CAUSE NO. 06-03403

IN RE: AFFILIATED COMPUTER SERVICES, INC. DERIVATIVE LITIGATION	§ § §	IN THE DISTRICT COURT OF DALLAS COUNTY, TEXAS 193RD JUDICIAL DISTRICT

LEAD PLAINTIFFS' FIRST AMENDED PETITION FOR BREACH OF FIDUCIARY DUTY, AIDING AND ABETTING A BREACH OF FIDUCIARY DUTY, UNJUST ENRICHMENT AND RECISSION

DISCOVERY CONTROL PLAN

1. Discovery in this lawsuit will be governed by Discovery Control Plan Level 3 under Texas Rules of Civil Procedure 190.3.

NATURE OF THE ACTION

2. Lead Plaintiffs Anchorage Police & Fire Retirement System ("Anchorage Police & Fire") and Merl Huntsinger ("Huntsinger") submit this Amended Verified Petition. This is a shareholder's derivative action brought in the name and for the benefit of nominal defendant Affiliated Computer Services, Inc. ("ACS" or the "Corporation") against certain current and former executive officers, namely Jeffrey A. Rich ("Rich"), ACS's former Chief Executive Officer and Director; Darwin Deason ("Deason"), current Chairman of the Board; Mark A. King ("King"), current CEO and Director; and certain of ACS's current and former members of the Board of Directors. The action arises from Defendants obtaining, approving, and/or acquiescing in the issuance of stock options to senior executives that were unlawfully backdated to provide the recipients with windfall compensation at the direct expense of ACS.

3. A stock option is a right to purchase shares of stock for a specified period of time at a fixed price, called the "exercise price" or "strike price." The shares subject to an option are

assets of the corporation and are generally issued from the corporation's treasury. Stock options are typically granted as part of employee compensation packages as a means to create incentives to boost profitability and stock value. The exercise price is generally fixed to the market price of the stock on the closing date of the grant. When a stock's market price exceeds its exercise price, the option holder may purchase the stock from the corporation at the exercise price and resell it at the higher market price, profiting from the difference.

4. When the grant date of an option is manipulated to an earlier date on which the stock closed at a lower price, the grantee pays less for the stock and the corporation, the counterparty to the option grant, receives less when the option is exercised. Thus, the practice of backdating option grants to lower strike prices represents a direct and continuing waste of valuable corporate assets.

5. Manipulating the timing of option grants undermines the incentive that is supposed to justify stock option compensation in the first place. Stock option compensation is intended to align the interests of managers with those of shareholders by encouraging managers to maximize shareholder value. In contrast, backdating option grants to correspond to lower points in the stock price allows managers to benefit from declines in the price of the stock, creating an incentive for managers to engineer dips or volatile swings in stock price.

6. The practice of backdating grants of stock options also raises the specter of false or misleading financial reporting under Generally Accepted Accounting Principles ("GAAP"). The difference between the exercise price and market price on the day of the grant is additional unreported executive compensation that negatively impacts a company's true earnings. Backdating option grants therefore creates a substantial risk that earnings have been, and will

continue to be, misreported. Option backdating masks the true level of executive compensation, thereby further misleading investors.

7. Option grants to ACS executives in the 1990s and the early part of this decade were at abnormally low and statistically anomalous exercise prices. During at least between 1995 and 2002, Rich, Deason and King, among other ACS executives, received stock option grants at or near the lowest annual or quarterly stock price, and typically immediately before a substantial run-up in the stock price. The lower the exercise price of a stock option, the more profitable it is for the grantee, and the favorable time-pattern of these grants proved extraordinarily profitable to these grantees as a result. When asked by *The Wall Street Journal* about the unusually fortunate pattern of his option grants, Rich called it "blind luck."

8. There was nothing blind about it, though. In fact, these grants were obtained with near perfect vision – 20/20 hindsight. In reality, as Defendants' recent disclosures reveal, Rich, Deason and King obtained these options only by means of Defendants' breach of fiduciary duty and violation of the law.

9. Incentive stock option grants to ACS executives were, at all relevant times, required to carry an exercise price that was not less than the fair market value of ACS stock on the date of grant, as measured by the public trading price of the stock at the market's close on that date. Nevertheless, it now appears that, throughout the relevant period, stock option grants to Rich, Deason and King and others were repeatedly backdated to dates on which the stock price was at an especially low point for the year or quarter. In other words, the claimed dates of grant were untrue: the options were actually granted on later dates and, with the benefit of hindsight, falsely ascribed to earlier, more favorable dates. Indeed, ACS has now admitted that it

issued executive stock options with "effective dates that generally ***preceded***" the formal approval of the option grants. (emphasis added).

10. Backdating stock option grants to obtain beneficial exercise prices is akin to picking lottery numbers on the day after the winning numbers are reported in the news. It is an unlawful exercise that unjustly appropriates corporate assets and benefits no one other than the grantee.

11. As set forth below, the results of a study conducted by Lead Plaintiffs after ACS's recent disclosures reveals compelling evidence of backdating based on the abnormally low and high stock price returns immediately preceding and following the purported grant date, respectively. Similarly, the results of a statistical analysis of the grants to Rich recently published in *The Wall Street Journal*, on March 18, 2006 concluded that the chances of their grants actually occurring as claimed were ***1 in 300 billion.*** These circumstances, in connection with Defendants' recent admissions, leave no doubt that stock option grants to ACS executives during the relevant period were backdated and that, as a result, these executives were unjustly enriched and the Corporation was deceived and harmed by Defendants' actions.

12. As further evidence of their disregard for the shareholders of ACS, on September 29, 2005, the Board caused the Corporation to purchase all of Defendant Rich's vested options at unjustified and unjustifiable terms (the "Stock Option Buyout"). Specifically, the Board approved the purchase of Defendant Rich's vested options for $18.4 million—a sum based on that day's market price of ACS stock. The Corporation's purchase of Rich's options was precipitated by Rich's pending resignation—material inside information that Defendants concealed from the investing public until after the Stock Option Buyout. This allowed Rich to reap and lock-in the benefit of the backdating scheme at a market price that did not reflect the

market's knowledge of Rich's impending departure. By contrast, if Rich had exercised his options and immediately sold his stock knowing about his pending resignation, he would be guilty of insider trading. When Rich's departure was disclosed 4 days later, the price of ACS stock immediately declined by $3.82, or 7%.

13. This derivative action, on behalf of the Corporation, seeks to remedy the harms caused to ACS. Specifically, Lead Plaintiffs seek to cancel unexercised backdated options, have all of the financial gains from the recipients who exercised backdated options returned to ACS, and hold accountable ACS's directors who administered and granted backdated options. Plaintiffs assert breaches of Defendants' fiduciary duties, including their duties of undivided loyalty, good faith and truthful disclosure.

PARTIES

Lead Plaintiffs

14. Plaintiff Anchorage Police & Fire is a defined-benefit pension fund for policemen and firemen in Anchorage, Alaska. Plaintiff Anchorage Police & Fire Retirement System currently is, and was a shareholder of ACS at the time of the wrongdoing that is the subject of the Petition herein.

15. Plaintiff Huntsinger is, and was a shareholder of ACS at the time of the wrongdoing that is the subject of the Petition herein.

16. By Order dated July 13, 2006, this Court appointed plaintiffs Anchorage Police & Fire and Huntsinger as Lead Plaintiffs for this litigation.

Defendants

17. Nominal Defendant ACS is a Delaware corporation with its principal executive offices and place of business located at 2828 North Haskell Avenue, Dallas, Texas 75204. ACS

is a Fortune 500 Company that provides business process outsourcing and information technology outsourcing services to government and commercial customers in over 100 countries. ACS has appeared in this action.

18. Defendant Deason, the founder of ACS, is the Chairman of the Board of Directors, a position he has held since the Corporation's formation in 1988. Deason served as Chief Executive Officer of the Corporation from 1988 until 1999. Deason was a member of the Board's Compensation Committee from 1994 until 2003, and the sole member of Board's Nominating Committee from its formation in 1999, until September 2003. As an executive, a member of the Board of Directors and a member of the Board's Compensation Committee, Deason authorized, approved and received the backdated stock option grants at issue in this case. Deason also approved the Stock Option Buyout for Defendant Rich. From 1995 through 2002, Deason earned as much as $608,000 in salary annually and received annual bonuses up to as much as $1.5 million. However, a significant portion of his compensation was from stock option grants. Indeed, Defendant Deason received stock option grants to purchase approximately 675,000 shares between 1995 and 2002. Deason has appeared in this action.

19. Defendant King is the Chief Executive Officer and President of the Corporation as well as a Director. King has served as Chief Executive Officer and President since 2005. Prior to holding these positions, King served as President and Chief Operating Officer since 2002, Chief Operating Officer since 2001, and Executive Vice President and Chief Financial Officer from 1995 to 2001. He has been a member of the Board of Directors since 1996. As an executive and a member of the Board of Directors, he authorized, approved and received the backdated stock option grants at issue in this case. King also approved the Stock Option Buyout for Defendant Rich. From 1995 through 2002, Defendant King earned as much as $400,000

annually and received annual bonuses up to as much as $700,000. However, a significant portion of his compensation was from stock option grants. Indeed, Defendant King received stock option grants to purchase approximately 570,000 shares between 1995 and 2002. King has appeared in this action.

20. Defendant Rich served as Chief Executive Officer from 1999 to 2005. Prior to 1999, Rich served as President, from 1995 to 2002, and as Chief Operating Officer, from 1995 to 1999. He was a member of the Board of Directors from 1991 until September 2005. As an executive and member of the Board of Directors, he authorized, approved and received backdated stock option grants at issue in this case. From 1995 through 2002, Defendant Rich earned as much as $525,000 in salary annually and received annual bonuses up to as much as $1.05 million. However, a significant portion of his compensation was from stock option grants. Indeed, Defendant Rich received stock option grants to purchase more than 1 million shares between 1995 and 2002. Rich has appeared in this action.

21. Defendant Lynn R. Blodgett ("Blodgett") has been a Director and Executive Vice President and Chief Operating Officer of ACS since September 2005. Previously, from July 1999 until September 2005, Blodgett was Executive Vice President and Group President of Commercial Solutions. Blodgett joined ACS in 1995. In his position as an executive, Blodgett personally benefited from the backdated stock options as described herein. During the relevant period, Defendant Blodgett earned as much as $275,000 in salary annually and received annual bonuses up to as much of $412,500. However, a significant portion of his compensation was from stock option grants. Indeed, Defendant Blodgett received stock option grants to purchase approximately 125,000 shares from 1995 to 2002. Blodgett is a resident of the State of Texas

and may be served with process at his place of business, 2828 North Haskell Avenue, Dallas, Texas 75204.

22. Defendant Warren Edwards ("Edwards") has been Executive Vice President and Chief Financial Officer of ACS since March 2001. In his position as an executive, Edwards personally benefited from the backdated stock options as described herein. During the relevant period, Defendant Edwards received stock option grants to purchase approximately 180,000 shares during the relevant period. Edwards is a resident of the State of Texas and may be served with process at his place of business, 2828 North Haskell Avenue, Dallas, Texas 75204.

23. Defendant John M. Brophy ("Brophy") has been Executive Vice President of Business Relations since May 2005. From August 2001 until May 2005, Rexford was Executive Vice President and Group President of State and Local Solutions ACS. In his position as an executive, Brophy personally benefited from the backdated stock options as described herein. During the relevant period, Defendant Brophy received stock option grants to purchase approximately 75,000 shares during the relevant period. Brophy is a resident of the State of Texas and may be served with process at his place of business, 2828 North Haskell Avenue, Dallas, Texas 75204.

24. Defendant John Rexford ("Rexford") has been Executive Vice President of Corporate Development of ACS since March 2001. In his position as an executive, Rexford personally benefited from the backdated stock options as described herein. During the relevant period, Defendant Rexford received stock option grants to purchase approximately 140,000 shares during the relevant period. Rexford is a resident of the State of Texas and may be served with process at his place of business, 2828 North Haskell Avenue, Dallas, Texas 75204.

25. Defendants Deason, King, Rich, Blodgett, Edwards, Brophy and Rexford along with Defendants David W. Black, Henry Hortenstine, Peter A. Bracken and William L. Deckelman (defined below) are referred to collectively in this Petition as the "Grantee Defendants."

26. Defendant Joseph P. O'Neill ("O'Neill") has served as a Director of the Corporation since 1994. As a member of the Board of Directors, the Compensation Committee (from 1996 to present) and the Special Compensation Committee (from 1996 to 2003), he authorized and approved the backdated stock option grants at issue in this case. As a member of the Audit Committee (from 1996 to present), Defendant O'Neill also approved the Corporation's materially false and misleading financial disclosures, as alleged herein. As a current Board member, Defendant O'Neill approved the Stock Option Buyout for Defendant Rich. O'Neill has appeared in this action.

27. Defendant Frank A. Rossi ("Rossi") has served as a Director of the Corporation since 1994. As a member of the Board of Directors, the Compensation Committee (from 1998 to 2003) and the Special Compensation Committee (from 1998 to 2003), he authorized and approved the backdated stock option grants at issue in this case. As a member of the Audit Committee (1996 to present), Defendant Rossi also approved the Corporation's materially false and misleading financial disclosures, as alleged herein. As a current Board member, Defendant Rossi approved the Stock Option Buyout for Defendant Rich. Rossi has appeared in this action.

