

April 14, 1999

LERACH PAYS \$50,000,000 TO SETTLE CLAIMS REGARDING ABUSE OF LEGAL PROCESS

(Lexecon, Inc. v. Milberg Weiss Bershad Hynes & Lerach)

Plaintiffs' lawyer William Lerach and his law firm (Milberg Weiss) agreed yesterday to pay \$50 million to settle claims that they abused the legal process in an effort to drive a legal consulting firm out of business. The settlement came just before a jury, which had already awarded \$45 million in economic damages, was about to consider punitive damages against Lerach and his firm.

The settlement in *Lexecon, Inc. v. Milberg Weiss Bershad Hynes & Lerach* was a victory for the Washington Legal Foundation (WLF), which had entered the case in support of the plaintiffs when the case was before the U.S. Supreme Court. In a March 1998 decision, the Supreme Court agreed with WLF that an Arizona judge (to whom Milberg Weiss had arranged to have the case transferred) acted improperly in dismissing the case because the Arizona court lacked jurisdiction to decide it. Following that decision, the case returned to the Illinois court in which it initially had been filed, and it was the Illinois jury's verdict against Mr. Lerach and his firm that led to yesterday's settlement.

"The legal profession has too long tolerated the cowboy tactics of plaintiffs' attorneys such as Mr. Lerach, who terrorize the American business community with often-unfounded securities-law class action suits," WLF Chief Counsel Richard Samp said after yesterday's settlement. "We are hopeful that this settlement will cause plaintiffs' lawyers to realize that they are not above the law and to think twice before adopting overly aggressive litigation tactics," Samp said.

Lexecon, Inc. is a law and economics consulting firm whose principals (including Professor Daniel Fischel of the University of Chicago Law School) regularly served in the early 1990s as expert witnesses for companies being sued by Lerach and Milberg Weiss. Lexecon alleges that Lerach and Milberg Weiss retaliated for that testimony by seeking to ruin Lexecon's reputation and put it out of business. Pursuant to that goal, Lerach and Milberg Weiss falsely accused Lexecon of complicity with Charles Keating in the notorious *Lincoln Savings* savings and loan scandal, and named Lexecon as a defendant in class-action suits filed by Lincoln Savings depositors. In

subsequent cases in which Professor Fischel or other Lexecon principals were called as expert defense witnesses, Lerach and Milberg Weiss sought to impeach the witnesses' credibility by tarring them with the Lincoln Savings brush. Lexecon thereafter found it much more difficult to persuade corporate defendants to hire it as an expert witness.

The Illinois jury awarded Lexecon \$45 million in economic damages, finding that Lerach and Milberg Weiss had named Lexecon as a defendant in the Lincoln Savings litigation not for the purpose of recovering damages for their clients, but for the improper purpose of ruining Lexecon's reputation.

Lexecon was almost denied the opportunity to bring its case before an Illinois jury. Although the case was originally filed in Illinois, Lerach and Milberg Weiss were successful in having the case transferred to Arizona based on a claim that the case should be consolidated with other Lincoln Savings-related cases. Although Lexecon's suit was never actually consolidated with any other cases, the Arizona court refused to grant Lexecon's request to have the case sent back to Illinois and then proceeded to dismiss all of Lexecon's claims. In March 1998, the Supreme Court reversed, agreeing with WLF that any cases transferred across state lines for the purpose of consolidating (and thereby simplifying) pre-trial discovery must be transferred back to the state of initial filing when it comes time for trial. Accordingly, the Supreme Court remanded *Lexecon* back to the Illinois court for trial.

Milberg Weiss is the nation's most successful plaintiffs' securities-law class action law firm. The firm is hugely profitable, having reportedly generated more than \$700 million in profits since 1988.

WLF is a public interest law and policy center with supporters nationwide. It devotes a considerable portion of its resources to promoting the free enterprise system, and the economic and civil liberties of individuals and businesses through civil justice reform.

* * *

For further information, contact WLF Chief Counsel Richard Samp, (202) 588-0302.