”).
- Plaintiffs estimate that the average recovery to the Class under the Settlement will be \$0.075 per damaged share of Able stock, before deduction of fees and costs. Class members’ actual recoveries may be more or less than the average, depending on factors such as whether and when they sold their shares.
- In accordance with their fee agreement with the Plaintiffs, the Plaintiffs’ attorneys will request a fee of approximately 12% of the Settlement, plus reimbursement of approximately \$250,000 in costs that they advanced on behalf of the Class, for a total of approximately \$1.35 million out of the \$9.15 million settlement fund.

- After payment of fees and costs, the Settlement proceeds will be distributed to members of the Class and the Consumer Class who have submitted valid and timely Proof of Claim forms establishing their entitlement to share in the Settlement. No determination has been made yet of the amount to be distributed.
- The two sides disagree on the amount of money that could have been recovered if the Plaintiffs won at trial.
- The settlement was reached because it provides immediate benefits to the Class and avoids the costs and risks of continuing the lawsuit, including the significant risk that there would be insufficient funds available to pay a judgment after trial.
- **If you are a member of the Class and the Settlement is approved, your legal rights will be affected whether you act or do not act. Please read this notice carefully.**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>SUBMIT A CLAIM FORM</b> (by _____, 2009)	This is the only way to get a payment.
<b>EXCLUDE YOURSELF</b> (by _____, 2009)	You will get no payment. This is the only option that allows you to ever be part of any other lawsuit against the Defendants and the other Released Parties about the Settled Claims.
<b>OBJECT</b> (by _____, 2009)	If you do not exclude yourself but wish to object to any part of the Settlement, you may write to the Court about why you do not like the settlement.
<b>ATTEND THE HEARING</b> (on _____, 2009)	If you have submitted a written objection to the Settlement, you may (but do not have to) ask to speak in Court about your objection.
<b>DO NOTHING</b>	You will get no payment and you will give up your rights.

- Further information regarding the Settlement and this notice may be obtained by contacting Plaintiffs' Lead Counsel: Megan D. McIntyre, Esq., Grant & Eisenhofer P.A., 1201 North Market Street, Wilmington, DE 19801, telephone 302-622-7000; or Thomas A. Dubbs, Esq., Labaton Sucharow LLP, 140 Broadway, New York, NY 10005, toll-free telephone 800-321-0476.

<b>WHAT THIS NOTICE CONTAINS</b>
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## BASIC INFORMATION

- |                                       |
|---------------------------------------|
| 1. Why did I get this notice package? |
|---------------------------------------|

The Court authorized this Notice to be sent to you because you or someone in your family may have purchased or otherwise acquired shares of publicly traded common stock of Able Laboratories, Inc. between October 30, 2002 and May 18, 2005, inclusive.

If this description applies to you or someone in your family, you have a right to know about the proposed Settlement of this class action lawsuit, and about all of your options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after objections and appeals are resolved, an administrator appointed by the Court will make the payments that the Settlement allows.

This Notice explains the lawsuit, the Settlement, Class Members' legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of this case is the U.S. District Court for the District of New Jersey, in Newark, New Jersey, and the case is known as *In re Able Laboratories Securities Litigation*, Master File No. 05-CV-2681 (JAG) (MCA) (D.N.J.). The case and the Settlement were overseen by the Honorable Joseph A. Greenaway, Jr., U.S. District Judge.

The people who filed the lawsuit are called Plaintiffs, and the persons being sued are called Defendants. The Defendants in this Action are Dhananjay G. Wadekar, Able's Chairman and Chief Executive Officer; Robert J. Mauro, Able's President and Chief Operating Officer; Shashikant C. Shah, Able's Vice President for Quality Control and Regulatory Affairs; Garth Boehm, Able's Senior Vice President and Chief Scientific Officer; and Iva Klemick, Able's Director of Regulatory Affairs. The Company itself, which went bankrupt on July 18, 2005, could not be sued because of the automatic stay of litigation under federal bankruptcy law.

2. What is this lawsuit about?
--------------------------------

Able was a generic drug manufacturer based in Cranbury, New Jersey. Plaintiffs alleged that throughout the Class Period, Defendants falsely presented Able as a “turnaround” story reporting triple-digit increases in revenues and earnings. However, the “turnaround” allegedly was a fiction sustained through misrepresentations and non-disclosures concerning Able's compliance with federal rules and regulations governing the testing, approval, manufacture, labeling, storage, record-keeping, and quality control for generic drugs. Defendants allegedly made false and misleading statements proclaiming the purported success of Able's product line and increasing sales and profitability, while concealing from investors that the Company had obtained FDA approvals for its products by falsifying and manipulating test results and submitting incomplete and inaccurate reports to the FDA, and that the stability and strength of its products were not as represented. Once the truth was revealed to the public, the Company was forced to recall all of its drug products and shut down its operations, and the price of Able's stock plummeted.

The lawsuit seeks money damages against the Defendants for violations of Sections 10(b), 18, 20(a), and 20A of the Securities Exchange Act of 1934, for alleged material misstatements, fraudulent conduct, and insider trading. The Defendants deny that they did anything wrong.

3. Why is this a class action?
--------------------------------

In a class action, one or more people (here, the Denver Employees' Retirement Plan and Deka International (Ireland) Ltd., which in this case are called the Plaintiffs), sue on behalf of people who have similar claims. All these people are a Class or Class Members. Bringing a case as a class action allows the adjudication of many claims that might be economically too small to bring as individual actions. One court resolves the claims of all Class Members at the same time, except for those who exclude themselves from the Class.

4. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or Defendants. Instead, both sides agreed to a settlement. That way, they avoid the risks and cost of a trial, and the people affected will get compensation. The Settlement negotiations in this case were overseen by the presiding judge.

Plaintiffs and their attorneys (who have extensive experience in securities class action litigation) agreed to the Settlement after considering, among other things: (a) the cash benefits to Class Members; (b) Able's bankruptcy and dissolution, and the limited and rapidly shrinking pool of money available to fund a settlement or judgment; (c) the risk of less recovery or non-recovery owing to competing claims to the available pool of money by the Consumer Class and the Court-appointed bankruptcy trustee; (d) the uncertainty of being able to establish liability and prove recoverable damages at trial; (e) the risks, difficulties and delays inherent in complex litigation (including any appeals); (f) the desirability of providing certain relief to Class Members at this juncture and without further delay; and (g) Plaintiffs' belief that the Settlement is fair, reasonable, adequate and in the best interests of all Class Members. The Settlement, together with settlements that were reached simultaneously in two other actions against Able's former officers and directors, will effectively exhaust the available insurance proceeds, and as a result of Able's bankruptcy there are no other material sources from which Plaintiffs could recover significant damages on behalf of the Class.

