



ENTERED

TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the order of the Court.

Harlin DeWayne Hale
United States Bankruptcy Judge

Signed December 20, 2005

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE:

VARTEC TELECOM, INC., et al.,

DEBTORS.

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CASE NO. 04-81694-HDH-11

**(Chapter 11)
(Jointly Administered)**

**ORDER APPROVING SETTLEMENT OF CLAIMS
HELD BY EXCEL'S INDEPENDENT REPRESENTATIVES**

On December 19, 2005, the Court considered the Debtors' Motion to Approve Settlement of Claims of Excel's Independent Representatives and Procedures relating Thereto [Docket No. 2070] (the "Motion")¹ filed by the above-referenced debtors and debtors in possession (collectively, the "Debtors").² The Court finds that (i)(A) the service of the Motion on the master service list maintained in these Cases and the

¹ Capitalized terms not defined herein shall have the meaning given to them in the Motion.

² The Court previously approved, among other things, certain procedures and notices in connection with the Global IR Settlement, and it entered its Order Approving Procedures and Notices relating to Settlement of Claims Held by Excel's Independent Representatives [Docket No. 2111] (the "Settlement Procedures Order") on November 22, 2005.

service of the Notice of Proposed Settlement as provided in the Settlement Procedures Order were reasonably calculated under the circumstances to apprise interested parties, including Eligible IRs of, among other things, the substance, merits, and applicable deadlines for evaluating the Global IR Settlement and participating in or opting out of the same; and (B) adequate notice of the Settlement Hearing and the relief requested at such hearing has been given and no other notice of the Settlement Hearing and the relief requested at such hearing needs to be given; (ii) the prospective service of the Settlement Approval Notice and the notice of the IR Bar Date (to be published in the national edition of USA Today) are reasonably calculated under the circumstances to apprise all interested parties, including IRs and Eligible IRs, of, among other things, the approval of the Global IR Settlement, applicable deadlines for evaluating the Global IR Settlement and participating in or opting out of the same, and the IR Bar Date; and (iii) the Global IR Settlement is fair and equitable and in the best interests of the Debtors' estates. Therefore, it is

ORDERED that the Motion is **GRANTED**. It is further

ORDERED that the Global IR Settlement is **APPROVED**. It is further

ORDERED that to the extent not withdrawn, the objections to the Motion are overruled. It is further

ORDERED that the Settlement Agreement (in substantially the form admitted as an exhibit at the Settlement Hearing) is approved and the Debtors are authorized to execute the Settlement Agreement, to grant the releases set forth therein, and to execute, deliver, implement, and fully perform any and all obligations, instruments, documents and papers and to take any and all actions reasonably necessary or

appropriate to consummate the Global IR Settlement and perform any and all obligations contemplated under the Settlement Agreement. It is further

ORDERED that the Settling IRs and the IR Committee shall be prohibited and enjoined from taking any action to assert or recover upon the IR Claims against the Released Parties (including, but not limited to, any self-help actions such as credit card chargebacks), except in accordance with the Settlement Agreement. It is further

ORDERED that any Eligible IR shall have the right to opt out of the Global IR Settlement and any Eligible IR who fails to timely complete an Opt-Out Election Form and timely deliver the same to the Debtors shall be deemed to have accepted the Settlement Agreement and to be bound by its terms, including the releases contained therein. It is further

ORDERED that on the later of (A) February 14, 2006 and (B) such other date as is agreed to in writing by the Settlement Parties, the Debtors shall make the Initial Distribution (the date of actual mailing being the "Initial IR Payment Date") as set forth in the Settlement Agreement. It is further

ORDERED that on the later of (A) the date which is thirty (30) days after the Initial Cutoff Date and (B) such other date as is agreed to in writing by the Settlement Parties, the Debtors shall make the Final Distribution (the date of the actual mailing being the "Final IR Payment Date") as set forth in the Settlement Agreement. It is further

ORDERED that the Debtors shall be authorized to establish bank accounts as set forth in the Settlement Agreement, and the RTFC shall fund any advances (on account of the Initial and Final Distributions) to the Funding Account under the New

RTFC DIP Financing and pursuant to the final Order [Docket No. 2047] approving the New RTFC DIP Financing. It is further

ORDERED that upon the occurrence of the Initial IR Payment Date, (i) the schedules of liabilities of the bankruptcy estate(s) of the Debtors in which such IR Claims arise shall be deemed amended so that the IR Claims of Settling IRs shall be deemed to be listed on the schedules of liabilities (A) in the amounts set forth in the IR Schedule as liquidated, non-contingent, and undisputed; and (B) of the kind provided under the Settlement Agreement; and (ii) those IR Claims shall be deemed allowed claims (of the kind provided under the Settlement Agreement) against the bankruptcy estate(s) of the Debtors in which such IR Claims arise, without the need for, and regardless of, the Settling IRs' filing of a proof of claim. It is further

ORDERED that the IR Claims reflected in the IR Schedule shall be deemed unsecured and disputed with respect to any Eligible IR who effectively opts out of the Global IR Settlement and does not become a Settling IR. It is further

ORDERED that Settlement Checks on account of the Initial Distribution shall be valid and payable if properly presented to the Payor Bank on or before 120 days following the Initial IR Payment Date (the "Initial Cutoff Date"), and Settlement Checks on account of the Final Distribution shall be valid and payable if properly presented to the Payor Bank on or before sixty (60) days following the Final IR Payment Date (the "Final Cutoff Date").³ Any Settlement Check not presented to the Payor Bank for payment on or before the applicable Cutoff Date shall become null and void for purposes of presentment, funding by the Debtors and the RTFC, or receipt of any Distribution under the Settlement Agreement. It is further

³ The Initial Cutoff Date and Final Cutoff Date may be referred to individually as a "Cutoff Date."

ORDERED that each Settlement Check shall include a legend notifying the respective Settling IR of the need to present the Settlement Check on or before the applicable Cutoff Date. It is further

ORDERED that the failure of any Settling IR to timely present any Settlement Check shall not alter or diminish in any way the compromises, waivers, releases, and settlements otherwise called for or embodied in the Settlement Agreement. It is further

ORDERED that any proof of claim that was or is filed by any Settling IR shall be deemed expunged from the Debtors' claim register as of the Initial IR Payment Date. It is further

ORDERED that without further order of the Court, on the date which is sixty (60) days after the Initial IR Payment Date, the appointment of the IR Committee shall sunset; provided, however, that the IR Committee shall not be entitled to seek fees or expenses related to legal services performed on its behalf more than thirty (30) days after the Initial Payment Date.

END OF ORDER

Upon entry, return copy to:

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