28. Defendant Dennis McCuistion ("McCuistion") has served as a Director of the Corporation since 2003. Defendant McCuistion is currently a member of the Board of Directors and approved the Stock Option Buyout for Defendant Rich. McCuistion has appeared in this action.

29. Defendant J. Livingston Kosberg ("Kosberg") has been a Director of the Corporation since 2003. Defendant Kosberg is currently a member of the Board of Directors, the Compensation Committee (2004 to present) and the Audit Committee (2004 to present). As a current Board member, Defendant Kosberg approved the Stock Option Buyout for Defendant Rich. Kosberg has appeared in this action.

30. Defendants O'Neill, Kosberg, Deason, King, Rossi and McCuistion are referred to in this Petition collectively as the "Grantor and Buyout Approval Director Defendants."

31. Defendant Clifford M. Kendall ("Kendall") served as a Director of the Corporation from 1997 to 2003. As a member of the Board of Directors, he authorized and approved the backdated stock option grants at issue in this case. As a member of the Audit Committee from 1998 to 2003, Defendant Kendall also approved the Corporation's materially false and misleading financial disclosures, as alleged herein. Kendall has appeared in this action.

32. Defendant David W. Black ("Black") served as a director of the Corporation from 1995 to 2000. Black served as an Executive Vice President, Secretary and General Counsel of the Corporation from May 1995 to 2000. As an executive and member of the Board of Directors, he authorized, approved and received the backdated stock option grants at issue in this case. In particular, Black received stock option grants to purchase 56,000 shares during the relevant period. Black has appeared in this action.

33. Defendant Henry Hortenstine ("Hortenstine") served as a Director of the Corporation from 1996 to 2003. Hortenstine served as an Executive Vice President of the Corporation from March 2001 to 2003. As an executive and member of the Board of Directors, he authorized, approved and received the backdated stock option grants at issue in this case. During his employment at ACS, Hortenstine earned as much as $300,000 annually and received

annual bonuses up to as much as $450,000. However, a significant portion of his compensation was from stock option grants. Indeed, Defendant Hortenstine received stock option grants to purchase approximately 290,000 shares during this time. Hortenstine has appeared in this action.

34. Defendant Peter A. Bracken ("Bracken") served as a Director of the Corporation from 1997 to 2003. Bracken served as an Executive Vice President of the Corporation from December 1997 to July 1999. Until June 2001, Defendant Bracken served as Vice Chairman of ACS Government Services, Inc. As an executive and member of the Board of Directors, he authorized, approved and received the backdated stock option grants at issue in this case. In particular, Bracken received stock option grants to purchase 200,000 shares during the relevant period. Bracken has appeared in this action.

35. Defendant William L. Deckelman, Jr. ("Deckelman") served as a director of the Corporation from 2000 to 2003. Deckelman served as an Executive Vice President, Corporate Secretary and General Counsel of the Corporation from March 2000 to 2003. As an executive and member of the Board of Directors, he authorized and approved the backdated stock option grants at issue in this case. In particular, Deckelman received stock option grants to purchase approximately 40,000 shares during the relevant period. Deckelman has appeared in this action.

36. Defendants O'Neill, Rossi, Kendall, Kosberg, McCuistion, Deckelman, Hortenstine, Bracken and Black are referred to collectively in this Petition as the "Grantor Director Defendants."

37. The Grantee Defendants, the Grantor and Buyout Approval Director Defendants and the Grantor Director Defendants are referred to collectively herein as the "Individual Defendants."

JURISDICTION AND VENUE

38. This Court has jurisdiction over this action because: (1) each Defendant is either a corporation that conducts business in and maintains operations in this County, or is an individual who has sufficient minimum contacts with Texas so as to render the exercise of jurisdiction by the Texas courts permissible under traditional notions of fair play and substantial justice; (2) Plaintiffs' causes of action arise from Defendants' conduct in the State of Texas; (3) the facts giving rise to this action occurred, in whole or in part, within the State of Texas; and (4) the damages sought by Lead Plaintiffs herein are greatly in excess of the minimal jurisdictional limits of this Court.

39. Venue is proper in this Court pursuant to TEX. CIV. PRAC. & REM. CODE § 15.002(a)(1) because a substantial portion of the transactions and wrongs complained of herein, including the Individual Defendants' primary participation in the wrongful acts detailed herein, occurred in Dallas County. Venue is also proper in this Court pursuant to TEX. CIV. PRAC. & REM. CODE§ 15.002(a)(3) because nominal defendant ACS's principal office is located in Dallas County and one or more of the Individual Defendants either resides in or maintains executive offices in Dallas County. In addition, venue against all remaining Defendants is proper in this Court pursuant to TEX. CIV. PRAC. & REM. CODE§15.005, because: (1) venue in Dallas County is proper to at least one Defendant and (2) Plaintiffs' claims against the remaining Defendants arise out of the same series of transactions, acts and/or occurrences.

OBLIGATIONS AND DUTIES OF THE DEFENDANTS

40. By reason of their positions as directors, officers and/or fiduciaries of ACS, and because of their ability to control the business, corporate and financial affairs of ACS, each of the Individual Defendants owed ACS the duty to exercise due care and diligence in the

management and administration of the affairs of the Corporation, including the administration of the affairs of the Corporation's stock option plan, and in the use and preservation of its property and assets, and owed the duty of loyalty, including full and candid disclosure of all material facts related thereto. Further, the Individual Defendants owed a duty to ACS to ensure that ACS operated in compliance with all applicable federal and state laws, rules and regulations; and that ACS not engage in any unsound or illegal business practices. The conduct of the Individual Defendants complained of herein involves knowing and culpable violations of their obligations as directors of ACS, and the absence of good faith on their part, and a reckless disregard for their duties to the Corporation and its shareholders, which they were aware or should have been aware posed a risk of serious injury to ACS. The conduct of ACS's officers and directors who engaged in the backdating of option grants was ratified by the ACS Board and further ratified by the ACS Board's failure to take any timely action against them.

41. To discharge these duties, the Individual Defendants were required to exercise reasonable and prudent supervision over the management, policies, practices, controls and financial and corporate affairs of ACS. By virtue of this obligation of ordinary care and diligence, the Individual Defendants were required, among other things, to:

a. Manage, conduct, supervise, and direct the employees, businesses and affairs of ACS, in accordance with laws, rules and regulations, and the charter and by-laws of ACS;

b. Manage and supervise the administration of ACS's stock option plan in a manner consistent with the plan's objective, that is, to provide incentives to employees and directors to work in the best interests of the Corporation and its shareholders;

c. Neither violate nor knowingly or recklessly permit any officer, director or employee of ACS to violate applicable laws, rules and regulations and to exercise reasonable control and supervision over such officers and employees;

d. Ensure the prudence and soundness of policies and practices undertaken or proposed to be undertaken by ACS;

e. Remain informed as to how ACS was, in fact, operating, and upon receiving notice or information of imprudent or unsound practices, to make reasonable investigation in connection therewith and to take steps to correct that condition or practice, including, but not limited to, maintaining and implementing an adequate system of financial controls to gather and report information internally, to allow the Individual Defendants to perform their oversight function properly to prevent the use of non-public corporate information for personal profit;

f. Supervise the preparation, filing and/or dissemination of any SEC filing, press releases, audits, reports or other information disseminated by ACS and to examine and evaluate any reports of examinations or investigations concerning the practices, products or conduct of officers of ACS and to make full and accurate disclosure of all material facts, concerning inter alia, each of the subjects and duties set forth above; and

g. Preserve and enhance ACS's reputation as befits a public corporation and to maintain public trust and confidence in ACS as a prudently managed institution fully capable of meeting its duties and obligations.

42. The Individual Defendants, particularly the members of the Audit Committee, were responsible for maintaining and establishing adequate internal accounting controls for the Corporation and ensuring that the Corporation's financial statements were based on accurate financial information. According to GAAP, to accomplish the objectives of accurately recording, processing, summarizing and reporting financial data, a corporation must establish an internal accounting control structure. Among other things, the Individual Defendants were required to:

a. Make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and

b. Devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that:

(i) Transactions are executed in accordance with management's general or specific authorization;

(ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP.

43. ACS's Audit Committee Charter provides that the Audit Committee shall, among other things,

a. Review the Corporation's annual financial statements and any reports or other financial information submitted to any government body, or the public, including any certification, report, opinion, or review rendered by the independent accountants. This review is to encompass significant transactions not a normal part of the Corporation's operations, changes, if any, during the year in the Corporation's accounting principles or their application and significant adjustments proposed by the independent public accountants;

b. Review the regular internal reports to management prepared by any internal auditing department and management's response;

c. Discuss with the independent public accountants the quality of the Corporation's financial and accounting personnel and any relevant recommendation that the independent public accountants may have, including a consideration of the improvement of internal financial controls and a review of accounting policies and management reporting systems;

d. Discuss with the independent public accountants the annual reported earnings prior to the release thereof to the public (i.e., the quarterly reported earnings may be released to the public irrespective of whether the Audit Committee has discussed same with the independent public accountants), and review the quarterly and annual financial statements prior to submission to any government body or to the public; and

e. In consultation with the independent accountants and any internal auditors, review the integrity of the organization's financial reporting processes, both internal and external.

44. The Individual Defendants, in breach of their fiduciary duties, authorized, caused, and/or permitted ACS to abandon valuable corporate assets through the backdating of employee

stock options, which not only served no legitimate corporate purpose but was also wasteful; and permitted and/or caused ACS to conduct its business in an imprudent and unlawful manner by engaging in the backdating scheme that permitted certain insiders to misappropriate and misuse confidential non-public corporate information for their personal profit.

45. The Individual Defendants participated in the wrongdoing complained of herein in order to improperly benefit themselves through the option grant backdating scheme alleged herein. Such participation involved, among other things, planning and creating (or causing to be planned and created), proposing (or causing the proposal of) and authorizing, approving and acquiescing in the conduct complained of herein.

46. As officers and/or directors of ACS, the Individual Defendants were themselves directly responsible for authorizing or permitting the authorization of improper stock option manipulation as alleged herein. Each of them had knowledge of, actively participated in and approved of the wrongdoings alleged or abdicated his responsibilities with respect to these wrongdoings. The alleged acts of wrongdoing subjected ACS to unreasonable risks without any reward to the Corporation or its shareholders.

47. By reason of their membership on the ACS Board of Directors and/or positions as executive officers of the Corporation, the Individual Defendants were each controlling persons of ACS and had the power and influence to cause, and did cause, the Corporation to engage in and/or permit the conduct complained of herein.

THE OPTION BACKDATING SCHEME

48. Defendants Rich, King and Deason, among others set forth below, received grants of stock options from the Corporation on unusually favorable and statistically improbable dates during at least the period of 1995 through 2002. These stock options were claimed to have been

granted at or near the stock's annual or quarterly low, and/or immediately before a substantial run-up in the stock price. Analysis of this seemingly fortuitous pattern of stock option grants in connection with Defendants' recent admissions reveals that the pattern could not have resulted innocently. Rather, the only statistical explanation consistent with Defendants recent disclosures is that these stock options grants were, in fact, ***backdated*** to allow the options' recipients to enjoy the largest possible returns at the expense of the Corporation.

49. All executive compensation stock options to the Grantee Defendants during the relevant period were issued pursuant to the ACS Investors, Inc. 1988 Stock Option Plan, as amended and restated May 24, 1994, and the Affiliated Computer Systems, Inc. 1997 Stock Incentive Plan, approved by the Corporation's shareholders on December 16, 1997, (collectively, the "Plan"). At all relevant times, stock option grants to the Grantee Defendants were required to carry a strike price not less than the publicly traded closing price of the stock <u>on the date of grant</u>. The Plan specifically provides that:

> The per Share exercise price for the Shares to be issued pursuant to exercise of an Option shall be such price as is determined by the Board, but shall be subject to the following:
>
> (i) In the case of an Incentive Stock Option
>
> (A) granted to an Employee who, at the time of the grant of such Incentive Stock Option, owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Corporation or any Parent or Subsidiary, the per Share exercise price shall be ***no less than 110% of the Fair Market Value per Share on the date of grant***.
>
> (B) granted to any other Employee, the per Share exercise price shall be ***no less than 100% of the Fair Market Value per Share on the date of grant***.

(emphasis added). In turn, the Plan states that the "Fair Market Value" shall be the "closing sales price for such stock . . . as reported in the Wall Street Journal" or other reliable source (emphasis added).

50. The Corporation's filings with the SEC indicate that, at all relevant times, Defendants Rich and King each owned stock representing less than 10% of the voting power of all classes of ACS stock. Incentive options granted to Rich and King were, therefore, required to carry exercise prices not less than 100% of the full per share closing price on the date of grant. The Corporation's SEC's filings likewise indicate that, at all relevant times, Defendant Deason was the beneficial owner of ACS equity securities representing in excess of 10% of the voting power of all classes of ACS stock. Incentive options granted to Deason were, therefore, required to carry exercise prices not less than 110% of the full per share closing price on the date of grant.