The Defendants' principal reasons for entering into the Settlement are to bring to an end the expenses, burdens, risks, and uncertainties associated with continued litigation.

#### WHO IS IN THE SETTLEMENT

5. How do I know if I am part of the settlement?

Everyone who fits this description may be a Class Member: ***All persons or entities that purchased or otherwise acquired shares of publicly traded common stock of Able Laboratories, Inc. between October 30, 2002 and May 18, 2005, inclusive.*** If you fit this description and none of the exceptions described in response to question 6 below apply, you are a Class Member and part of the Settlement.

6. Are there exceptions to being included?

Yes. You are not a Class Member if you are a Defendant in this Action; if you were a director or officer of Able during the Class Period; if you are an immediate family member of any Defendant or any other excluded individual; if you are Able or any of its subsidiaries or affiliates; if you are an entity in which any excluded person has a controlling interest; or if you are a legal representative, heir, successor, assign, or insurer of any excluded person.

Also, anyone who submits a valid and timely request for exclusion from the Class in accordance with the procedures set forth in question 14 is not a Class Member and cannot participate in the Settlement.

If you own shares of a mutual fund that purchased shares of Able stock during the Class Period, that alone does not make you a Class Member. You are a Class Member only if you **directly** purchased shares of Able stock during the Class Period. Check your investment records or contact your broker to see if you purchased Able stock during the Class Period.

If you **sold** Able stock during the Class Period, that alone does not make you a Class Member. You are a Class Member only if you **purchased** shares during the Class Period.

7. What if I am still not sure if I am included?
--

If you are still not sure whether you are included, you can ask for free help. You can call \_\_\_\_-\_\_\_\_-\_\_\_\_ toll-free, send an e-mail to \_\_\_\_\_@gardencitygroup.com, or write to Able Laboratories Securities Litigation, c/o The Garden City Group, Inc., P.O. Box \_\_\_\_\_, Merrick, New York \_\_\_\_\_. Or you can fill out and return the Proof of Claim form described in question 11 to see if you qualify.

### THE SETTLEMENT BENEFITS — WHAT YOU GET

8. What does the settlement provide?
--------------------------------------

In exchange for the dismissal of this Action and a separate consumer class action against former officers and directors of Able, *Elnora Kirtley and Hempel (USA) Inc. v. Dhananjay G. Wadekar, et al.*, No. 05-5383 (D.N.J.) (the “Consumer Action”), the Defendants have agreed to create a cash settlement fund for the benefit of the Class and the Consumer Class.

First, the Defendants will cause their insurers to pay nine million one hundred fifty thousand dollars (\$9,150,000.00) (the “Settlement Payment”) into a settlement fund which, after deduction of various Court-approved fees and expenses, will be distributed among all Class Members and Consumer Class members who send in valid Proof of Claim forms establishing their entitlement to share in the Settlement. Plaintiffs believe the aggregate number and size of all claims submitted by members of the Consumer Class will be relatively small, and that Class Members in this Action will receive most of the net proceeds of the Settlement Payment.

Second, the Defendants will cause their insurers to set aside four million five hundred thousand dollars (\$4,500,000.00) to pay certain costs incurred by Able’s former officers and directors. Twenty-five percent (25%) of the unspent portion of that set-aside, if any, will be paid into a settlement fund for the benefit of the Class (the “Reverter”). The Reverter, if there is one, will be distributed, after deduction of various Court-approved fees and expenses, solely among Class Members in this Action (and not the Consumer Action) who send in valid Proof of Claim forms.



9. How much will my payment be?
---------------------------------

If you are entitled to a payment, your share of the fund will depend on how many Class Members and Consumer Class members send in valid Proof of Claim forms, the total Recognized Losses represented by those valid Proof of Claim forms, how many shares of Able stock you bought, how much you paid for them, when you bought them, whether or when you sold them, and if so for how much you sold them.

Plaintiffs estimate that there were 121,125,888 shares of Able common stock traded during the Class Period that may have been damaged. Plaintiffs estimate that the average recovery per damaged share of Able stock under the Settlement is \$0.075 before deduction of claims administration costs and Court-awarded attorneys' fees and expenses. A damaged share may have been traded more than once during the Class Period, and the indicated average recovery would be the total for all purchasers of that share. This estimated average amount assumes that *all* Class Members will submit timely, valid claims. The number of Class Members who submit claims varies from case to case, and is usually less than 100%. If not all Class Members submit claims, your actual recovery could be more than the estimated average amount. Other factors that will affect whether you receive more or less than the estimated average amount include: when during the Class Period you purchased shares, the purchase price paid, whether those shares were sold during the Class Period, and, if sold, when they were sold and the amount received.

You can calculate your Recognized Loss in accordance with the formula shown below in the Plan of Allocation, beginning on page \_\_\_\_\_. It is unlikely that you will get a payment for all of your Recognized Loss. After all Class Members and members of the Consumer Class have sent in their Proof of Claim forms, the payment you get will be a proportion of the net settlement fund equal to your Recognized Loss divided by the total of everyone's Recognized Losses.

10. What is the potential outcome of the Action absent the Settlement?
--

The parties disagree about both liability and damages and do not agree on the average amount of damages per share that would be recoverable if Plaintiffs were to prevail on each claim asserted. The issues on which the parties disagree include: (a) whether the Defendants made any materially false and misleading statements to the public; (b) whether any such statements were made with the requisite level of intent under the federal securities laws; (c) whether the Defendants "controlled" Able for purposes of liability under the federal securities laws; (d) whether alleged non-speaking conduct by certain Defendants is actionable under the federal securities laws; and (e) the extent, if any, to which the Defendants' alleged misconduct caused harm to members of the Class. The Defendants deny that they are liable to the Plaintiffs or the Class and deny that the Plaintiffs or the Class have suffered any recoverable damages.

The Plaintiffs believe they have a strong case for liability and significant damages, but believe there is a substantial likelihood that the Class would be unable to collect on a substantial judgment if the case were to proceed to trial, given Able's bankruptcy and the limited resources and insurance coverage of the Defendants, and the continued use of those resources to fund the defense of not only this Action but also the Consumer Action, an action brought by Able's trustee in bankruptcy, and various criminal actions. If this litigation continued to trial without the Settlement, Plaintiffs

believe the resources that are being used to fund the Settlement would no longer be available, and Plaintiffs are aware of no other potential material source of recovery.

