

In re METROPOLITAN SECURITIES LITIGATION

In The United States District Court For The Eastern District of Washington

***SUMMARY OF NOTICE OF PROPOSED PARTIAL CLASS ACTION
SETTLEMENTS AND SETTLEMENT HEARING***

If you purchased investment debentures or preferred stock issued by Metropolitan Mortgage & Securities Company, Inc. (“Metropolitan”) or investment certificates or preferred stock issued by Summit Securities, Inc. (“Summit”) pursuant to registration statements that became or were effective during the period from February 13, 2001 through December 15, 2003 (the “Class Period”), you may be eligible to participate in a partial settlement of this case.

Two Settlement Agreements have been reached between the Lead Plaintiffs, appointed by the Court, on their own behalf and on behalf of the proposed Settlement Class and some, but not all, of the former officers and directors of Metropolitan and Summit (“Settling Officers and Directors”). Important facts are highlighted below and explained in the attached Notice of Pendency and Partial Settlement of Class Action (“Notice”).

Securities and Time Period: This case involves the Metropolitan debentures and preferred stock and Summit investment certificates and preferred stock described above (the “Securities”). During the Class Period, Securities in the amount of approximately \$300 million were sold.

1 **Settlement Fund:** The Settlement Fund consists of \$4,899,500 in cash
2 (approximately 1.6 cents for each dollar of the estimated volume of Securities sold during
3 the Class Period). Lead Plaintiffs have recommended to the Court that the Settlement Fund
4 should be placed in an interest-bearing account pending further order by the Court. Lead
5 Plaintiffs have not yet proposed a plan of allocation to the Court.
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8 **Potential Outcome Of Case:** Lead Plaintiffs and Settling Defendants do not agree
9 on the amount of damages that would be recoverable if the Lead Plaintiffs had prevailed
10 on each claim alleged. Recoverable damages in this case are limited to losses caused by
11 conduct actionable under the applicable laws. If this case had gone to trial against the
12 Settling Defendants, they would have asserted numerous defenses including defenses that
13 (1) they did not engage in any actionable conduct, (2) that, in performing their duties, the
14 Settling Defendants reasonably relied on the Professional Defendants and others, and (3)
15 that some of the losses of Class Members were caused by non-actionable market, industry
16 or general economic factors.
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21 **Reason For Settlement With Settling Officers and Directors:** The Settlement
22 Agreements will exhaust all insurance coverage available to the Settling Officers and
23 Directors, and Lead Plaintiffs and Class Counsel believe that the settlements are fair and
24 reasonable to the proposed Settlement Class. In addition, the settlements will avoid the
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1 risks of continued litigation against the Settling Officers and Directors (including the risk
2 that the Settling Officers and Directors might prevail in that litigation based on their
3 defenses to the claims) and will allow Lead Plaintiffs to focus their claims against the
4 remaining defendants, who are identified in the Notice.
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6 **Attorneys' Fees and Expenses:** Class Counsel are not seeking an award of
7 attorneys' fees from the Settlement Fund at this time. However, Class Counsel have
8 requested that the Court set aside \$1 million (approximately .3 cents per dollar invested in
9 the Securities) in an Expense Fund to reimburse Class Counsel for approximately \$600,000
10 in litigation costs already incurred and to fund costs to be incurred in prosecuting claims
11 against the remaining defendants. At a future date, upon further notice to the Settlement
12 Class, Class Counsel will apply to the Court for an award of attorneys' fees.
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16 **Class Counsel:**

17 Steve W. Berman
18 Clyde A. Platt, Jr.
19 Jeniphr A.E. Breckenridge
20 HAGENS BERMAN SOBOL & SHAPIRO, LLP
21 Seattle, Washington

22 **or**

23 F. Mike Shaffer
24 Bradley B. Jones
25 Kenneth G. Kieffer
GORDON THOMAS HONEYWELL
MALANCA PETERSON & DAHEIM LLP
Tacoma, Washington