51. Given Defendants' recent admissions, it is now statistically evident that Defendants did not comply with the requirement that stock options granted to Deason, Rich and King be priced on the date of grant or issuance. The multi-year pattern of stock option grants on dates with highly favorable exercise prices—invariably at historic stock price lows or right before a large stock price run-up—demonstrates that the purported grant dates of the stock options were not the actual dates on which the options grants were made. Rather, the pattern, in connection with Defendants' recent disclosures, demonstrates that grants to executives were repeatedly backdated to dates with exceedingly low stock prices.

52. The results of a statistical study conducted by Lead Plaintiffs, which analyzed, among other factors, the stock price returns during the twenty day period immediately preceding and following the purported grant date, demonstrates (as set forth herein) that there is compelling evidence, consistent with Defendants' recent disclosures, that backdating occurred. Specifically,

on average the stock price returns were abnormally negative, an average of -10.62%, in the twenty days before the purported grant dates, and abnormally positive, an average of 24.77%, in the twenty after the purported grant dates. These abnormal and favorable returns, set forth in further detail below, in conjunction with Defendants' recent admissions, are strong evidence of backdating and could not have occurred by chance or "blind luck."

53. Similarly, statistical analysis conducted by *The Wall Street Journal* after ACS's March 6, 2006 disclosure demonstrates that it is virtually impossible that the pattern of grants to Defendants Rich occurred randomly. On March 18, 2006, *The Wall Street Journal* concluded that the odds of the pattern of grants received by Defendant Rich occurring by chance were 1 in 300 billion.[1] In comparison, the article noted that the "odds of winning the multi-state Powerball lottery with a $1 ticket are one in 146 million." Only by backdating the stock option grants—reviewing the share price in hindsight and retrospectively identifying the low points—could Defendants have achieved this highly lucrative pattern of grants. The practice is the equivalent of placing a wager on a horse race after the race has already been won and the identity of the winning horse is known to all.

[1] The methodology employed in the analysis was described in a companion article of the same date.

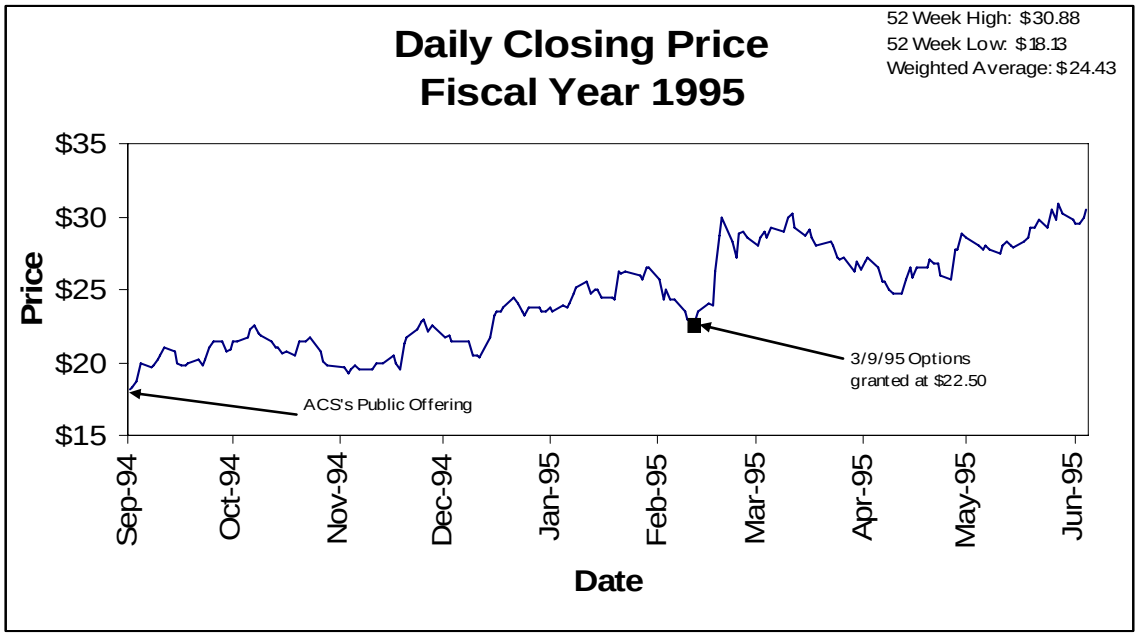
54. From 1995 to 2002, the ACS Board of Directors granted ACS stock options to certain of the Individual Defendants, among others, as follows:

Executive	Purported Date of Grant	Exercise Price	Number of Options
Rich	March 9, 1995	$22.50	111,025
	March 8, 1996	$33.75	100,000
	April 7, 1997	$21.13	60,000
	October 8, 1998	$23.06	250,000
	July 11, 2000	$32.88	100,000
	July 23, 2002	$35.75	400,000
King	April 7, 1997	$21.13	40,000
	May 18, 1998	$31.88	40,000
	October 8, 1998	$23.06	50,000
	September 13,1999	$39.00	50,000
	July 11, 2000	$32.88	50,000
	March 21, 2001	$59.05	100,000
	July 23, 2002	$35.75	200,000
Deason	October 8, 1998	$23.06	75,000
	July 23, 2002	$35.75	600,000
Edwards	April 7, 1997	$21.13	15,000
	May 18, 1998	$31.88	25,000
	September 13, 1999	$39.00	25,000
	July 11, 2000	$32.88	15,000
	March 21, 2001	$59.05	50,000
	July 23, 2002	$35.75	50,000
Brophy	July 23, 2002	$35.75	75,000
Rexford	October 8, 1998	$23.06	25,000
	September 13, 1999	$39.00	50,000
	July 11, 2000	$32.88	15,000
	July 23, 2002	$35.75	50,000
Hortenstine	March 10, 1995	$20.25	51,985
	March 8, 1996	$33.75	60,000
	April 7, 1997	$21.13	40,000
	May 18, 1998	$31.88	40,000
	September 13, 1999	$39.00	100,000

Executive	Purported Date of Grant	Exercise Price	Number of Options
Blodgett	July 11, 2000	$32.88	50,000
	July 23, 2002	$35.75	75,000
Bracken	December 16, 1997	$24.00	200,000
Black	April 7, 1997	$21.13	30,000
	May 18, 1998	$31.88	26,000
Deckelman	July 11, 2000	$32.88	15,000
	March 21, 2001	$59.05	25,000

55. A review of the specific option grants received by these Defendants during this period demonstrates the improper backdating which is consistent with Defendants' recent disclosures:

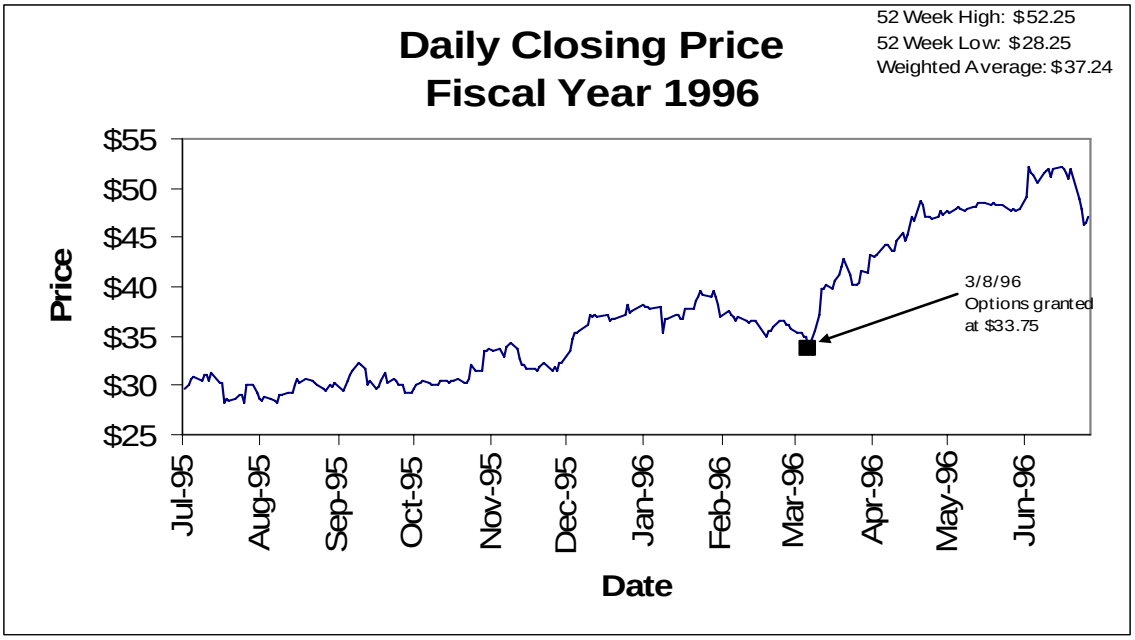
a. During ACS's fiscal year 1995, Defendants Rich and Hortenstine each received a grant, purportedly on March 9, 1995, of an option to purchase ACS shares at an exercise price of $22.50—the lowest price for the month. The options gave Rich the right to purchase 111,025 shares, and Hortenstine the right to purchase 51,985 shares. As demonstrated in the chart below, these purported grants occurred right after a sharp decline and right before a sharp increase in ACS's stock price. This grant date fell at the lowest price for ACS stock for the twenty days preceding the purported option grant and for the twenty days following the purported option grant. Indeed, the stock price increased by $7.75 in the twenty days following the grant date, representing a 34.44% return. A graph demonstrating the timing of these grants is set forth below:



As a result of backdating these grants, Defendants Rich and Hortenstine obtained instant and unlawful multi-million dollar profits during 1995.

b. During ACS's fiscal year 1996, Defendants Rich and Hortenstine each received a grant, purportedly on March 8, 1996, of an option to purchase ACS shares at an exercise price of $33.75—the lowest price for the month as well as for the fiscal quarter. The options gave Rich the right to purchase 100,000 shares, and Hortenstine the right to purchase 60,000 shares. As demonstrated in the chart below, these purported grants occurred right before a sharp increase in ACS's stock price. Indeed, its stock price was $9 higher just two weeks later. This March 8, 1996 grant date also fell at the lowest price for ACS stock for the twenty days preceding the purported option grant and for the twenty days following the purported option grant. On April 8, 1996, the twentieth day following this option grant, the stock price had increased to $44.25, representing a 31.2% cumulative return. This grant was also very close to the annual low as ACS stock traded

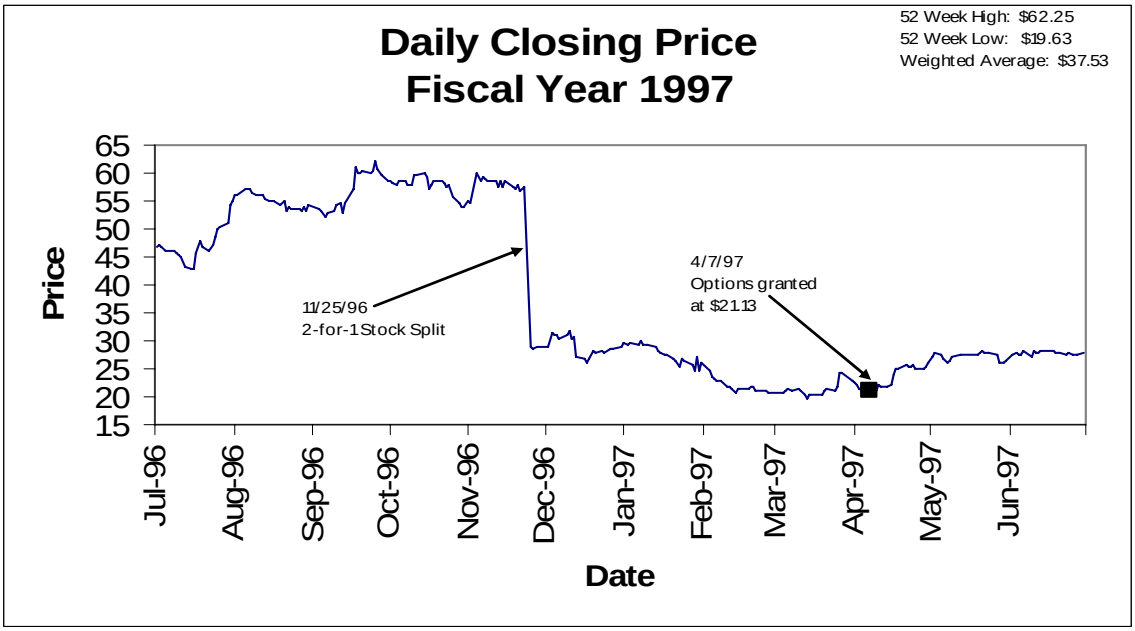
in the range of $28.25 to $52.25 during fiscal year 1996. A graph demonstrating the timing of these grants is set forth below:



As a result of backdating these grants, Defendants Rich and Hortenstine obtained instant and unlawful multi-million dollar profits during 1996.