### **HOW YOU GET A PAYMENT — SUBMITTING A PROOF OF CLAIM FORM**

11. How can I get a payment?

To qualify for a payment, you must send in a timely and valid Proof of Claim form. A Proof of Claim form is included with this Notice. If you did not receive a Proof of Claim form, you can get one on the Internet at [www.gardencitygroup.com](http://www.gardencitygroup.com). You can also ask for a Proof of Claim form by calling \_\_\_\_-\_\_\_\_-\_\_\_\_ toll-free, sending an e-mail to \_\_\_\_\_@gardencitygroup.com, or writing to Able Laboratories Securities Litigation, c/o The Garden City Group, Inc., P.O. Box \_\_\_\_\_, Melville, NY \_\_\_\_\_.

Read the instructions carefully, fill out the Proof of Claim form, include all the documents the form asks for, sign it, and mail it to the address on the form by first class mail, postmarked no later than \_\_\_\_\_, **2009**.

12. When will I get my payment?

The Court will hold a Fairness Hearing on \_\_\_\_\_, **2010** to decide whether to approve the Settlement. If the Court approves the Settlement, there may be appeals after that. It is always uncertain whether these appeals can be resolved, and resolving them can take a long time, perhaps more than a year. It also takes a long time, often as much as a year, for all of the Proof of Claim forms to be reviewed and processed. Please be patient.

13. What am I giving up to get a payment or stay in the Class?

Unless you exclude yourself, you are staying in the Class. That means all of the Court's orders will apply to you and legally bind you. Upon the "Effective Date" of the Settlement (as defined below), you will release all "Settled Claims" (as defined below) against the "Released Parties" (as defined below), on behalf of yourself and your heirs, agents, executors, administrators, predecessors, successors and assigns, and personal representatives.

The "Effective Date" will occur when an Order entered by the Court approving the Settlement becomes final and not subject to appeal.

The "Released Parties" are: Dhananjay G. Wadekar; Robert J. Mauro, Nitin V. Kotak, Garth Boehm, Iva Klemick, Robert Weinstein, C. Robert Cusick, Elliot F. Hahn, Harry Silverman, David S. Tierney, Jerry L. Treppel, F. Howard Schneider, Bharati S. Daftari as Executrix of The Estate of Shailesh V. Daftari, Kamlesh Haribhakti, Joan M. Janulis, Konstantin Ostaficiuk, Hemanshu N. Pandya, Janet Penner, Shashikant C. Shah, and Raju Vegesna (collectively, the "Insureds"); their immediate family members, heirs, executors, administrators, successors and assigns; the Insureds' present, former and future agents, employees, attorneys, advisors, investment advisors, auditors, accountants, and insurers; any person, firm, trust, corporation, officer, director or other individual

or entity which is or was related to or affiliated with any Insured, or in which any Insured has or had a controlling interest; and the present, former and future legal representatives, spouses, heirs, executors, administrators, predecessors, successors in interest and/or assigns of any of the foregoing. However, the term “Released Parties” does not include Able.

The “Settled Claims” are all claims, debts, rights, demands, liabilities, and causes of action, including both known and Unknown Claims (defined below), (i) that have been asserted in this Action against any of the Released Parties, (ii) that could have been, and/or could in the future be, asserted in any forum against any of the Released Parties and which relate to the facts alleged in this Action and to the purchase, sale and/or acquisition of Able common stock during the Class Period, and/or (iii) that arise out of and/or relate in any way to the defense and/or settlement of this Action (except for claims to enforce the Settlement).

“Unknown Claims” means any and all claims which you do not know or suspect to exist in your favor, which if known by you might affect your decisions with respect to this Settlement.

### EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this Settlement, but you want to keep any right you may have to sue or continue to sue any Defendants or Released Parties on your own about the Settled Claims, then you must take steps to exclude yourself from the Class. This is sometimes called “opting out.”

14. What if I don't want to be part of the proposed settlement?
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To exclude yourself from the Class, you must mail a signed letter stating that you “request exclusion from the Class in *In re Able Laboratories Securities Litigation*, Master File No. 05-CV-2681 (JAG) (MCA) (D.N.J.).” Please be sure to include your name, address, daytime telephone number, and your signature. **YOUR LETTER MUST STATE THE DATE(S), PRICE(S), AND NUMBER(S) OF SHARES OF ALL OF YOUR PURCHASES AND SALES OF ABLE COMMON STOCK FROM OCTOBER 30, 2002 THROUGH MAY 19, 2005, AS WELL AS THE NUMBER OF SHARES YOU HELD AS OF THE CLOSE OF TRADING ON OCTOBER 29, 2002.** IF YOU DO NOT INCLUDE ALL OF THE INFORMATION DESCRIBED IN THIS PARAGRAPH, YOUR REQUEST FOR EXCLUSION WILL BE INEFFECTIVE AND YOU WILL REMAIN IN THE CLASS AND BE BOUND BY THE SETTLEMENT.

You must mail your exclusion request by first class mail, postage prepaid, postmarked no later than \_\_\_\_\_, 2009 to:

Able Laboratories Securities Litigation  
c/o The Garden City Group, Inc.  
P.O. Box \_\_\_\_\_  
Melville, NY \_\_\_\_\_

You cannot exclude yourself by telephone or e-mail. If you exclude yourself, you will not get any Settlement payment, and you cannot object to the Settlement. You will not be legally bound by

anything that happens in the Action, and you may be able to sue (or continue to sue) the Defendants and Released Parties in the future about the Settled Claims.

15. If I do not exclude myself, can I sue the Defendants and the other Released Parties for the same thing later?

No. Unless you exclude yourself, you give up any rights to sue the Defendants and the other Released Parties for any and all Settled Claims. If you have a pending lawsuit, speak to your lawyer in that case immediately. You must exclude yourself from **this** Class to continue your own lawsuit.

16. If I exclude myself, can I get money from the proposed Settlement?

No. If you exclude yourself, do not send in a Proof of Claim form. You will not be entitled to any money from this Settlement.

### **THE LAWYERS REPRESENTING YOU**

17. Do I have a lawyer in this case?

The Court ordered that the law firms of Grant & Eisenhofer P.A., in Wilmington, Delaware, and Labaton Sucharow LLP, in New York, New York, will represent all Class Members. These lawyers are called Plaintiffs' Lead Counsel. The law firm of Wilentz, Goldman & Spitzer P.A., in Woodbridge, New Jersey, serves as New Jersey liaison counsel for the Class.