1 If you have any questions, you are entitled to consult with Plaintiffs' Class Counsel
2 by calling the following, toll-free number: 800-447-7657. You can email Class Counsel
3 at the following email address: metropolitanlitigation@gilardi.com.
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5 Any written inquiries should be addressed to Class Counsel at **IN RE**
6 **METROPOLITAN SECURITIES LITIGATION, c/o Gilardi & Co. LLC, PO Box**
7 **990, Corde Madera, CA 94976-0990.**
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

In re METROPOLITAN SECURITIES
LITIGATION

No. CV-04-025-FVS

NOTICE OF PENDENCY AND PARTIAL SETTLEMENT OF CLASS

NOTICE OF PENDENCY AND PARTIAL SETTLEMENT OF CLASS ACTION

To: *All persons who purchased investment debentures and preferred stock issued by Metropolitan Mortgage & Securities Company, Inc. ("Metropolitan") and investment certificates and preferred stock issued by Summit Securities, Inc. ("Summit") pursuant to registration statements that became or were effective during the period from February 13, 2001 through December 15, 2003 (the "Class Period") (excluded from the proposed Settlement Class are registered representatives who sold Metropolitan or Summit securities, defendants, and their immediate family members, any entity in which they have a controlling interest, and the heirs, successors or assigns of the same)*

IF YOU FALL WITHIN THIS GROUP, YOU ARE A "SETTLEMENT CLASS MEMBER"

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.

WHY SHOULD I READ THIS NOTICE?

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2 This Notice is given pursuant to orders issued by the United States District Court for
3
4 the Eastern District of Washington (the “Court”). This Notice serves to inform you of
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6 certification of the Settlement Class and that the Class Representatives have reached
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8 proposed partial settlements with some, but not all, of the former officers and directors of
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10 Metropolitan and Summit (the “Settling Officers and Directors”) and the hearing (the
11
12 “Fairness Hearing”) to be held by the Court to consider the fairness, reasonableness and
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14 adequacy of the proposed settlements. The full terms of the settlements are set forth in two
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16 Settlement Agreements among the Class Representatives and the Settling Officers and
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18 Directors on file with the Court. THE SETTLEMENTS DO NOT RELEASE OR
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20 OTHERWISE AFFECT ANY CLAIMS IN THE CLASS ACTION AGAINST THE
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22 REMAINING DEFENDANTS, WHICH INCLUDE C. PAUL SANDIFUR, JR., THOMAS
23
24 TURNER, ROBERT NESS, WILLIAM SNIDER AND IRV MARCUS, EACH OF
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1 WHOM SERVED AS FORMER METROPOLITAN OR SUMMIT OFFICERS AND
2 DIRECTORS (the “Non-Settling Directors and Officers”) AND
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4 PRICEWATERHOUSECOOPERS, LLP (“PWC”), ERNST & YOUNG, LLP (“E&Y”),
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6 AND ROTH CAPITAL PARTNERS, LLC (“ROTH CAPITAL”) (“THE PROFESSIONAL
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8 DEFENDANTS”). This Notice is intended to inform you how the certification of the
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10 Settlement Class and the proposed settlements may affect your rights and what steps you
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12 may take in relation to the settlements and relevant Orders of the Court. This Notice is not
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14 intended to be an expression of any opinion by the Court with respect to the truth of the
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16 allegations in this lawsuit or the merits of the claims or defenses asserted. This Notice is
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18 solely to advise you of the pendency of the action, the certification of the Settlement Class,
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20 and the proposed partial settlements and of your rights in connection with the Settlement
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22 Class certification and the settlements.
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WHAT IS THIS LAWSUIT ABOUT?