c. During ACS's fiscal year 1997, the public trading price of ACS common stock ranged from $19.63 to $62.25 per share, with an average closing price of $37.53. Defendants Rich, King, Hortenstine, Edwards and Black each received a grant, purportedly on April 7, 1997, of an option to purchase ACS shares at an exercise price of $21.13—the lowest price for the month as well as for the fiscal quarter. The options gave Rich the right to purchase 60,000 shares, King the right to purchase 40,000 shares, Hortenstine the right to purchase 40,000 shares, Edwards the right to purchase 15,000 shares and Black the right to purchase 30,000 shares. ACS's stock price increased steadily after this purported option grant and was almost $5 per share higher only two weeks later. This April 7, 1997 grant date was close to the lowest price for ACS stock for

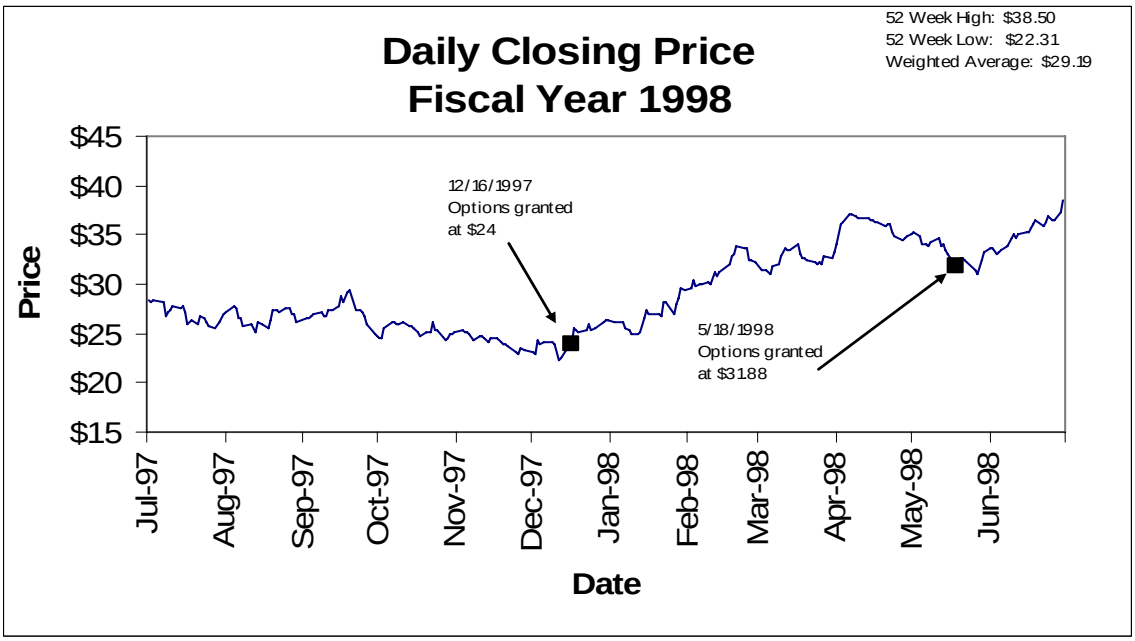
the twenty days preceding the purported option grant and was the lowest price for the twenty days following the purported option grant. Indeed, on May 5, 1997, the twentieth day following this option grant, the stock price had increased to $27.50, representing a 30.2% return. A graph demonstrating the timing of these grants is set forth below:



As a result of backdating these grants, Defendants Rich, King, Hortenstine, Edwards and Black obtained instant and unlawful multi-million dollar profits during 1997.

d. During ACS's fiscal year 1998, Defendant Bracken received a grant, purportedly on December 16, 1997, of an option to purchase 200,000 shares at $24.00 per share. As demonstrated in the chart below, this grant occurred right near the lowest price of ACS stock for the year. Further, immediately after this December 16, 1997 purported grant date, ACS stock began to sharply rise, increasing to $26.31, or by almost 10%, just ten days later. In addition, Defendants King, Hortenstine, Edwards and Black each received a grant, purportedly on May 18, 1998, at an exercise price of $31.88. The options gave King and Hortenstine both the right to purchase 40,000 shares, and gave Edwards the

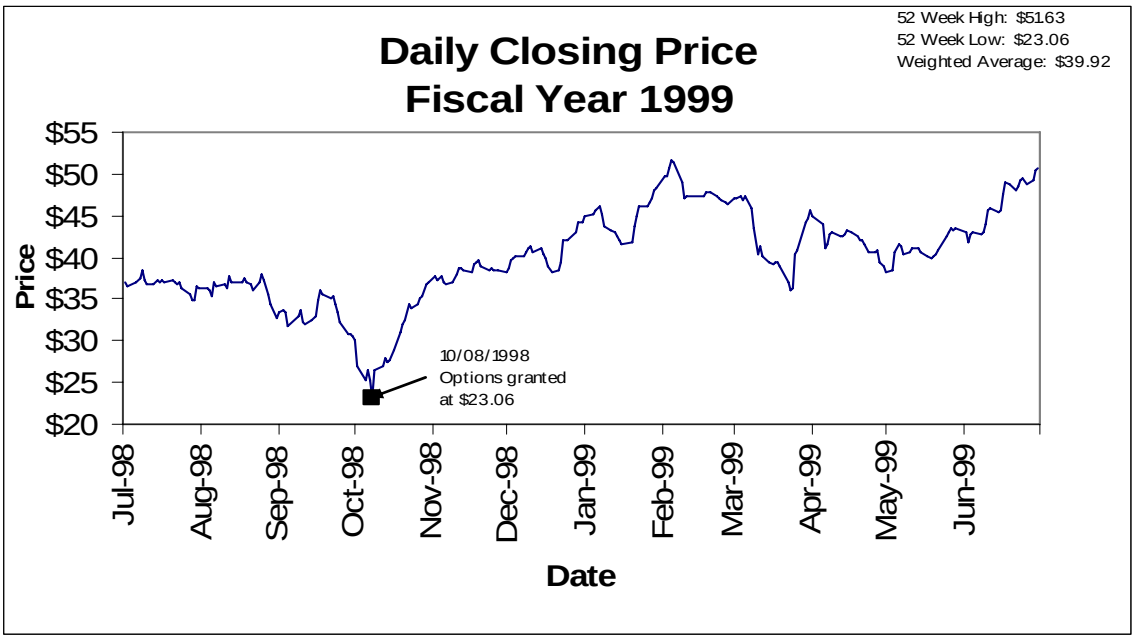
right to purchase 25,000 shares and Black the right to purchase 26,000 shares. As demonstrated in the graph below, this grant occurred right before a sharp rise in the price of ACS common stock. The stock price rose from the grant date price of $31.88 to $35.45 during the twenty days after the grant option, representing a 10.59% return. By the end of the month, the stock price had risen even further, closing at $38.50. A graph demonstrating the timing of these grants is set forth below:



As a result of backdating these grants, the Defendants King, Hortenstine, Edwards, Black and Bracken obtained instant and unlawful multi-million dollar profits during fiscal 1998.

e. During ACS's 1999 fiscal year, the public trading price of ACS common stock ranged from $23.06 to $51.65 per share, with an average closing price of $34.32. Defendants Rich, King, Deason and Rexford each received a grant, purportedly on October 8, 1998, of an option to purchase ACS shares at an exercise price of $23.06—***the lowest market close for the entire year***. The options gave Rich the right to purchase 250,000 shares, King the right to purchase 50,000 shares, Deason the right to purchase

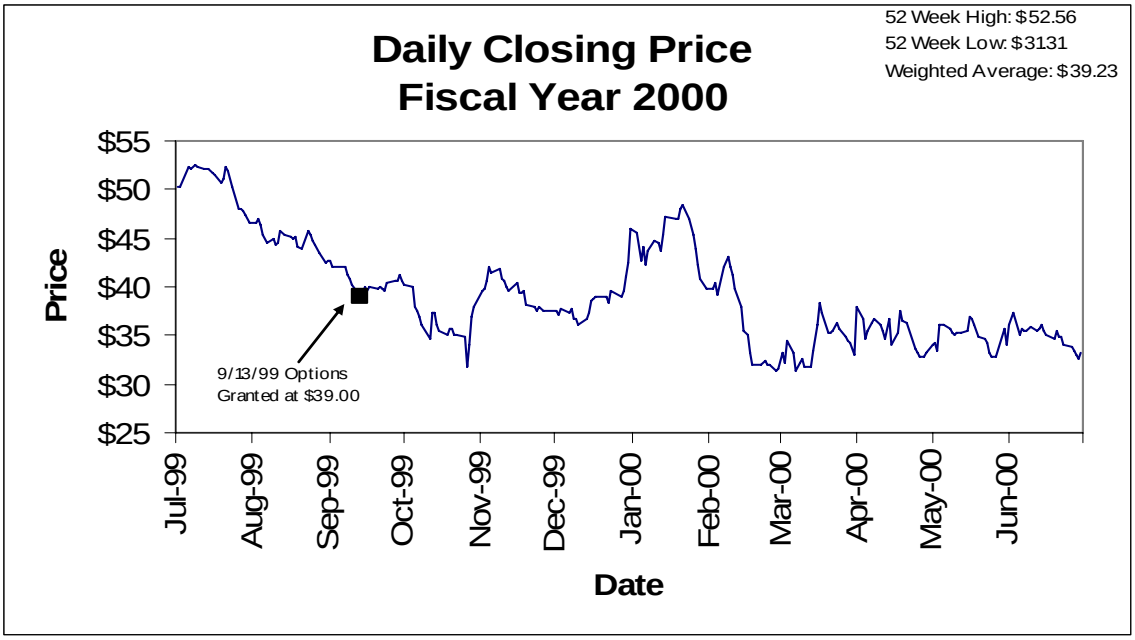
75,000 shares and Rexford the right to purchase 25,000 shares. These purported option grants occurred at the bottom of a steep dip in ACS's stock price. In fact, ACS's stock price had a negative return of more than -28% in the twenty days preceding the purported option grant and, after hitting the October 8, 1998 low point of $23.06, the stock price rose sharply to close at $36.94 twenty days later, representing a +60.16% return. A graph demonstrating the timing of these grants is set forth below:



As a result of backdating these grants, Defendants Rich, King, Deason and Rexford obtained instant and unlawful multi-million dollar profits during fiscal 1999.

f. During ACS's 2000 fiscal year, the public trading price of ACS common stock ranged from $31.31 to $52.56 per share, with an average closing price of $39.23. Defendants King, Hortenstine, Edwards and Rexford each received a grant, purportedly on September 13, 1999, of an option to purchase ACS shares at an exercise price of $39.00—the lowest market close for the fiscal quarter and month. The options gave King the right to purchase 50,000 shares, Hortenstine the right to purchase 100,000 shares,

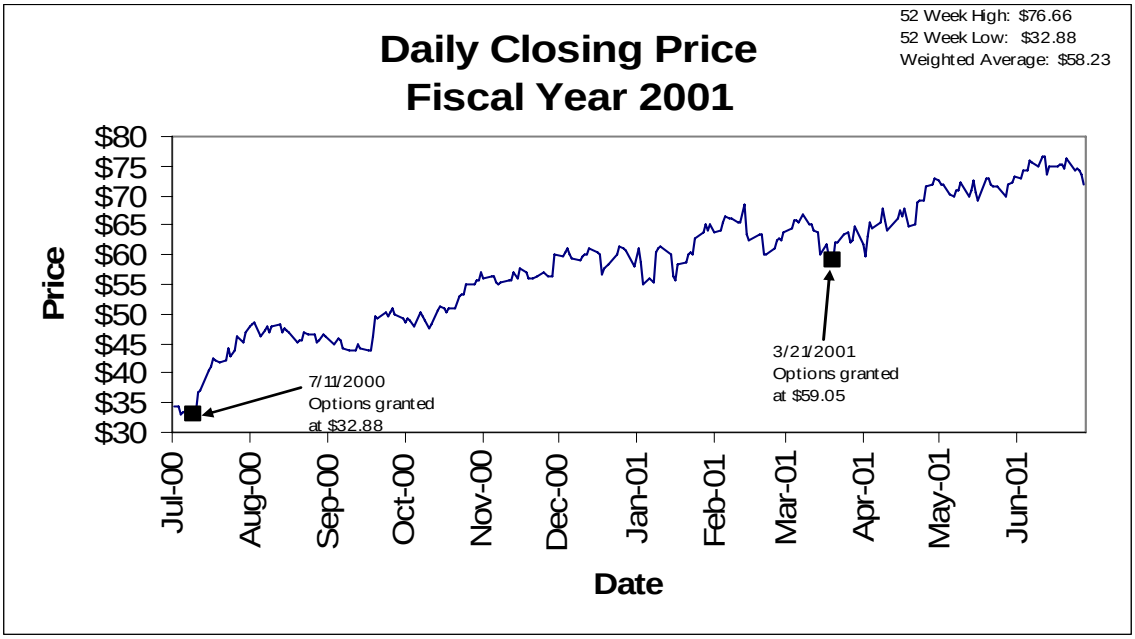
Edwards the right to purchase 25,000 shares and Rexford got 50,000 shares. A graph demonstrating the timing of these grants is set forth below:



As a result of backdating these grants, the Defendants King, Hortenstine, Edwards and Rexford obtained instant and unlawful multi-million dollar profits during fiscal 2000.