You will not be separately charged for any of these lawyers. The Court will determine the amount of Plaintiffs' Lead Counsel's fees and expenses, which will be paid from the Settlement. If you want to be represented by your own lawyer, you may hire one at your own expense.

18. How will the lawyers be paid?

The attorneys representing Plaintiffs and the Class have expended considerable time and effort in the prosecution of this litigation on a contingent-fee basis, and have advanced all of the expenses of the litigation, in the expectation that if they were successful in obtaining a recovery for the Class they would be paid from the recovery. In this type of litigation, it is customary for Plaintiffs' attorneys to be reimbursed for their expenses and to be awarded a percentage of the common fund recovery as their fee.

Plaintiffs' Lead Counsel will ask the Court, on behalf of all Plaintiffs' counsel, to award attorneys' fees from the Settlement in an amount approximating twelve percent (12%) of the Settlement, and for reimbursement of expenses incurred in the prosecution of the Action (apart from notice and administration costs) in the approximate amount of \$250,000, plus interest on such fees and expenses at the same rate as earned by the Settlement fund. These requested fees and expenses would total approximately \$1.35 million (or an average of \$0.11 per damaged share) from the \$9.15 million Settlement Payment, plus approximately 12% of any Reverter. Plaintiffs' Lead Counsel, without further notice to the Class, may separately apply to the Court for additional expenses

incurred in connection with administering and distributing the settlement proceeds to the members of the Class and any proceedings subsequent to the Fairness Hearing.

The motion for attorneys' fees and expenses will be submitted on behalf of the following Plaintiffs' counsel: Grant & Eisenhofer P.A., 1201 North Market Street, Wilmington, DE 19801; Labaton Sucharow LLP, 140 Broadway, New York, NY 10005; Wilentz, Goldman & Spitzer P.A., 90 Woodbridge Center Drive, Suite 900, Woodbridge, NJ 07095; Diaz Reus & Targ LLP, 100 S.E. Second Street, Suite 2610, Miami, FL 33131; and Murray, Frank & Sailer LLP, 275 Madison Avenue, New York, NY 10016.

## **OBJECTING TO THE SETTLEMENT**

19. How do I tell the Court that I do not like the proposed Settlement?
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If you are a Class Member, you can object to the Settlement or any of its terms, the proposed Plan of Allocation, and/or the application by Plaintiffs' Lead Counsel for an award of attorneys' fees and expenses. The Court will consider your views if you file a proper objection by the deadline identified, and according to the following procedures.

To object, you must send a signed letter stating that you object to the proposed Settlement in *In re Able Laboratories Securities Litigation*, No. 05-CV-2681 (JAG) (MCA) (D.N.J.). Be sure to include your name, address, daytime telephone number, and your signature, identify and supply documentation showing the date(s), price(s), and number(s) of shares of all purchases and sales of Able common stock you made during the Class Period, and state the reasons why you object to the Settlement, including all legal support you wish to bring to the Court's attention and any evidence you have to support your objection. Your objection must be filed with the Court and mailed or delivered to all counsel at all of the following addresses, on or before \_\_\_\_\_, 2009:

### **The Court:**

Clerk of the Court  
United States District Court for the District of New Jersey  
Martin Luther King, Jr. Federal Building & U.S. Courthouse  
50 Walnut Street, Room 4015  
Newark, NJ 07101

### **Plaintiffs' Co-Lead Counsel:**

Megan D. McIntyre, Esq.  
Grant & Eisenhofer P.A.  
1201 North Market Street  
Wilmington, DE 19801

Thomas A. Dubbs, Esq.  
Labaton Sucharow LLP  
140 Broadway  
New York, NY 10005

### **Defendants' Counsel:**

Stuart M. Glass, Esq.  
Goodwin Procter LLP

Daniel K. Winters, Esq.  
Reed Smith LLP

53 State Street  
Boston, MA 02109

599 Lexington Avenue  
New York, NY 10022

Roderick L. Thomas, Esq.  
Wiley Rein LLP  
1776 K Street, N.W.  
Washington, DC 20006

You do not need to go to the Fairness Hearing to have your written objection considered by the Court. At the Fairness Hearing, any Class Member who has not previously submitted a request for exclusion from the Class and who has complied with the procedures set out in this question 19 may appear and be heard, to the extent allowed by the Court, to state any objection to the Settlement, the Plan of Allocation, or Plaintiffs' Lead Counsel's motion for an award of attorneys' fees and reimbursement of expenses. Any such objector may appear in person or arrange, at his or her own expense, for a lawyer to represent him or her at the hearing.

20. What is the difference between objecting and excluding?

Objecting is telling the Court that you do not like something about the proposed Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

#### **THE SETTLEMENT FAIRNESS HEARING**

21. When and where will the Court decide whether to approve the proposed Settlement?

The Court will hold a Fairness Hearing on \_\_\_\_\_, 2010, at \_\_:\_\_ .m., in Courtroom 3 at the United States District Court for the District of New Jersey, Martin Luther King, Jr. Post Office Building & United States Courthouse, 50 Walnut Street, Newark, New Jersey 07101.

At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable and adequate and should be approved, and will also consider the proposed Plan of Allocation and the application of Plaintiffs' Lead Counsel for attorneys' fees and reimbursement of expenses. The Court will take into consideration any written objections filed in accordance with the instructions at question 19. Any decisions regarding the conduct of the hearing will be made solely by the Court. We do not know how long these decisions will take.

22. Do I have to come to the hearing?

No. Plaintiffs' Lead Counsel will answer any questions the Court may have about the Settlement. But, you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you filed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary. If you do hire your own lawyer, he or she must file a Notice of Appearance with the Clerk of the Court and deliver a

copy to Plaintiffs' Lead Counsel and Defendants' counsel at the addresses listed in the answer to question 19 above on or before \_\_\_\_\_, 2009.

Please be aware that the Court may change the date or time of the Fairness Hearing without further notice to Class Members. If you want to come to the hearing, you should check with Plaintiffs' Lead Counsel before coming to be sure that the date or time has not changed.

Class Members do not need to appear at the hearing or take any other action to indicate their approval of the matters being considered at the hearing.

23. May I speak at the hearing?
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You may speak at the Fairness Hearing if you are a Class Member and you filed an objection in the manner described in the answer to question 19 above. If you plan to have an attorney speak on your behalf at the Fairness Hearing, your attorney must file a Notice of Appearance in this Action as set forth in the answer to question 22 above.