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2 The Class Representatives allege that the fiscal year 2000 and 2001 audited financial
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4 statements of Metropolitan and Summit that were incorporated in the registration
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6 statements of Metropolitan and Summit during the Class Period were false and misleading.
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8 The Class Representatives claim that the audited financial statements were materially
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10 misstated as a result of the negligent failure of PWC and E&Y to adhere to applicable
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12 professional and regulatory auditing standards, the negligence of Roth Capital in
13
14 performing its due diligence and preparation of pricing and yield opinions for securities
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16 issued during the Class Period by Metropolitan and Summit, and the negligence of the
17
18 Metropolitan and Summit directors who signed the registration statements.
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20 As a result, Class Representatives claim those financial statements: (a) materially
21
22 overstated revenue and earnings and/or understated losses by improperly avoiding losses
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24 and improperly recognizing gains; (b) materially overvalued assets (particularly
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1 commercial real estate backed loans and commercial real properties held by Metropolitan
2 and Summit); ©) materially overstated the value of assets on the companies' balance
3 sheets; and (d) failed to disclose a material lack of internal controls within Metropolitan
4 and Summit.
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8 Class Representatives also allege that those improper accounting treatments resulted
9 in material misstatements of both Metropolitan's and Summit's financial condition in
10 numerous financial statements promulgated in the registration statements during the Class
11 Period.
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16 Class Representatives also contend that the Metropolitan and Summit registration
17 statements that became effective during the Class Period contained other untrue statements
18 of material fact and omitted to state material facts necessary to make the statements made
19 not misleading.
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24 The Settling Officers and Directors deny that they engaged in any wrongful conduct
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1 or violated any laws, rules or regulations and believe they have factual and legal defenses
2 to Class Representatives' allegations, but have agreed to settle the claims against them to
3 avoid the burden of litigation. The Non-Settling Officers and Directors and the
4 Professional Defendants continue to contest Plaintiffs' allegations and deny that they made
5 any misstatements, that any alleged misstatements by them were material, or that such
6 statements were the cause of any decline in the value of the securities held by plaintiffs.
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8 The Professional Defendants further deny that they were negligent in performing their
9 professional duties.
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16 The Court has not ruled as to whether the Settling Offices and Directors are liable
17 to the Settlement Class. In addition, the Court has not yet certified any class to pursue
18 claims against the Non-Settling Officers and Directors and Professional Defendants who
19 are not involved in the settlements. The issue of whether any such class may be certified
20 will be the subject of future orders by the Court.
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STATUS OF THE CASE.

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2 The Class Action was originally filed on January 20, 2004. On February 4, 2004,
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4 Metropolitan and Summit filed for bankruptcy.

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6 On August 11, 2004, the District Court appointed six individual investors to serve
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8 as Lead Plaintiffs and appointed Class Counsel to serve as Lead Plaintiffs' Counsel. In
9
10 January 2005, the District Court granted Lead Plaintiffs' motion to file an amended and
11
12 consolidated complaint against the defendants.

13
14 On July 28, 2006, the District Court granted Lead Plaintiffs' motion for certification
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16 of a Settlement Class and for appointment of the Lead Plaintiffs as Class Representatives
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18 and Lead Counsel as Class Counsel.

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20 The Class Representatives have conducted further inquiry concerning the remaining
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22 defendants and will shortly seek permission of the District Court to file an amended
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24 complaint. When it is filed, all defendants will have an opportunity to file motions to
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dismiss, which may take several months to be resolved. It is possible the defendants could
prevail on those motions to dismiss.

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POTENTIAL OUTCOME OF THE CASE.

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2 Lead Plaintiffs and Settling Directors and Officers do not agree on the amount of
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4 damages that would be recoverable if the Lead Plaintiffs had prevailed on each claim
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6 alleged. The issues on which these parties disagree include: (1) the appropriate economic
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8 methodology for determining the amount by which the Securities were allegedly artificially
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10 inflated (if at all) during the Class Period; (2) the amount by which the Securities were
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12 allegedly inflated (if at all) during the Class Period; (3) the effect of various market forces
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14 potentially influencing the price of the Securities at various times during the Class Period;
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16 (4) the extent to which external factors, such as general market and industry conditions,
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18 influenced the price of the Securities at various times during the Class Period; (5) the
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20 extent to which the various matters that Lead Plaintiffs alleged were materially false or
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22 misleading influenced (if at all) the price of Securities at various times during the Class
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24 Period; (6) the extent to which the various allegedly adverse material facts that Lead
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Plaintiffs alleged were omitted influenced (if at all) the price of the Securities at various

1 times during the Class Period; and (7) whether the statements made or facts allegedly
2 omitted were actionable under Federal and Washington State securities law. Recoverable
3 damages in this case are limited to losses caused by conduct actionable under the
4 applicable laws and, had this case gone to trial, Settling Directors and Officers almost
5 certainly would have asserted that all of the losses of Class Members were caused by non-
6 actionable market, industry or general economic factors.
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13 **WHAT ARE THE TERMS OF THE SETTLEMENTS?**