g. During ACS's fiscal year 2001, Defendants Rich, King, Deckelman, Blodgett, Edwards and Rexford each received a grant, purportedly on July 11, 2000, at an exercise price of $32.88—***the lowest price for the entire fiscal year***. The options gave Rich the right to purchase 100,000 shares, King the right to purchase 50,000 shares, Deckelman the right to purchase 15,000 shares, Blodgett the right to purchase 50,000, Edwards the right to purchase 15,000 and Rexford the right to purchase 15,000. ACS's stock price increased swiftly after this purported option grant and was more than $11 higher two weeks later. Within twenty days after the purported option grant, the stock price increased to $47.13, a return of more than 43%. Additionally, Defendants King, Deckelman and Edwards each received grants, purportedly on March 21, 2001, of

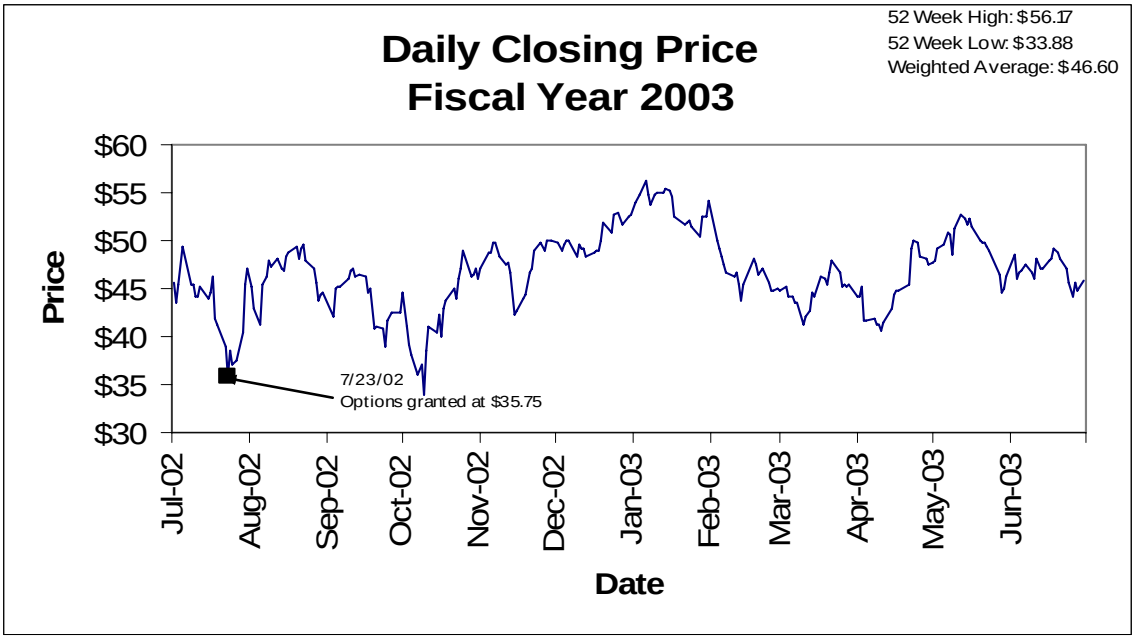
100,000, 25,000 and 50,000 options, respectively, at $59.05—the lowest closing price for the month. By the end of the month, ACS's stock price increased by more than $5.00. A graph demonstrating the timing of these grants is set forth below:



As a result of backdating these grants, Defendants Rich, King, Deckelman, Blodgett, Edwards, and Rexford obtained instant and unlawful multi-million dollar profits during fiscal year 2001.

h. During ACS's fiscal year 2003, the public trading price of ACS common stock ranged from $33.88 to $56.17 with an average closing price of $46.60. Grantee Defendants Rich, King, Deason, Blodgett, Edwards, Brophy and Rexford each received a grant, purportedly on July 23, 2002, of an option to purchase ACS shares at an exercise price of $35.75—the lowest market price for the month and for the fiscal quarter. The options gave Rich the right to purchase 400,000 shares, King the right to purchase 200,000 shares, Deason the right to purchase 600,000 shares, Blodgett the right to purchase 75,000 shares, Edwards the right to purchase 50,000 shares, Brophy the right to

purchase 75,000 and Rexford the right to purchase 50,000. The purported grant occurred at a sharp dip in ACS's stock price. Indeed, during the twenty days preceding the purported grant, ACS's stock price declined by -28.34% and during the twenty days following the purported grant, it increased by 34.69%. ACS's stock price was $12 higher twenty days later. A graph demonstrating the timing of these grants is set forth below:



As a result of backdating these grants, the Grantee Defendants obtained instant and unlawful multi-million dollar profits during 2002.

56. In all, between 1995 and 2002, the Grantee Defendants personally obtained millions of dollars in unjustified and unlawfully obtained compensation as a result of these backdated stock options.

57. The Compensation Committee and/or the Special Compensation Committee were at all relevant times responsible for administering the Plan and the stock option grants issued to

the Grantee Defendants under the Plan.[2] The Compensation Committee and Special Compensation Committee Reports on Executive Compensation (the "Report") included in each year's proxy statement invariably make clear that these committees, and not some other delegate, were responsible for administering stock option compensation and for deciding the terms of the options, including their exercise prices. For example, ACS's proxy statement, filed October 10, 1999 states that "ACS's 1997 Stock Incentive Plan ("Stock Option Plan") is administered by the Compensation Committee and, with respect to Darwin Deason and Jeffrey A. Rich, the Special Committee of ACS's Board of Directors." The Report also states that the "Compensation Committee and the Special Compensation Committee have determined . . . the terms of the grant, ***including exercise price, exercise date, and any restriction on exercise***." (emphasis added). Each Report during the relevant period contains similar statements and was signed by the members of the Compensation Committee and the Special Compensation Committee.

58. In a May 10, 2006 SEC filing, ACS disclosed that, at all times prior to 2003, its practice for approving its stock option grants to the Corporation's senior executives was for Deason to personally engage in individual telephonic conversations with the members of the applicable compensation committee to request their approval for stock option grants to ACS's senior executives.

[2] The Special Compensation Committee was created in August 1996 and was, throughout its existence, solely responsible for compensation, including stock option compensation, to employees earning in excess of $1 million annually. Throughout the relevant period, the Compensation Committee continued to be responsible for compensation, including stock option compensation, to employees earning less than $1 million annually. At all relevant times, the Special Compensation Committee was responsible for administering stock option compensation to Defendant Deason. During the relevant period, responsibility for stock option compensation to Defendants Rich and King shifted from the Compensation Committee to the Special Compensation Committee due to increases in these Defendants' annual compensation. Specifically, the Compensation Committee was responsible for Defendant Rich's stock option compensation until ACS's fiscal year 1999, during which year the Special Compensation Committee assumed the responsibility. The Compensation Committee was responsible for Defendant King's stock option compensation until ACS's fiscal year 2000, during which year the Special Compensation Committee assumed the responsibility. At all relevant times, the Special Compensation Committee and Compensation Committee had identical membership, except that Defendant Deason was a member of the Compensation Committee, but not the Special Compensation Committee. The Special Compensation Committee was consolidated into the Compensation Committee as of September 12, 2003, after the stock option grants discussed herein occurred.

59. Accordingly, the members of the Compensation Committee and the Special Compensation Committee reviewed, approved, and had direct personal knowledge of the stock option grants to the Grantee Defendants described above. But for the knowing complicity of the Grantor Director Defendants, and in particular the members of the Compensation Committee, the backdating of stock option grants to the Grantee Defendants could not, and would not, have occurred. Only the abdication of their duties can explain the Grantor Director Defendants' year-after-year approval of backdated stock options to executives on terms that were highly disadvantageous to the Corporation.

60. Indeed, ACS has now admitted that it issued executive stock options with "effective dates" that ***predated*** the formal approval of the option grants. In a May 10, 2006 SEC filing, the Corporation stated that it had a historical practice of granting stock options "whereby its compensation committee or special compensation committee, as applicable, would approve stock option grants through unanimous written consents with specified effective dates that generally ***preceded*** the date on which the consents had been executed by all members of the applicable compensation committee." (emphasis added). This admission, together with Lead Plaintiffs' statistical evidence (demonstrating the abnormally high and favorable stock price returns surrounding the option dates), is compelling evidence of backdating. Similarly, *The Wall Street Journal*, recently reported that the likelihood of ACS's seven year pattern of stock option grants "occurring at random [i]s statistically infinitesimal." Indeed, Defendants' recent admission and the statistical analyses conducted by Lead Plaintiffs and *The Wall Street Journal* leave no doubt that the pattern of the option grants to the Grantee Defendants could have only occurred by backdating.

61. The backdating of stock option grants and the issuance of these options in the amounts awarded to the Grantee Defendants caused, and continues to cause, substantial harm to the Corporation. Backdating stock option grants represents a direct and continuing waste of valuable corporate assets. ACS is the counterparty to the options contracts with the Grantee Defendants, and the proceeds obtained, and yet to be obtained, by these Grantee Defendants through exercising their backdated stock options are therefore siphoned, on a dollar for dollar basis, directly from ACS. In effect, the backdated grants gave the Grantee Defendants an option to purchase ACS shares directly from the Corporation at an unfair and improperly low price, with the Corporation making up the difference.

62. The practice of backdating stock options also substantially harmed, and continues to harm, ACS by virtue of the fact that the practice is unlawful, deceitful, and caused the Corporation to publicly misreport its financial data. Pursuant to APB 25, the applicable GAAP provision at the time of the options grants set forth herein, if the stock's market price on the date of grant exceeds the exercise price of the options, the corporation must recognize the difference as an expense, which directly impacts earnings. ACS did not properly expense this additional compensation to the Grantee Defendants even though the backdated stock options at issue in this action were priced below the fair market value of the Corporation's stock at the date of grant and issuance. Thus, ACS, with the knowledge and participation of the Individual Defendants, violated GAAP.

63. As a result, ACS is now under investigation by both the SEC and the Department of Justice in connection with its executive compensation stock option practices, and the Corporation must now expend valuable resources contending with these and possibly other investigations, all made necessary by the manipulation of the timing of options grants to grossly

enrich the Grantee Defendants. On March 6, 2006, the Corporation announced that it "had received notice from the Securities Exchange Commission . . . that it is conducting an informal investigation into certain stock option grants made by the Corporation from October 1998 through March 2005." Then, on May 17, 2006, ACS announced that it had "received a grand jury document subpoena issued by the U.S. District Court for the Southern District of New York requesting that the Corporation produce documents relating to the granting of stock options from 1998 through the present." Revelation of the backdating scandal has also inflicted substantial harm to the Corporation's reputation and reduced its market capitalization by roughly $14.7 billion—a decline of approximately 18%.

64. Pursuant to Section 162(m) of the Tax Code, 26 U.S.C. § 162(m) ("Section 162(m)"), compensation in excess of $1 million per year, including gains on stock options, paid to a corporation's five most highly-compensated officers is tax deductible only if: (i) the compensation is payable solely on account of the attainment of one or more performance goals; (ii) the performance goals are determined by a compensation committee comprised solely of two or more outside directors, (iii) the material terms under which the compensation is to be paid, including the performance goals, are disclosed to shareholders and approved by a majority of the vote in a separate shareholder vote before the payment of the compensation, and (iv) before any payment of such compensation, the compensation committee certifies that the performance goals and any other material terms were in fact satisfied.

65. The option backdating likely caused ACS to violate the Internal Revenue Code. Upon information and belief, compensation from exercised stock options issued under the backdating scheme that was previously deducted, was in fact, nondeductible under Section 162(m) of the Internal Revenue Code. Accordingly, in its Form 10-Q, filed on May 15, 2006,

the Corporation disclosed that "we are also evaluating whether any previously deducted compensation related to exercised stock options may be non-deductible under Section 162(m) because the backdated options violated the terms of the Plan and were not payable solely on account of the attainment of one or more of the performance goals. In that event, we may be required to pay additional taxes and interest associated with previous compensation deductions in connection with such exercised stock options and we lose additional deductions in future periods."

66. Backdating stock options also severely undermines the already grossly excessive incentives that purportedly justified the use of stock options to compensate ACS's management. Stock option compensation is intended to encourage management to maximize the return to shareholders by aligning the interests of management with those of shareholders. As described in ACS's proxy statements during the relevant period, "[t]he objective of ACS's executive compensation program is to . . . closely align [executives'] financial interests with both the short and long-term interests of ACS's stockholders." In contrast, by permitting the Grantee Defendants to receive stock option grants backdated to correspond to low points in the stock price, the Individual Defendants created an absurd incentive for management to engineer dips and volatile swings in the stock price.

67. Issuing backdated stock options is unlawful, *ultra vires* and outside the scope of legitimate and permissible business conduct. The practice is inherently manipulative and involves a substantial likelihood that business records were intentionally falsified. Issuing backdated stock options is, therefore, not a form of business conduct and is not protected by the business judgment rule.