If you or your attorney plan to attend and present evidence at the Fairness Hearing, your written objections (prepared and submitted in accordance with the answer to question 19 above) must identify any witness you or your attorney may seek to call to testify, and must identify any documents or other exhibits you or your attorney may seek to introduce into evidence.

#### **IF YOU DO NOTHING**

24. What happens if I do nothing at all?
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If you are a Class Member and you do nothing, you will be bound by all judgments and proceedings in the Action but you will get no money from this Settlement and you will be precluded from starting a lawsuit, continuing with a lawsuit, or being part of any other lawsuit against the Defendants and the other Released Parties about the Settled Claims. To get money from the Settlement, you must submit a Proof of Claim form (see question 11). To start, continue or be a part of any other lawsuit against the Defendants or other Released Parties about the Settled Claims, you must exclude yourself from the Class (see question 14).

#### **GETTING MORE INFORMATION**

25. Are there more details about the proposed Settlement?
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This notice summarizes the proposed Settlement. More details are in the parties' Stipulation of Settlement. You can get a copy of the Stipulation of Settlement by downloading it free of charge from [www.gardencitygroup.com](http://www.gardencitygroup.com) or by writing to Megan D. McIntyre, Esq., Grant & Eisenhofer P.A., 1201 North Market Street, Wilmington, DE 19801; or Thomas A. Dubbs, Esq., Labaton Sucharow LLP, 140 Broadway, New York, NY 10005.

You also can call the Claims Administrator toll-free at \_\_\_\_-\_\_\_\_-\_\_\_\_, send an e-mail to \_\_\_\_\_@gardencitygroup.com, write to Able Laboratories Securities Litigation, c/o The Garden City Group, Inc., P.O. Box \_\_\_\_\_, Merrick, NY \_\_\_\_\_, or visit the website at [www.gardencitygroup.com](http://www.gardencitygroup.com), where you will find answers to common questions about the Settlement, a Proof of Claim form, and other information to help you determine whether you are a Class Member and whether you are eligible for a payment.

26. How do I get more information?
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For even more detailed information concerning the matters involved in this Action, you may review the pleadings, the Orders entered by the Court, and the other papers filed in the Action, which may be inspected at the Office of the Clerk of the United States District Court for the District of New Jersey, Martin Luther King, Jr. Federal Building & United States Courthouse, 50 Walnut Street, Room 4015, Newark, New Jersey 07101, on weekdays (other than court holidays) between 9:00 a.m. and 4:00 p.m. Subscribers to PACER, a fee-based service, can also view the papers filed in the Action through the Court's on-line Case Management/Electronic Case Files System at <https://ecf.njd.uscourts.gov>.

### **PLAN OF ALLOCATION**

The \$9,150,000 cash Settlement Payment and the interest earned thereon shall be the Joint Settlement Fund. The Joint Settlement Fund, after deduction of Court-approved attorneys' fees and expenses, notice and administration expenses, and tax and tax expenses, shall be the Net Joint Settlement Fund. The Net Joint Settlement Fund will be distributed to all Class Members and Consumer Class members who submit timely, valid and signed Proof of Claim forms ("Authorized Claimants") and whose payment from the Net Joint Settlement Fund would equal or exceed ten dollars (\$10.00).

The Reverter, if any, and the interest earned thereon, shall be the Reverter Fund. The Reverter Fund, after deduction of Court-approved attorneys' fees and expenses, notice and administration expenses, and tax and tax expenses, shall be the Net Reverter Fund. The Net Reverter Fund will be distributed to all Class Members who submit timely, valid and signed Proof of Claim forms ("Authorized Reverter Claimants") and whose payment from the Reverter Fund would equal or exceed ten dollars (\$10.00). The Consumer Class members shall not share in the Net Reverter Fund.

The Claims Administrator shall determine each Authorized Claimant's *pro rata* share of the Net Joint Settlement Fund based upon each Authorized Claimant's "Recognized Loss." Similarly, the Claims Administrator shall determine each Authorized Reverter Claimant's *pro rata* share of the Net Reverter Fund based upon each Authorized Reverter Claimant's "Recognized Loss." The Recognized Loss formula is not intended to be an estimate of what a Class Member or Consumer Class member might have been able to recover after a trial, nor is it an estimate of the amount that will be paid to claimants pursuant to the Settlement. The Recognized Loss formula is the basis upon which the Net Joint Settlement Fund will be proportionately allocated to the Authorized Claimants, and upon which the Net Reverter Fund will be proportionately allocated to the Authorized Reverter Claimants.



**Recognized Losses for Class Members.** For shares of Able common stock purchased or acquired between October 30, 2002 and May 18, 2005, inclusive and:

1. Sold at a loss on or before May 18, 2005, the Recognized Loss per share is one-tenth (1/10) of the purchase price paid (excluding commissions and fees) (the “PPP”) minus the sales proceeds received (net of commissions and fees) (the “SPR”).
2. Sold at a loss on May 19, 2005, the Recognized Loss per share is the lesser of: (a) the PPP minus the SPR; or (b) \$18.37 (*i.e.*, the decline in Able’s stock price from market close on May 18 to market close on May 19).
3. Still held as of the close of trading on May 19, 2005, the Recognized Loss per share is \$18.37.

To the extent a Class Member had a gain or “broke even” from his, her or its overall transactions in Able common stock during the Class Period, the value of the Recognized Loss will be zero, and the Class Member will not be entitled to a share of the Net Joint Settlement Fund or the Net Reverter Fund. To the extent that a Class Member suffered a loss on his, her or its overall transactions in Able common stock during the Class Period, but that loss was less than the Recognized Loss calculated above, then the Recognized Loss shall be limited to the amount of the Class Member’s actual loss. A Recognized Loss that calculates to yield a negative number is treated as a Recognized Loss of zero.

For purposes of determining whether a Class Member had a gain or suffered a loss from his, her or its overall transactions in Able common stock during the Class Period, the Claims Administrator shall: (i) total the amount paid for all Able common stock purchased during the Class Period by the Class Member (the “Total Purchase Amount”); (ii) match any sales of Able common stock during the Class Period first against the Claimant’s opening position in the stock (the proceeds of those sales will not be considered for purposes of calculating gains or losses); and (iii) total the amount received for sales of the remaining shares of Able common stock sold during the Class Period (the “Sales Proceeds”). The difference between the Total Purchase Amount and the Sales Proceeds will be deemed a Class Member’s gain or loss on his, her or its overall transactions in Able common stock during the Class Period.