14 The Settlement Agreements provide that the Settlement Class will fully release the
15 Settling Officers and Directors from all known and unknown claims of any nature that the
16 Settlement Class or any other party has against the Settling Officers and Directors arising
17 out of the subject matter of this action. The terms of this release are more fully described
18 in the Settlement Agreements. You may obtain a copy of the Settlement Agreements from
19 Class Counsel at the address provided below, and you are encouraged to do so if you have
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1 any questions about the exact terms and scope of this release, or any other terms of the
2 Settlement Agreements.
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4 In return for the releases, the settlements require the creation of a cash fund for the
5 Settlement Class in the principal amount of \$4,899,500 (the "Settlement Fund")
6 (approximately 1.6 cents for each dollar invested in the Securities if claims are submitted
7 for each Security). Subject to the deduction of costs of Notice, and for other litigation
8 expenses as approved by the Court, discussed below, the Settlement Fund will be available
9 for eventual distribution to Settlement Class Members. However, as explained more fully
10 below, the amount and timing of distribution to Settlement Class Members will depend on
11 **future** Court proceedings and it is therefore not possible to estimate the amount or timing
12 of any such distribution at this time.
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22 **REASONS FOR THE SETTLEMENTS**

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24 Class Representatives and Class Counsel believe that the settlements are fair and
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1 reasonable to the members of the Settlement Class. They have reached this conclusion
2 based on a review of confidential personal financial statements of the Settling Officers and
3 Directors which demonstrates the inability of the Settling Officers and Directors to pay a
4 significant judgment beyond the limited insurance coverage available for the claims of the
5 Settlement Class. The insurance policies that provide coverage for claims against current
6 and former officers and directors of Metropolitan and Summit are also being used to cover
7 their defense costs and defense costs of many other individuals and entities. Each dollar
8 spent on defense costs reduces by a dollar the amount remaining in the policies. If there
9 were no settlements at this time, those insurance policies would continue to be used to pay
10 the costs of defending the Settling Officers and Defendants (as well as those other
11 individuals and entities) until the proceeds of the policies are depleted. Hence, if there
12 were no settlements, much if not all of the proceeds of the insurance policies which make
13 up the Settlement Fund would likely be used up in defending the Settling Officers and
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1 Directors through trial. Further, under the settlements the Settling Officers and Directors
2 agree to cooperate with the Class Representatives as the Class Representatives focus on
3 their claims against the Non-Settling Officers and Directors and the Professional
4 Defendants.
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9 **DO I NEED TO CONTACT CLASS COUNSEL IN ORDER TO PARTICIPATE IN**
10 **ANY FUTURE DISTRIBUTION OF THE SETTLEMENT FUND?**

11 No. If you have received this Notice, that means that your name and address are
12 properly maintained by Class Counsel. You will receive additional Notice of any
13 distribution, and will be advised if you need to take any additional steps. If you did not
14 receive this Notice by mail but you believe you should have, or if your address changes,
15 please advise Class Counsel at the address listed below.
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21 **WHO ARE THE ATTORNEYS FOR THE SETTLEMENT CLASS?**

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24 Plaintiffs' Class Counsel are:

25 Steve W. Berman
Clyde A. Platt, Jr.

1 Jeniphr A.E. Breckenridge
2 HAGENS BERMAN SOBOL & SHAPIRO, LLP
3 Seattle, Washington

4 **or**

5 F. Mike Shaffer
6 Bradley B. Jones
7 Kenneth G. Kieffer
8 GORDON THOMAS HONEYWELL
9 MALANCA PETERSON & DAHEIM LLP
10 Tacoma, Washington

11 If you have any questions, you are entitled to consult with Plaintiffs' Class Counsel by
12 calling the following, toll-free number: 800-447-7657. You can **email** Class Counsel at
13 the following email address: **metropolitanlitigation@gilardi.com**.