68. In addition to violating their fiduciary duties by authorizing, approving and/or receiving backdated option grants, the Grantor and Buyout Approval Director Defendants also demonstrated their lack of concern and care for ACS shareholders by agreeing to purchase all of Defendant Rich's vested options before disclosure of his resignation was made public. Specifically, on September 29, 2005, unbeknownst to the Corporation's shareholders, Defendant Rich resigned from his positions as Chief Executive Officer and director of ACS. One day later, on September 30, 2005, ACS and Rich negotiated and entered into an agreement, approved by the Board of Directors, to retain Rich as an employee of the Corporation until June 30, 2006. In exchange for continuing his employment, Rich received: (i) a $68,333.33 monthly salary; (ii) a $4,100,000 cash payment; (iii) medical and life insurance benefits; and (iv) the Corporation's purchase of Rich's vested ACS stock options at a price equal to the closing price of ACS stock on September 29, 2005, less the exercise price of the stock options (defined above as the "Stock Option Buyout").

69. Rich and the Corporation knew that news of Rich's resignation would likely cause ACS's stock price to decline, thereby decreasing the value of Rich's stock options. Indeed, as set forth in *The Dallas Morning News*, Rich was widely credited with "guiding the Company to new heights, transforming it into a leader in the field of business process outsourcing." Under his direction, ACS grew to a company with more than $4 billion in annual revenue and with operations in nearly 100 countries. Rich was viewed as ACS's "rainmaker," according to Bank of America Securities analyst Abhishek Gami, and as being "the one who set the vision for ACS in the outsourcing marketplace," according to Peter Allen, partner and managing director for global practices at TPI, Inc., an outsourcing advisory firm. In short, Rich was publicly recognized as indispensable and critical to the Company's profitability and success.

70. Under these circumstances, Rich and the other Individual Defendants knew that the announcement of his resignation would not be viewed positively and would, therefore, in all probability, negatively impact the market price of ACS common stock. To avoid this decrease, ACS did not immediately disclose that Rich had resigned. Not until four days later, on October 3, 2005, did ACS publicly announce that Rich had resigned and that it had entered into the Stock Option Buyout. The market price of ACS common stock reacted exactly as Rich and the Corporation had expected, falling 7%, from $54.60 to $50.78, on volume of more than 5.7 million shares. Indeed, his resignation was reported as "surprising" and as "unexpected[]" by the *Dallas Morning News* and *TheStreet.Com*. There was no benefit to the Corporation, but only to Rich, in causing the Corporation to buyout Rich's stock options at a time when Defendants possessed material inside information. By contrast, if Rich had exercised his options and immediately sold his stock knowing about his pending resignation, he would be guilty of insider trading.

71. ACS's failure to immediately disclose Rich's resignation caused the Corporation to pay Rich an extra $2,013,000 for his stock options. Specifically, ACS paid $3.30 more per share for Rich's 610,000 vested stock options on September 29, 2005, than it would have on October 3, 2005, when news of Rich's resignation and the Stock Option Buyout caused the stock price to decline.

72. Even after his departure from the Corporation, Rich continues to be enriched by ACS. Most recently, on June 12, 2006, ACS announced that the Corporation entered into an engagement letter with Defendant Rich's new corporation, Rich Capital, LLC ("Rich Capital"). Pursuant to the terms of the agreement, ACS will pay Rich Capital a $500,000 retainer fee and Rich Capital will act as a non-exclusive financial adviser to perform financial advisory and

investment banking services for the Corporation in connection with proposed acquisition candidates.

DISSEMINATION OF FALSE FINANCIAL STATEMENTS

73. As a result of the improper backdating of stock options, the Corporation, with the knowledge, approval, and participation of each of the Individual Defendants,

a. violated the terms of the Plan;

b. violated GAAP by failing to recognize compensation expenses incurred when the improperly backdated options were granted; and

c. produced and disseminated to ACS shareholders and the market false financial statements that improperly recorded and accounted for the backdated option grants.

74. The Corporation, with the knowledge, approval, and participation of each of the Individual Defendants, disseminated its false financial statements in, *inter alia*, the following Form 10-K filings:

a. Form 10-K for fiscal year ended June 30, 1995, filed with the SEC on September 28, 1995, and signed by defendants King, Deason, Rich, Black, O'Neill, and Rossi;

b. Form 10-K for fiscal year ended June 30, 1996, filed with the SEC on September 30, 1996, and signed by defendants King, Deason, Rich, Black, O'Neill, Rossi, and Hortenstine;

c. Form 10-K for fiscal year ended June 30, 1997, filed with the SEC on September 29, 1997, and signed by defendants King, Deason, Rich, Black, O'Neill, Rossi, and Hortenstine;

d. Form 10-K for fiscal year ended June 30, 1998, filed with the SEC on September 28, 1998, and signed by defendants King, Deason, Rich, Black, O'Neill, Rossi, Hortenstine, Bracken, and Kendall;

e. Form 10-K for fiscal year ended June 30, 1999, filed with the SEC on September 28, 1999, and signed by defendants King, Deason, Rich, Black, O'Neill, Rossi, Hortenstine, Bracken, and Kendall;

f. Form 10-K for fiscal year ended June 30, 2000, filed with the SEC on September 28, 2000, and signed by defendants King, Deason,

Rich, O'Neill, Rossi, Hortenstine, Bracken, Kendall, and Deckelman;

g. Form 10-K for fiscal year ended June 30, 2001, filed with the SEC on August 27, 2001, and signed by defendants King, Deason, Rich, O'Neill, Rossi, Hortenstine, Bracken, Kendall, and Deckelman;

h. Form 10-K for fiscal year ended June 30, 2002, filed with the SEC on September 18, 2002, and signed by defendants King, Deason, Rich, O'Neill, Rossi, Hortenstine, Bracken, Kendall, and Deckelman; and

i. Form 10-K for fiscal year ended June 30, 2003, filed with the SEC on September 17, 2003, and signed by defendants King, Deason, Rich, O'Neill, and Rossi.

75. The financial statements included in the foregoing Form 10-K filings were false because the Corporation, in violation of APB 25, understated compensation expenses it was required to incur when the improperly backdated options were granted, and therefore overstated net income by indeterminate amounts.

DERIVATIVE ACTION ALLEGATIONS

76. Lead Plaintiffs bring this action derivatively on behalf and for the benefit of ACS to redress injuries suffered, and yet to be suffered, by the Corporation as a direct and proximate result of the breaches of fiduciary duty and other legal violations alleged herein. ACS is named as a nominal defendant solely in a derivative capacity.

77. Lead Plaintiffs will adequately and fairly represent the interests of the Corporation and its shareholders in this litigation.

78. Lead Plaintiffs presently own ACS common shares and intend to retain shares in ACS through the duration of the litigation. Lead Plaintiffs owned ACS common stock during the period of wrongdoing that is the subject of the Petition herein.

79. The wrongful acts complained of herein subject, and will persist in subjecting, the Corporation to continuing harm because the adverse consequences of the injurious actions are still in effect.

80. The wrongful actions complained of herein were fraudulently concealed from ACS shareholders.

DEMAND EXCUSED ALLEGATIONS

81. Plaintiff has made no demand on the ACS Board of Directors to institute an action in connection with the wrongs alleged herein. Such a demand would be futile and useless, and therefore is excused.

82. The wrongful acts complained of herein—*i.e.*, the stock option backdating scheme—were self dealing, egregious, outside the scope of the Board of Directors' authority, and served no legitimate business purpose. Such acts were not, nor could they have been, the product of a valid or good faith exercise of business judgment. Such acts were, moreover, *ultra vires*, unlawful and incapable of ratification. Accordingly, the actions complained of herein are not protected by the business judgment rule, and the related requirement of pre-suit demand on the Board of Directors is therefore inapplicable and excused.

83. The Grantor Director Defendants' practice of approving stock options is inconsistent with the Plan as approved by the shareholders of ACS and therefore is unlawful and unauthorized. Thus, the option grants at issue herein are not, nor could they have been, the product of a valid or good faith exercise of business judgment. Indeed, ACS has now admitted that it issued executive stock options with "effective dates" that ***predated*** the formal approval of the option grants. In a May 10, 2006 SEC filing, the Corporation stated that it had a historical practice of granting stock options "whereby its compensation committee or special compensation

committee, as applicable, would approve stock option grants through unanimous written consents with specified effective dates that generally ***preceded*** the date on which the consents had been executed by all members of the applicable compensation committee." (emphasis added). Because the Grantor Director Defendants approved stock option grants only after the fact, they knew, at the very least, that they were making material decisions without adequate information and without adequate deliberation. By approving stock option grants after the fact, the Grantor Director Defendants knowingly permitted backdating and acted with complete disregard for fact that the Corporation, itself, was being harmed. In fact, the Corporation has now further admitted in its May 10, 2006 SEC filing that, for accounting purposes, the measurement date for determining the amount of executive option compensation must be the date of written director consents of the option grants or a valid meeting of the Compensation Committee approving the grants. Because this is necessarily different than the backdating knowingly permitted by Defendants, ACS now expects to record a charge for the additional compensation created by backdating in the range of approximately $40 million.

84. In addition, in this same filing, as well as in its Form 10-Q for the quarter ended March 31, 2006, the Corporation admitted that its practice at all times prior to 2003 for Deason, as Chairman of the Board, to personally engage in individual telephonic conversations with the members of the Special Compensation or Compensation Committee (of which he was a member at all times relevant) to request approval for stock option grants to ACS's senior executives. This practice was incompatible with a good faith exercise of business judgment because it did not allow for full and open discussions between all the members of the Special Compensation or the Compensation Committee before approval of the stock options in question. Indeed, this practice, by design, prevented a thorough and joint vetting process and, therefore, cannot be

considered a valid exercise of business judgment. Nor was responsibility of granting options delegated to any other group or subcommittee, it was the exclusive responsibility of the Compensation Committee or the Special Compensation Committee. Indeed, as set forth above, the Compensation Committee or the Special Compensation Committee had the exclusive responsibility of approving the granting of stock options, including "the terms of the grant, ***including exercise price, exercise date, and any restriction on exercise."*** (emphasis added.)

85. Furthermore, all but one member of the current ACS Board approved the Stock Option Buyout for Defendant Rich, without disclosing Rich's contemporaneous resignation as a director and Chief Executive Officer of ACS until October 3, 2005.[3] There was no legitimate business reason to approve the Stock Option Buyout in advance of announcing Rich's resignation, other than to benefit Rich at the expense of the Corporation. There is, therefore, substantial reason to doubt that the current Board of Directors can and/or will pursue litigation to remedy the harms resulting from their own performance of, and/or acquiescence in, such unlawful acts with no ascertainable connection to the exercise of business judgment.

86. The ACS Board of Directors presently consists of the following seven individuals: Deason, King, Blodgett, Kosberg, O'Neill, Rossi and McCuistion. These Directors are also incapable of objectively evaluating a pre-suit demand due to personal interests, improper outside influences, divided loyalties, domination and control. Accordingly, as set forth below, any demand upon the Board would be futile.

87. The wrongful acts complained of herein were approved by and/or performed for the benefit of a majority of the Board of Directors as it is presently constituted. Specifically, five (Deason, King, Blodgett, O'Neill and Rossi) of the seven current members of the ACS Board of

[3] Blodgett, the only member of the current ACS Board who did not approve the Corporation's purchase of Defendant Rich's vested options, was appointed to the ACS Board in September 2005 to fill Defendant Rich's vacancy.

Directors either personally benefited from backdated stock options, or were members of the Compensation Committee and/or the Special Compensation Committee that was directly responsible for authorizing the backdated grants or the Audit Committee that was directly responsible for approving the Corporation's materially false and misleading financial statements. As explained in detail below, Deason, King and Blodgett personally benefited from the backdated stock options and Rossi and O'Neill were directly responsible for administering the Corporation's stock option compensation for executives, and were otherwise responsible for backdated stock option grants. As members of the Audit Committee, Rossi and O'Neill were also directly responsible for approving the Corporation's materially false and misleading financial statements. Each of these Defendants faces a substantial likelihood of personal liability given the strong evidence of backdating set forth above and thus cannot be considered disinterested in this case.

88. In addition, to the above stated reasons, demand is futile because of the irreconcilable conflicts, divided loyalties, and domination that a majority of the current directors face. Specifically:

Defendant Deason

89. Defendant Deason is not disinterested as he personally benefited from the backdated stock options at issue. Further, Deason dominates and exerts power over the ACS Board through his position as Chairman of the Board, his significant voting power, his rights of approval and his longstanding relationships and past history with a majority of the Board, including Defendants Kosberg, O'Neill, Rossi, Rich and Blodgett. For the reasons detailed below, Deason is not capable of impartially and independently considering a pre-suit demand

and, through his control over the Board, he also renders the majority of the Board incapable of doing so.

90. First, Defendant Deason is not disinterested as he personally received and benefited from backdated stock option grants in 1998 and 2002, and personally obtained hundreds of millions of dollars in unlawful compensation as a result. Specifically, as set forth above, Deason received 75,000 options on October 8, 1998, at an exercise price of $23.06, the lowest price for the fiscal year, and 600,000 options on July 23, 2002, at an exercise price of $35.75, the lowest price for the fiscal quarter and month. In addition, as set forth below, Defendant Deason has received, and continues to receive, millions of dollars in salary, bonuses, and other forms of compensation.