In the event a Class Member has more than one purchase or sale of Able common stock, all purchases and sales shall be matched on a first-in-first-out (“FIFO”) basis: Class Period sales will be matched first against any Able shares held at the beginning of the Class Period and then matched chronologically thereafter against each purchase made during the Class Period.

A purchase or sale of Able common stock shall be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date. “Short” sales of Able common stock shall not be recognized for any amount of loss on the cover, purchase or closing transaction, and no Recognized Loss will be computed for any such covering purchase or closing transaction.

A Class Member's Recognized Loss is calculated based in part upon an estimation of the level of artificial inflation in the market prices of Able's publicly traded common stock. Recognized Losses will be reduced dollar-for-dollar to the extent that (i) publicly traded Able common stock was purchased or acquired at a price below the lowest trading or published price for such publicly traded Able common stock on the date during the Class Period on which the purchase or acquisition was made (*e.g.*, in a private sale or at a discounted price), or (ii) publicly traded Able common stock was sold at a price above the highest trading or published price for such publicly traded Able common stock on the date during the Class Period on which the sale was made.

**Recognized Losses for Consumer Class Members.** The Recognized Loss of a Consumer Class member who is not a Third Party Payor (defined below) shall equal the total amount he, she or it paid between October 1, 1999 and May 18, 2005 to purchase generic drug products manufactured by Able, and which he, she or it has not already recovered in conjunction with Able's bankruptcy proceedings. The Recognized Loss of a Consumer Class member who is a Third Party Payor shall equal three-fourths (3/4) of the total amount it paid between October 1, 1999 and May 18, 2005 to purchase generic drug products manufactured by Able, and which it has not already recovered in conjunction with Able's bankruptcy proceedings.

All Consumer Class members who are Third Party Payors (defined below), and all Consumer Class members who paid more than \$250.00 in total between October 1, 1999 and May 18, 2005 to purchase generic drug products manufactured by Able, shall be required to provide documentary evidence of their payments.

For purposes of this Plan of Allocation, "Third Party Payor" means an entity that provides health insurance, health benefits, pharmacy benefits, and/or similar healthcare coverage benefits, including paying for medical treatment and/or prescription drugs.

**Allocation of Net Joint Settlement Fund Among Authorized Claimants.** Each Authorized Claimant shall be allocated a *pro rata* share of the Net Joint Settlement Fund based on his, her or its Recognized Loss as compared to the total Recognized Losses of all Authorized Claimants. A Claimant's *pro rata* share will be determined by multiplying the Net Joint Settlement Fund by a fraction, the numerator of which shall be the Claimant's Recognized Loss and the denominator of which shall be the total Recognized Losses of all Authorized Claimants.

**Allocation of Net Reverter Fund Among Authorized Reverter Claimants.** Each Authorized Reverter Claimant shall be allocated a *pro rata* share of the Net Reverter Fund based on his, her or its Recognized Loss as compared to the total Recognized Losses of all Authorized Reverter Claimants. A Claimant's *pro rata* share will be determined by multiplying the Net Reverter Fund by a fraction, the numerator of which shall be the Claimant's Recognized Loss and the denominator of which shall be the total Recognized Losses of all Authorized Reverter Claimants.

The Court has reserved jurisdiction to allow, disallow, or adjust the Recognized Loss of any Claimant on equitable grounds. The Court may also modify this Plan of Allocation in the interests of justice without further notice to Class members.

Class Members and Consumer Class members who do not submit acceptable Proofs of Claim will not share in the Settlement proceeds. Class Members who do not either submit a request

for exclusion or submit an acceptable Proof of Claim will nevertheless be bound by the Settlement and the Order and Final Judgment of the Court dismissing the Action.

Distributions will be made to Authorized Claimants and Authorized Reverter Claimants whose claims entitle them to a payment after all claims have been processed and after the Court has finally approved the Settlement.

If any funds remain in the Net Joint Settlement Fund by reason of un-cashed distributions or otherwise, then, after the Claims Administrator has made reasonable and diligent efforts to have Authorized Claimants who are entitled to participate in the distribution of the Net Joint Settlement Fund cash their distributions, any balance remaining in the Net Joint Settlement Fund one (1) year after the initial distribution of such funds shall be re-distributed to Authorized Claimants who have cashed their initial distributions and who would receive at least \$10.00 from such re-distribution, after payment of any unpaid costs or fees incurred in administering the Net Settlement Fund for such re-distribution. If, after six (6) months after such re-distribution, any funds shall remain in the Net Joint Settlement Fund, then such balance shall be contributed to non-sectarian, not-for-profit, 501(c)(3) organization(s) designated by Plaintiffs' Lead Counsel.

If any funds remain in the Net Reverter Fund by reason of uncashed distributions or otherwise, then, after the Claims Administrator has made reasonable and diligent efforts to have Authorized Reverter Claimants who are entitled to participate in the distribution of the Net Reverter Fund cash their distributions, any balance remaining in the Net Reverter Fund one (1) year after the initial distribution of such funds shall be re-distributed to Authorized Reverter Claimants who have cashed their initial distributions, after payment of any unpaid costs or fees incurred in administering the Net Reverter Fund for such re-distribution. If, after six (6) months after such re-distribution, any funds shall remain in the Net Reverter Fund, then such balance shall be contributed to non-sectarian, not-for-profit, 501(c)(3) organization(s) designated by Plaintiffs' Lead Counsel.

*Please note that the term "Recognized Loss" is used solely for calculating the amount of a Claimant's participation in the Net Joint Settlement Fund and/or Net Reverter Fund. It does not reflect the actual amount a Claimant can expect to recover.*

#### **SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES**

If you purchased or otherwise acquired the common stock of Able Laboratories, Inc. (NASDAQ: "ABRX" from 11/19/02 to 5/18/05; OTCBB: "ABLA" from 10/30/02 to 11/18/02; CUSIP No. 00371N407, ISIN No. US00371N4079) between October 30, 2002 and May 18, 2005, inclusive, for the beneficial interest of a person or organization other than yourself, the Court has directed that, WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS NOTICE, you either (a) provide to the Claims Administrator the name and last known address of each person or organization for whom or which you purchased Able common stock during such time period or (b) request additional copies of this Notice and the Proof of Claim form, which will be provided to you free of charge, and within ten (10) days mail the Notice and Proof of Claim form directly to the beneficial owners of that Able common stock. If you choose to follow alternative procedure (b), the Court has directed that, upon such mailing, you send a statement to the Claims Administrator confirming that the mailing was made as directed. You are entitled to reimbursement from the Joint Settlement Fund of your reasonable expenses actually incurred in connection with the foregoing,

including reimbursement of postage expense and the cost of ascertaining the names and addresses of beneficial owners. Those expenses will be paid upon request and submission of appropriate supporting documentation. All communications concerning the foregoing should be addressed to the Claims Administrator:

Able Laboratories Securities Litigation  
c/o The Garden City Group, Inc.  
P.O. Box \_\_\_\_\_  
Merrick, NY \_\_\_\_\_  
Toll-free telephone: \_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_  
E-mail: \_\_\_\_\_@gardencitygroup.com

***PLEASE DIRECT YOUR QUESTIONS TO THE CLAIMS  
ADMINISTRATOR OR TO PLAINTIFFS' LEAD COUNSEL. DO NOT  
CONTACT THE COURT OR DEFENDANTS' COUNSEL WITH QUESTIONS.***

Dated: Newark, New Jersey  
\_\_\_\_\_, 2009

BY ORDER OF THE UNITED  
STATES DISTRICT COURT FOR  
THE DISTRICT OF NEW JERSEY

# Exhibit E

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

IN RE ABLE LABORATORIES  
SECURITIES LITIGATION

Master File No.  
05-CV-2681 (JAG) (MCA)

**PROOF OF CLAIM**

DEADLINE FOR SUBMISSION: \_\_\_\_\_, 2009.

IF YOU PURCHASED OR OTHERWISE ACQUIRED THE PUBLICLY TRADED COMMON STOCK OF ABLE LABORATORIES, INC. ("ABLE") BETWEEN OCTOBER 30, 2002 AND MAY 18, 2005, INCLUSIVE (THE "CLASS PERIOD"), YOU ARE A MEMBER OF THE "CLASS" AND YOU MAY BE ENTITLED TO SHARE IN THE SETTLEMENT PROCEEDS. (EXCLUDED FROM THE CLASS ARE THE DEFENDANTS; DIRECTORS, OFFICERS, AND EMPLOYEES OF ABLE OR ANY OF ITS SUBSIDIARIES, AFFILIATES OR INSURERS; IMMEDIATE FAMILY MEMBERS OF THE DEFENDANTS AND THE OTHER EXCLUDED INDIVIDUALS; ABLE'S SUBSIDIARIES AND AFFILIATES; ENTITIES IN WHICH ANY SUCH EXCLUDED PERSON HAS A CONTROLLING INTEREST; AND THE LEGAL REPRESENTATIVES, HEIRS, SUCCESSORS, ASSIGNS, AND INSURERS OF ANY SUCH EXCLUDED PERSON.)

IF YOU ARE A CLASS MEMBER, YOU MUST COMPLETE AND SUBMIT THIS FORM IN ORDER TO BE ELIGIBLE FOR ANY SETTLEMENT BENEFITS.

YOU MUST COMPLETE AND SIGN THIS PROOF OF CLAIM AND MAIL IT BY FIRST CLASS MAIL, POSTAGE PREPAID, AND POSTMARKED NO LATER THAN \_\_\_\_\_, 2009, TO THE FOLLOWING ADDRESS:

Able Laboratories Securities Litigation  
c/o The Garden City Group, Inc.  
P.O. Box \_\_\_\_\_  
Merrick, NY \_\_\_\_\_

FAILURE TO SUBMIT THIS FORM BY \_\_\_\_\_, 2009 WILL SUBJECT YOUR CLAIM TO REJECTION AND PRECLUDE YOUR RECEIVING ANY MONEY FROM THE SETTLEMENT. DO NOT SEND YOUR CLAIM TO THE COURT OR TO ANY OF THE PARTIES OR THEIR COUNSEL, AS ANY SUCH CLAIM WILL BE DEEMED NOT TO HAVE BEEN SUBMITTED. SEND YOUR CLAIM ONLY TO THE CLAIMS ADMINISTRATOR AT THE ABOVE P.O. BOX ADDRESS.

NOTICE REGARDING ELECTRONIC FILES: Certain claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in electronic files. Claimants who submit electronic files may, at the Claims Administrator's discretion, be requested in addition to submit a manually signed paper Proof of Claim form listing all their transactions. If you wish to file your claim electronically, you must contact the Claims

Administrator toll-free at \_\_\_\_-\_\_\_\_-\_\_\_\_ or send an e-mail to \_\_\_\_\_@gardencitygroup.com to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the Claimant a written acknowledgment of receipt and acceptance of electronically submitted data.

### **CERTIFICATION BY CLAIMANT**

1. I certify that I purchased or otherwise acquired shares of publicly traded common stock of Able Laboratories, Inc. ("Able") between October 30, 2002 and May 18, 2005, inclusive. (Do not submit this Proof of Claim if you did not purchase or otherwise acquire Able common stock during this period.)

2. By submitting this Proof of Claim, I state that I believe in good faith that I am a member of the Class as defined above and in the Notice of Pendency and Proposed Settlement of Class Action and Fairness Hearing (the "Notice"), or am acting for such person; that I lost money in connection with my purchases of Able common stock during the Class Period; that I am not a Defendant in the Action or anyone else excluded from the Class; that I have read and understand the Notice; that I believe that I am entitled to receive a share of the Net Settlement Fund; that I elect to participate in the proposed Settlement described in the Notice; and that I have not filed a request for exclusion. (If you are acting in a representative capacity on behalf of a Class Member, *e.g.*, as an executor, administrator, trustee, or other representative, you must submit evidence of your current authority to act on behalf of that Class Member. Such evidence would include, for example, letters testamentary, letters of administration, or a copy of the trust documents.)

3. I consent to the jurisdiction of the Court with respect to all questions concerning the validity of this Proof of Claim. I understand and agree that my claim may be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to my status as a Class Member and the validity and amount of my claim. No such investigation or discovery shall be allowed on the merits of the Action or the fairness, reasonableness and adequacy of the Settlement.

4. I have set forth where requested below all relevant information with respect to each purchase or other acquisition of Able common stock during the Class Period, and each sale, if any, of such stock. I agree to furnish additional information to the Claims Administrator to support this claim if requested to do so.