14 Any **written inquiries** should be addressed to Class Counsel **IN RE**
15 **METROPOLITAN SECURITIES LITIGATION, c/o Gilardi & Co. LLC, PO Box**
16 **990, Corde Madera, CA 94976-0990.**

17 You may obtain a copy of the Settlement Agreements by contacting counsel at the
18 telephone number listed above, or you may download a copy from Class Counsels'
19 websites, www.hbsslaw.com or www.gth-law.com.
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CAN I CHOOSE TO EXCLUDE MYSELF FROM THE SETTLEMENT CLASS?

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2 Yes. If you want to be excluded from the Settlement Class, you may ask the Court
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4 to exclude you from the Settlement Class by filing a request for exclusion. You may obtain
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6 a request for exclusion by writing to Class Counsel at the address above. You must return
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8 the completed request for exclusion form to Class Counsel by mail, postmarked on or
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10 before September 22, 2006.

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12 **If you submit a valid and timely request for exclusion, you will be excluded**
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14 **from the Settlement Class and you will not be entitled to receive any of the proceeds**
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16 **of the settlements. You will be free, if you wish, to pursue whatever legal rights you**
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18 **may have, if any, against the Settling Officers and Directors at your own expense, but**
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20 **only on your own behalf.**

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22 **CAN I OBJECT TO THE PARTIAL SETTLEMENT?**

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24 Yes. If you are a Settlement Class Member, you may object to the terms of the
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1 settlements and urge that the Court not approve the settlements. In order for any objection
2 to be considered, you **must** file a written statement with Class Counsel at the above
3 address postmarked by September 22, 2006 and you must file your objection with the
4 Court no later than September 22, 2006.
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10 **WHAT ARE MY RIGHTS UNDER THE PARTIAL SETTLEMENT?**
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12 If you are a Settlement Class Member and you choose not to exclude yourself from
13 the Settlement Class, you may receive the benefit of, and you will be bound by, the terms
14 of the proposed settlements described in this Notice, upon final approval of the proposed
15 settlement by the Court.
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20 **WHEN WILL THE PROCEEDS OF THE SETTLEMENT FUND BE**
21 **DISTRIBUTED?**
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23 Because of the administrative costs of distributing the net proceeds of the
24 settlements, Class Counsel do not believe that it is economically feasible to distribute the
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1 Settlement Fund to Settlement Class Members at this time. The Settlement Fund, less any
2 litigation expenses authorized by the District Court, will be placed in an interest-bearing
3 account pending further Order of the Court. It is the hope and goal of the Class
4 Representatives and Class Counsel that the Settlement Fund will be distributed in
5 connection with any additional monies recovered from the Non-Settling Directors and
6 Officers and the Professional Defendants in this action.
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12 **WILL ATTORNEYS' FEES AND EXPENSES BE SOUGHT NOW?**
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14 Class Counsel are not seeking an award of attorneys' fees from the Settlement Fund
15 at this time. However, Class Counsel have requested that the Court set aside \$1 million
16 (approximately .3 cents per dollar invested in the Securities) in an Expense Fund to
17 reimburse Class Counsel for approximately \$600,000 in litigation costs and expenses
18 already incurred and to fund costs to be incurred in prosecuting claims against the
19 Professional Defendants and the Non-Settling Directors and Officers. The Expense Fund
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1 will be maintained in an interest-bearing account, and distributions will be subject to the
2 Court's approval. If any portion of the Expense Fund is not used to reimburse out-of-
3 pocket costs, that portion will ultimately be distributed to Settlement Class Members. At
4 a future date, upon further notice to the Settlement Class, Counsel will apply to the Court
5 for an award of attorneys' fees.
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10 **THE FAIRNESS HEARING.**
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12 A hearing (the "Fairness Hearing") will be held on October 6, 2006 at 9:00 a.m.
13 before the Honorable Fred Van Sickle, United States District Court Judge, at the United
14 States District Court for the Eastern District of Washington at W. 920 Riverside Avenue,
15 Spokane, Washington, 99210, for the purpose of determining (a) whether the proposed
16 settlements are fair, reasonable and adequate and should be approved by the Court; and
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18 (b) whether an Order of Final Judgment and Dismissal should be entered.
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24 Any Settlement Class Member may appear at the Fairness Hearing and be heard on
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1 any of the foregoing matters; provided, however, that no such person shall be heard unless
2 his, her or its objection is made in writing and is filed, together with proof of membership
3 in the Settlement Class and with copies of all other papers and briefs to be submitted to the
4 Court by him, her or it, no later than September 22, 2006, and show due proof of service
5 on Plaintiffs' Class Counsel at the address above and upon the following counsel for the
6 Settling Defendants: Tim J. Filer, Esq., Foster Pepper & Shefelman, PLLC, 1111 Third
7 Avenue, Suite 3400, Seattle, WA 98101-3299.
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14 Unless otherwise directed by the Court, any Settlement Class Member who does not
15 make his, her or its objection in the manner provided shall be deemed to have waived all
16 objections to the settlements.
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HOW DO I OBTAIN ADDITIONAL INFORMATION?