Year	Salary	Bonus
2005	$ 803,982	$ 1,058,985
2004	$ 779,470	$ 1,733,327
2003	$ 734,882	$ 1,837,205
2002	$ 608,749	$ 1,521,895
2001	$ 574,295	$ 1,435,750
2000	$ 525,000	$ 1,367,625
1999	$ 525,000	$ 1,312,500
1998	$ 487,512	$ 1,250,000
1997	$ 450,000	$ 1,125,000
1996	$ 403,918	$ 807,836
1995	$ 403,918	$ 776,473

As set forth in the 2005 Proxy, the Compensation Committee is responsible for making recommendations to the Board concerning the salaries, bonuses and other compensation of ACS executives, including Deason. Deason is therefore incapable of disinterestedly and independently considering a demand to commence an action against the other Directors,

particularly against Defendants Kosberg and O'Neill, who as the current members of the Compensation Committee, control his compensation. Moreover, given Deason's personal exposure to liability from the allegations described herein, he suffers an irreconcilable conflict in considering the prosecution of those involved.

91. Second, Deason exerts total domination and control over ACS, its officers and its Board, rendering the Board incapable of considering a pre-suit demand. Specifically, Deason is the founder and largest shareholder of ACS. According to the Corporation's Form10-Q for the quarter ended March 31, 2006, Deason controls 38.2% of ACS's total voting power, 36.7% of which he has the right to vote in his sole discretion. Deason is presently (and was at all relevant times) the Chairman of the Board of Directors. As such, Deason has control over all appointments to the Board because, as set forth in the Corporation's 2005 Schedule 14A Proxy Statement (the "2005 Proxy"), all recommendations by the Nominating and Corporate Governance Committee are subject to his approval pursuant to the terms of his employment agreement, including recommendations for board members. Moreover, prior to the formation of the Nominating and Corporate Governance Committee on September 11, 2003, Deason had sole responsibility for considering, evaluating and recommending directors to the Board. Therefore, Deason has domination and control over the current members of the Board as they owe his positions to him and he has the power to determine their continued positions on the Board.

92. Deason's control over the current board is further demonstrated through his business dealings with DDH Aviation, LLC, f/k/a DDH Aviation, Inc. ("DDH"). DDH is an airplane brokerage company that was founded in 1997 by Deason, Dennis Debo ("Debo") and Robert Holly ("Holly"). Holly, who was a founder, shareholder and employee of DDH from 1997 through at least 2002 and Anthony Alcedo ("Alcedo"), who was also an employee and

shareholder of DDH from 1997 through at least 2002, were involved in a separate suit against DDH and Deason, *DDH Aviation, L.L.C., f/k/a DDH Aviation, Inc. v. Robert Holly, et al. vs. Darwin Deason, et al.*, Civil Action No, 3:02-CV-2598-P (N.D. Tx.).[4]

93. According to allegations set forth by Holly and Alcedo in their First and Second Complaints, Deason dominated the shareholders, the executives and the directors of both ACS and DDH, and operated the two companies as a single enterprise in order to fund his extravagant lifestyle and further enrich himself.

94. Specifically, in their Second Complaints, Holly and Alcedo allege that Deason used DDH as his personal piggy bank for over three years to fund his lavish lifestyle and expensive hobbies, which revolved primarily around jets and yachts. According to their Second Complaints, Deason expended more than $5.5 million of DDH's money on airplane travel and yachts. With respect to the airplane travel, the Second Complaints allege that Deason used DDH as his "personal jet service," using the Company's fancier aircrafts without limitation. According to their Second Complaint, while DDH provided Deason with limited flying time on a Hawker 700 or equivalent aircraft, Deason totally disregarded this allowance and engaged in

[4] Pleadings filed in this litigation by Holly include, among others, (1) Robert Holly's First Amended Counterclaim Against DDH Aviation, L.L.C. f/k/a DDH Aviation, Inc.; and First Amended Third-Party Complaint Against Darwin Deason, Dennis Debo, Star Chen, and William Deckelman, Jr.; and DDH Aviation, L.L.C f/k/a DDH Aviation, Inc.'s First Amended Supplemental Complaint Against Darwin Deason, Dennis Debo, Star Chen, and William Deckelman, Jr. ("Holly's First Complaint") and (2) Robert Holly's Second Amended Counterclaim Against DDH Aviation, L.L.C. f/k/a DDH Aviation, Inc.; and Second Amended Third-Party Complaint Against Darwin Deason, Dennis Debo, Star Chen, and William Deckelman, Jr.; and DDH Aviation, L.L.C f/k/a DDH Aviation, Inc's Second Amended Supplemental Complaint Against Darwin Deason, Dennis Debo, Star Chen, and William Deckelman, Jr. ("Holly's Second Complaint"). Pleadings filed in this litigation by Alcedo include, among others, (1) Anthony Alcedo's Counterclaim Against DDH Aviation, L.L.C. f/k/a DDH Aviation, Inc., Third-Party Complaint Against Darwin Deason, Dennis Debo, Star Chen, William Deckelman, Jr. and ACS, Inc., and DDH Aviation, L.L.C f/k/a DDH Aviation, Inc.'s Supplemental Complaint Against Darwin Deason, Dennis Debo, Star Chen, William Deckelman, Jr. and ACS, Inc. ("Alcedo's First Complaint") and (2) Anthony Alcedo's Verified Second Amended Counterclaim Against DDH Aviation, L.L.C. f/k/a DDH Aviation, Inc., Second Amended Third-Party Complaint Against Darwin Deason, Dennis Debo, Star Chen, William Deckelman, Jr. and Affiliated Computer Services, Inc., and DDH Aviation, L.L.C f/k/a DDH Aviation, Inc.'s Second Amended Supplemental Complaint Against Darwin Deason, Dennis Debo, Star Chen, William Deckelman, Jr. and Affiliated Computer Services, Inc.("Alcedo's Second Complaint").

"unfettered use" for his personal pleasure of DDH's fancier jets, namely its Challenger 600 or Gulfstream III aircraft, at great expense to DDH.

95. Similarly, Holly and Alcedo claim that Deason used DDH to fund his personal use of yachts. The Second Complaints allege that, in the three year period from 1998 to 2000, Deason purchased three separate yachts with DDH's money, with each yacht being larger and more lavish than the previous one. According to the Second Complaints, in November 1998, DDH purchased the first yacht because Deason wanted a yacht at his "disposal." As set forth in the Second Complaint, DDH spent $1.3 million on this yacht, including $810,000 to buy it, $300,000 to refurbish it and $200,000 to ship it from Japan. In 1999, shortly after this purchase, the Second Complaints allege that Deason bought his second yacht for $3.8 million because he was not satisfied with the capabilities of his first yacht. Holly and Alcedo claim that DDH paid for Deason's second yacht along with all of its associated expenses, including the crew's salaries, fuel expenses, maintenance expenses and docking/harboring expenses. Then, in 2000, according to the Second Complaints, Deason ordered the construction of his third yacht, which was a custom-built, "'ocean-going'" "super yacht," with an estimated cost of $26 million. The Second Complaints allege that DDH funded Deason's yacht purchases and expenses through a wholly owned subsidiary, Blue Sky Yachts, which was created at Deason's direction and for the sole purpose of funding these yachts, which were only used by Deason.

96. Holly and Alcedo both allege in their Second Complaints that, after Deason pillaged DDH to support his lavish lifestyle and there was nothing left at DDH for him to spend, he turned to ACS and used his power and influence over ACS's management and Board to engage in transactions with DDH for the purpose of extending DDH's line of credit and increasing DDH funds available to Deason. Specifically, in their Second Complaints, Holly and

Alcedo allege that, in 2001, when DDH could not cover the costs of his second yacht, Deason arranged for ACS to buy one of DDH's airplanes at a price inflated by more than $1 million so that he could use this excess profit to pay down the expenses related to his yacht. Thereafter, when Deason needed even more money, their Second Complaints claim that Deason forced ACS to pay an additional $1 million in so-called "advanced charter payments." In connection with these transactions, Holly and Alcedo claim that Deason defrauded ACS shareholders of $9.5 million, and neither DDH nor Deason provided any business benefit to ACS.

97. In their First and Second Complaints, Holly and Alcedo allege that the purpose of these transactions was known by at least two ACS Directors and Executives, including Defendant Deckelman, and that, according to their First Complaints, DDH and ACS shared overlapping officers and directors, including, but not limited to, Defendants Deckelman and King. Indeed, in their Second Complaints, Holly and Alcedo claim that Deason was only able to carry out these transactions because he had absolute control and "complete sway" over ACS's Board.

98. According to Holly, when Deason wanted something done, "he just snapped his fingers and ACS jumped in line to get it done." In describing Deason's relationship with the ACS Board, Holly stated that "they were like puppets that he would manipulate whenever he wanted something done. When he says jump, the only thing they say is how high. I can assure you that he wields considerable influence around there."

99. At the time that Deason caused ACS to engage in the alleged improper transactions with DDH to benefit himself, current ACS Directors O'Neill, King and Rossi were members of the ACS Board and current Director Blodgett was a member of ACS management.

Thus, there is a reasonable doubt about the majority of the present Board's ability to evaluate a demand independent of Deason's domination, control and influence.

100. Additionally, as set forth below, Deason's domination and control of the current ACS Board is further demonstrated through his longstanding business relationships with Defendants Kosberg, Rich, O'Neill and Blodgett. Indeed, according to Scott Walker, who was Chief Financial Officer of Precept Business Products Inc., ("Precept"), a former subsidiary of ACS that was managed by Deason's son, from 1995 until June 1998, Deason is an intense and aggressive individual, who dominates and controls the people who work for him, including members of the Board of Directors who serve on his corporations.

101. Accordingly, due to Deason's undue influence, domination and control over the Board, demand is excused.

Defendant King

102. Defendant King is presently (and was at all relevant times) a member of the Board of Directors. Defendant King is also the Chief Executive Officer and President of ACS. Defendant King is not disinterested or independent, as he personally received and benefited from backdated stock option grants during the relevant period and has a longstanding and close business relationship with Deason. Thus, as set forth below, King is not capable of impartially evaluating a pre-suit demand.

103. First, Defendant King obtained millions of dollars in unlawful compensation by means of backdated stock options. As set forth above, King received 540,000 stock options during the relevant period. In particular, King received 50,000 option grants on October 8, 1998, at an exercise price of $23.06, and 50,000 option grants on July 11, 2000, at $32.88. Tellingly, both of these grant dates were the lowest stock prices for their respective fiscal years. As of

September 30, 2005, the present value of Defendant King's unexercised stock options is roughly $14 million. Additionally, as set forth below, Defendant King has received millions of dollars in salary, bonuses, and other forms of compensation:

Year	Salary	Bonus
2005	$550,000	$507,114
2004	$550,000	$856,134
2003	$500,000	$875,000
2002	$400,000	$700,000
2001	$333,333	$600,000
2000	$275,000	$429,825
1999	$275,000	$412,500
1998	$212,500	$337,500
1997	$175,000	$218,750
1996	$125,000	$125,000
1995	$104,735	$120,147

King continues to receive substantial monetary compensation, stock options and other benefits. Accordingly, King would not impartially evaluate a demand, as he has an interest in protecting the stock options and compensation that he has received and continues to receive from ACS. King would also not disinterestedly consider a demand to institute an action against the other directors, particularly Kosberg and O'Neill, who control his compensation.

104. Second, King's relationship with Deason spans at least 20 years and includes close working relationships during his tenure at three different companies. Specifically, King's professional relationship with Deason began at MTech Corp. ("MTech"), where King served as Vice President and Assistant Controller. Deason, who was MTech's Chief Executive Officer and Chairman of the Board from 1978 to 1988, was King's superior and boss. King left MTech in 1988 to help Deason launch ACS. King has worked for Deason since the inception of ACS in

1988. At ACS, King has served under Deason in numerous prominent and important positions, including President and Chief Operation Officer, Executive Vice President and Chief Financial Officer and Director.

105. In addition, as set forth in Holly's and Alcedo's First Complaints, King was also involved with Deason in DDH. According to Holly and Alcedo, under the direction of Deason and with the involvement of King, among others, DDH was operated for the benefit of ACS directors and officers, including Deason. As set forth in their First Complaints, Holly and Alcedo claim that King was one of the officers and directors that DDH and ACS shared. Indeed, King served as a member of the ACS Board and as ACS's President during at the time the ACS Board approved the transactions between DDH and ACS. Lead Plaintiffs allege that King is still under Deason's control and influence and therefore cannot make an impartial evaluation with respect to demand.

106. Accordingly, King is not able to properly consider a demand due to his lack of disinterest and independence.

Defendant Blodgett

107. Defendant Blodgett is not disinterested or independent, as he personally received backdated stock option grants during the relevant period. Specifically, Blodgett has been a member of the ACS executive team for almost ten years, serving as Executive Vice President and President of the Commercial Solutions Group from July 1999 until September 2005, and as Executive Vice President and Chief Operating Officer since September 2005. During this time, Blodgett received and benefited from millions of dollars in unlawful compensation by means of backdated stock options. Specifically, as set forth above, Blodgett received 50,000 options on July 11, 2000, at an exercise price of $32.88, the lowest price for the fiscal year, and 75,000

options on July 23, 2002, at an exercise price of $35.75, the lowest price for the fiscal quarter and month. As of September 2005, the present value of Blodgett's unexercised stock options is roughly $4 million. In addition, as set forth below, starting at least as early as 1998, Defendant Blodgett has received, and continues to receive, millions of dollars in salary, bonuses, and other forms of compensation.