5. I have enclosed photocopies of the stockbroker's confirmation slips, stockbroker's statements, or other documents evidencing each purchase, acquisition, sale or retention of Able common stock listed below in support of my claim. (IF ANY SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN A COPY OR EQUIVALENT DOCUMENTS FROM YOUR BROKER BECAUSE THESE DOCUMENTS ARE NECESSARY TO PROVE AND PROCESS YOUR CLAIM.)

6. I understand that the information contained in this Proof of Claim is subject to such verification as the Claims Administrator may request or as the Court may direct, and I agree to cooperate in any such verification. (The information requested herein is designed to provide the minimum amount of information necessary to process most simple claims. The Claims Administrator may request additional information as required to efficiently and reliably calculate my

Recognized Loss. In some cases the Claims Administrator may condition acceptance of the claim upon the production of additional information.)

7. Upon the occurrence of the Effective Date my signature hereto will constitute a full and complete release, remise and discharge by me and my heirs, executors, administrators, predecessors, successors, and assigns (or, if I am submitting this Proof of Claim on behalf of a corporation, a partnership, estate or one or more other persons, by it, him, her or them, and by its, his, her or their heirs, executors, administrators, predecessors, successors, and assigns) of each of the "Released Parties" of all "Settled Claims," as defined in the Notice.

8. Statement of Claim

Name(s) of Claimant(s):

\_\_\_\_\_  
Name

\_\_\_\_\_  
Joint Claimant's Name (if any)

Address of Claimant(s):

\_\_\_\_\_  
Street No.

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

( ) \_\_\_\_\_  
Telephone No. (Day)

( ) \_\_\_\_\_  
Telephone No. (Night)

\_\_\_\_\_  
Taxpayer I.D. No. or Social Security No.

Check one:

\_\_\_ Individual

\_\_\_ Corporation

\_\_\_ Joint Owners

\_\_\_ IRA

\_\_\_ Estate

\_\_\_ Other \_\_\_\_\_ (specify)

a) At the close of trading on **October 29, 2002**, I owned \_\_\_\_\_ shares of Able common stock (if none, write 0).

b) I made the following **purchases and acquisitions** of Able common stock between **October 30, 2002** and **May 18, 2005**, inclusive (NOTE: If you acquired your Able common stock during this period other than by an open market purchase, please provide a complete description of the terms of the acquisition on a separate page):



Date(s) of Purchase or Acquisition (List Chronologically; Month/Day/Year)	Number of Shares of Common Stock Purchased or Acquired	Purchase/Acquisition Price Per Share of Common Stock	Aggregate Cost (excluding commissions, taxes, and fees)
___/___/___	_____	\$ _____	\$ _____
___/___/___	_____	\$ _____	\$ _____
___/___/___	_____	\$ _____	\$ _____
___/___/___	_____	\$ _____	\$ _____
___/___/___	_____	\$ _____	\$ _____
___/___/___	_____	\$ _____	\$ _____
___/___/___	_____	\$ _____	\$ _____
___/___/___	_____	\$ _____	\$ _____

c) I made the following sales of Able common stock between **October 30, 2002** and **May 18, 2005**, inclusive:

Date(s) of Sale (List Chronologically; Month/Day/Year)	Number of Shares of Common Stock Sold	Sale Price Per Share of Common Stock	Amount Received (excluding commissions, taxes, and fees)
___/___/___	_____	\$ _____	\$ _____
___/___/___	_____	\$ _____	\$ _____
___/___/___	_____	\$ _____	\$ _____
___/___/___	_____	\$ _____	\$ _____
___/___/___	_____	\$ _____	\$ _____
___/___/___	_____	\$ _____	\$ _____
___/___/___	_____	\$ _____	\$ _____
___/___/___	_____	\$ _____	\$ _____

d) At the close of trading on **May 18, 2005**, I owned \_\_\_\_\_ shares of Able common stock (if none, write 0).

e) I made the following **sales** of Able common stock **on May 19, 2005**:

Number of Shares of Common Stock Sold	Sale Price Per Share of Common Stock	Amount Received (excluding commissions, taxes, and fees)
_____	\$ _____	\$ _____

_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

f) At the close of trading on **May 19, 2005**, I owned \_\_\_\_\_ shares of Able common stock (if none, write 0).

IF YOU NEED ADDITIONAL SPACE TO LIST  
YOUR TRANSACTIONS, PLEASE PHOTOCOPY THESE PAGES.

9. I (We) certify that I am (we are) not subject to backup withholding under the provisions of Section 3406(a)(1)(c) of the Internal Revenue Code. NOTE: If you have been notified by the Internal Revenue Service that you are subject to backup withholding, please strike the language that you are not subject to backup withholding in the certification above. The Internal Revenue Service does not require your consent to any provision other than the certification required to avoid backup withholding.

UNDER THE PENALTIES OF PERJURY, I (WE) CERTIFY THAT ALL OF THE INFORMATION PROVIDED ON THIS FORM IS TRUE, CORRECT AND COMPLETE.

Signature of Claimant (If this claim is being made on behalf of Joint Claimants, then each must sign)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Capacity of person(s) signing, e.g., beneficial purchaser(s), executor, administrator, trustee, etc.)

Date: \_\_\_\_\_

THIS PROOF OF CLAIM MUST BE SUBMITTED NO LATER THAN \_\_\_\_\_, 2009, AND MUST BE MAILED TO:

Able Laboratories Securities Litigation  
c/o The Garden City Group, Inc.  
P.O. Box \_\_\_\_\_  
Merrick, NY \_\_\_\_\_

A Proof of Claim received by the Claims Administrator shall be deemed to have been submitted when posted, if mailed by \_\_\_\_\_, 2009, and if a postmark is indicated on the envelope and it is mailed first class, postage prepaid, and addressed in accordance with the above instructions. In all other cases, a Proof of Claim shall be deemed to have been submitted when actually received by the Claims Administrator.

Please be aware that it will take a significant amount of time to process fully all of the Proofs of Claim and to administer the Settlement. This work will be completed as promptly as time permits, given the need to investigate and tabulate each Proof of Claim. Please notify the Claims Administrator of any change of address.

#### **REMINDER CHECKLIST**

1.     ☐     Please be sure to sign this Proof of Claim on page \_\_\_\_\_. If this Proof of Claim is submitted on behalf of joint claimants, then both claimants must sign.
2.     ☐     Please remember to attach supporting documents. Do NOT send any stock certificates. Keep copies of everything you submit.
3.     ☐     Do NOT use a highlighter on the Proof of Claim or any supporting documents.
4.     ☐     If you move after submitting this Proof of Claim, please notify the Claims Administrator of your new address.