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2 This Notice contains only a summary of the terms of the proposed settlements. The
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4 records in this litigation may be examined and copied at any time during regular office
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6 hours, and subject to customary copying fees, at the Clerk of the Court, United States
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8 District Court, Eastern District of Washington. If you have any questions concerning the
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10 matters contained in this Notice, or the remaining claims against the Defendants in this
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12 litigation, you may call Class Counsel, toll-free or send an email to Class Counsel.
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14 **DO NOT CONTACT THE COURT REGARDING THIS NOTICE.**
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18 Dated: August 1, 2006.
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21 By Order of the Court
22 THE HONORABLE FRED VAN SICKLE
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1 At the request of the Department of Justice and as a courtesy to investors in
2 Metropolitan and Summit, we are including this separate informational Notice prepared
3 by the Department of Justice. By including this Notice with the Notice of Pendency and
4 Partial Settlement of Class Action (the "Class Action Notice"), Class Representatives are
5 not endorsing the truth or validity of the charges that the government is prosecuting against
6 Mr. Turner. The claims of the Class Representatives in the Class Action are set forth in the
7 Class Action Notice.
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10 **ATTENTION CLASS MEMBERS OF METROPOLITAN MORTGAGE AND**
11 **SECURITIES COMPANY, INC., LITIGATION**

12 ***Notice of the Status of United States v. Thomas G. Turner, CR05-355C***
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14 We write to provide you with an update on the status of the Turner case and to offer
15 you the opportunity to visit our website if you want to receive notice about future
16 developments in the case. The Criminal Division of the Department of Justice is
17 prosecuting Thomas G. Turner, a former executive officer of Metropolitan Mortgage and
18 Securities Company, Inc., and former president of Summit Securities, for securities fraud.
19 Mr. Turner has entered a plea of not guilty and he is presumed innocent until the trial on
20 these charges has concluded in the United States District Court for the Western District of
21 Washington.
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25 Through this prosecution, the government is alleging that Mr. Turner misled

1 Metropolitan's outside auditors about the true nature of a financial transaction in which
2 Metropolitan sold two pieces of property that resulted in Metropolitan reporting a \$10
3 million gain in its fiscal year ending September 30, 2002. It is also alleged that Mr. Turner
4 concealed the contingent nature of a related \$17.6 million Summit loan and, without that
5 transaction, Metropolitan would have recorded a net loss on its consolidated financial
6 statements for the 2002 fiscal year. The trial has been scheduled for April 9, 2007 before
7 Judge Coughenour in Courtroom 16-B, U.S. Courthouse, 700 Steward Street, Seattle,
8 Washington.
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11 If you believe you have been a victim of these alleged crimes and you wish to
12 receive updated information about future court proceedings in the case, including changes
13 in the trial date, please visit the Department of Justice's website at:
14 <http://www.usdoj.gov/criminal/vns>.
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16 As of this writing, the DOJ prosecutors in the case will be applying for court
17 approval of certain notice procedures to be followed in alerting the thousands of potential
18 victims of future court proceedings in the Turner case, as required by the Justice For All
19 Act of 2004. The Act gives the court discretion in cases involving "multiple victims" (like
20 the Turner case) to adopt "reasonable procedures" for notifying victims about the criminal
21 case, such as providing notice on the Department of Justice website as well as other
22 methods.
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