Year	Salary	Bonus
2005	$450,000	$355,639
2004	$375,000	$500,338
2003	$325,000	$487,500
2002	$275,000	$412,500
2001	$250,000	$198,750
2000	$225,000	$261,000
1999	$196,875	$180,000
1998	$143,750	$91,875

Because Blodgett continues to receive substantial monetary compensation, stock options and other benefits, Blodgett is not in a position to impartially evaluate a demand, as he has an interest in protecting the stock options and compensation that he has received and continues to receive from ACS. Blodgett would also not disinterestedly consider a demand to institute an action against the other directors, particularly Kosberg and O'Neill, who control his compensation.

Defendant Kosberg

108. Kosberg is not disinterested or independent in view of his longstanding and close professional relationship with Deason and his additional relationship with Defendant O'Neill. Kosberg's relationship with Deason and ACS spans at least 18 years. The Kosberg-Deason relationship is one that involves a savings & loan scandal, violations of federal banking laws, substantial fines paid by both Kosberg and ACS in connection with transactions designed to

benefit Deason, Deason's companies, Kosberg's personal interests and Kosberg's affiliates to the detriment of Kosberg's stakeholders. As set forth below, Kosberg is so tied into Deason and his ventures that he is incapable of making an independent evaluation of a pre-suit demand.

109. Kosberg, who was appointed to the ACS Board on September 15, 2003, has been critically connected to and involved with Deason since the inception of ACS. Indeed, as set forth in a January 17, 1993 article in *The New York Times*, Kosberg and Deason were some of the key players implicated in a scheme that defrauded the stakeholders of the savings & loan associations that Kosberg was running, namely Gibraltar Savings ("Gibraltar") and First Texas Savings Association, sister institutions based in Dallas and Houston, respectively. In this article, *The New York Times* reported that the Office of Thrift Supervision ("OTS") had conducted an investigation of the transactions between Kosberg, Gibraltar, Deason and ACS, among others, and determined that the transactions violated federal banking laws, unfairly harmed Gibraltar (and ultimately the taxpayers after both institutions became insolvent) and helped ACS and its stockholders.

110. As detailed by the *New York Times*, as well as by *The Chicago Tribune* in a January 17, 1993 article, while Kosberg was running these banking institutions in 1988, Deason was forming ACS and in need of capital. Working closely together, Kosberg and Deason structured a deal that was highly favorable and highly lucrative to the newly formed ACS. In the transaction, as reported by *The New York Times*, Gibraltar paid ACS $61 million in cash and provided more than $40 million in equipment and other assets which, as OTS found, amounted to a subsidy that "unduly benefited" ACS. According to the OTS's findings, by agreeing to the deal, Gibraltar had "funded most of the startup capital" of Deason's venture and "bore the overwhelming risk."

111. *The New York Times* also reported that Kosberg secured a 10-year data-processing contract between ACS and Gibraltar at what OTS described as "excessive and disproportionate rates." For example, OTS determined that ACS charged Gibraltar $50 million a year, while comparable services had been offered by another company for $31 million a year. Over time, as Gibraltar was declared insolvent and sold by its receiver and the terms of the contract were re-negotiated and reduced, this contract remained ACS's most lucrative and most important contract. Indeed, as set forth in ACS's Form S-1 Registration Statement dated October 5, 1994 (the "1994 Registration Statement"), revenues from that contract were $28.5 million, $28.3 million and $37.2 million for fiscal years 1992, 1993 and 1994, respectively, while the respective expenses associated with that contract were only $6.1 million, $7 million and $9.5 million.

112. In its 1994 Registration Statement, ACS disclosed that if it lost its contract with Gibraltar's successor, Bank of America, as of July 1, 1993, its pre-tax profits in fiscal 1994 would have been reduced by as much as $28 million. That would have turned a $20.2 million pre-tax profit in fiscal 1994 into a $7.8 million loss.

113. In connection with this deal, Deason allowed Defendants Kosberg and O'Neill to invest in ACS with highly favorable terms. Indeed, as set forth in *The New York Times,* while Gibraltar received preferred stock and 50.1% of ACS's common stock for $100 million, ACS management, Kosberg, O'Neill, and Kosberg's other affiliates received 49.9% of ACS's common stock for a total investment of just $2.5 million. As set forth in 2004 Registration Statement, at the time of ACS's initial public offering in 2004 ("IPO"), Kosberg held 340,691 shares of ACS common stock, 2.75% of the total common stock outstanding. Based on Lead Plaintiffs' calculations, Kosberg's initial investment was no more than $350,000 and, at the time of the IPO, was worth $5.45 million. Deason also awarded Kosberg with options in ACS. As of

ACS's IPO, O'Neill owned 11,905 shares of ACS common stock. Based on Lead Plaintiffs' calculations, O'Neill's initial investment was no more than $12,000 and was worth approximately $200,000 by the time of the IPO, an increase of almost 200%.

114. According to *The New York Times and Chicago Tribune*, in December 1992, as result of the OTS's investigation and findings, Kosberg agreed to pay a $2.4 million fine, be barred from banking and let the government share in any profits he made from options he had on ACS stock. *The New York Times* also reported that ACS paid a $500,000 fine for its role and had to renegotiate the lucrative data processing contract.

115. Further evidence that Kosberg is beholden to or dominated by Deason is his membership on the Board of Directors of Precept, a former subsidiary of ACS that was managed by Deason's son. In addition to serving on Precept's board of directors, Kosberg also owned 623,190 shares of its stock. Deason was the majority holder, holding approximately 64% of Precept's voting power, from at least the time it went public in 1998 until its bankruptcy in early 2001.

116. In connection with Precept's bankruptcy, Kosberg, along with Deason and Precept's other former officers and directors among others, were named in an adversary proceeding for their role in precipitating Precept's demise. While Kosberg, along with Deason and Precept's other former officers and directors settled the adversary proceeding with respect to themselves in September 2003, later filings in the bankruptcy proceeding, which were filed in connection with the remaining, non-settling defendants, set forth Kosberg's and Deason's business dealings and actions with respect to Precept.

117. Specifically, in November 2003, Steven S. Turoff, the Chapter 7 Trustee, (the "Bankruptcy Trustee"), filed the Trustee's Third Amended Complaint, And His Objections, To

Counterclaims To, And Request For The Equitable Subordination Of Claims Asserted By Defendants In These Bankruptcy Proceedings (the "Bankruptcy Complaint"). In the Bankruptcy Complaint, the Bankruptcy Trustee alleged that Deason, along with his son and the father-in law of his other son, "systematically looted" and "recklessly ran [Precept and its subsidiaries] into the ground." The Bankruptcy Complaint alleged that Deason used Precept funds to support and maintain his lavish lifestyle, including paying for, among other personal and real property, a luxury penthouse, furnishings for the penthouse, the services of five maids, limousines and country club memberships. The Bankruptcy Complaint also claimed that Deason, along with his son and the father-in law of his other son, mismanaged the company by undertaking a series of disastrous acquisitions and engaging in an illegal scheme to secure financing. Significantly, the Bankruptcy Complaint further alleged that the misappropriation of funds and mismanagement by Deason and others "could not have taken place without the almost complete abdication of responsibility by a grotesquely negligent Precept Board of Directors," of which Defendant Kosberg was a member. This alleged acquiescence to Deason's instructions is consistent with Lead Plaintiffs' allegation that Kosberg is not disinterested and independent, but rather is influenced by and beholden to Deason. Indeed, based on the above evidence, Kosberg has a history of acting in his and Deason's own personal interest to the significant detriment of the shareholders to whom he owed a duty.

118. Kosberg is also connected to Defendant O'Neill through CareerStaff Unlimited Inc. ("CareerStaff"), a Houston, Texas-based company that had provided temporary rehabilitation therapist staffing. CareerStaff went public in June 1994, and, as of March 31, 1995, Kosberg owned 12.1% of the Company, holding 856,512 shares, and was Chairman of the Board. At this same time, Defendant O'Neill was also a member of CareerStaff's Board of

Directors and held 30,000 shares of CareerStaff. CareerStaff merged with Sun Healthcare Group Inc. in June 1995, and became a wholly owned subsidiary thereafter. This connection further demonstrates that Kosberg and O'Neill's business relationship, which spanned at least 18 years, involved more than just their ACS board membership.

119. In sum, due to Kosberg's longstanding and close business relationships with Deason and O'Neill and his history of acting in his and Deason's best interests to the detriment of the shareholders whom he owed a duty, Kosberg is unable to impartially and independently evaluate a pre-suit demand.

Defendant O'Neill

120. There is also reasonable doubt regarding O'Neill's ability to impartially evaluate a demand on the ACS Board due to his membership on ACS's Compensation Committee and/or the Special Compensation as well as its Audit Committee during the relevant period. Further, Defendant O'Neill is not disinterested or independent due to his 18 year connection with Kosberg and his consulting work for ACS.

121. First, O'Neill served on the Compensation Committee and/or the Special Compensation from 1996 to 2003. The Compensation Committee and the Special Compensation Committee were directly responsible for administering and managing the Corporation's executive compensation program and its stock option plans. As a member, O'Neill therefore approved, ratified, and was otherwise responsible for the backdated stock option grants. O'Neill could not have acted in good faith or with the requisite care and concern for the best interest of the Corporation and its shareholders, because no legitimate process could have been employed that would have allowed the backdating of stock options and the cover-up of such improprieties. Indeed, Defendants' practice of approving stock options is inconsistent with the Plan as approved

by the shareholders of ACS and therefore is unlawful and unauthorized. As a member of the Compensation Committee or Special Compensation Committee who was responsible for approving the ACS's stock option grants, O'Neil knew, or recklessly disregarded, that he was approving stock option grants after the fact in a manner that was unlawful and not a valid exercise of business judgment. Accordingly, there is reasonable doubt that O'Neill is disinterested because he faces a substantial likelihood of liability for his breaches of fiduciary duties, including his duties of good faith, fair dealing and loyalty.

122. Second, Defendant O'Neill served on the Audit Committee during the relevant period. By its charter, the primary functions of ACS's Audit Committee include: assisting board oversight by reviewing (1) the financial reports and other financial information provided by the Corporation to any governmental body or the public, including but not limited to, the integrity of the Corporation's financial statements and the Corporation's compliance with legal and regulatory requirements; (2) the Corporation's system of internal controls regarding finance, accounting, legal compliance and ethics that management and the Board have established; (3) the Corporation's auditing, accounting and financial reporting processes, including, but not limited to, the independent accountant's qualifications and independence and the performance of the Corporation's internal audit function and independent accountants. Thus, as a member of ACS's Audit Committee, O'Neill was responsible for insuring that ACS's internal controls were adequate and that the Corporation's quarterly and annual financial statements were accurate. However, ACS's internal controls were deficient as evidenced by the now admitted improper backdating of stock option grants, and its financial statements were inaccurate as they did not account for the true amount of compensation being granted to ACS's executives. O'Neill was directly responsible for approving the Corporation's materially false and misleading financial

statements. In view of O'Neill's membership on the Audit Committee, there is reasonable doubt that O'Neill is disinterested because he faces a substantial likelihood of liability for his breaches of his fiduciary duties.

123. Third, O'Neill is not disinterested due to his longstanding connection to Kosberg and Deason, which provided him with the special opportunity to invest in the ACS on highly favorable terms. As set forth above, O'Neill was invited to invest in ACS along with Kosberg by Deason on very favorable terms. Indeed, by Lead Plaintiffs' calculations, O'Neill invested in ACS in 1988 for roughly between $.50 and $1.00 per share. As of ACS's IPO, O'Neill owned 11,905 shares of ACS common stock that were worth at least $200,000, an almost 200% increase over his initial investment. Due to this long-standing and highly favorable connection to Kosberg, Deason and ACS, O'Neill is not capable of evaluating a demand without bias and interest.

124. Thus, demand is futile as to Defendant O'Neill.

Defendant Rossi

125. Like O'Neill, there is also reasonable doubt regarding Rossi's ability to impartially evaluate a demand on the ACS Board due to his membership on ACS's Compensation Committee and/or the Special Compensation as well as its Audit Committee during the relevant period. Further, Defendant Rossi is not disinterested or independent due to his consulting work for ACS.

126. First, Rossi served on the Compensation Committee and/or the Special Compensation from 1997-2002. The Compensation Committee and the Special Compensation Committee were directly responsible for administering and managing the Corporation's executive compensation program and its stock option plans. As a member, Rossi therefore

approved, ratified, and was otherwise responsible for backdated stock option grants. Rossi could not have acted in good faith or with the requisite care and concern for the best interest of the Corporation and its shareholders, because no legitimate process could have been employed that would have allowed the backdating of stock options and the cover-up of such improprieties. Indeed, Defendants' practice of approving stock options after the fact is inconsistent with the Plan as approved by the shareholders of ACS and therefore is unlawful and unauthorized. As a member of the Compensation Committee or Special Compensation Committee who was responsible for approving the ACS's stock option grants, Rossi knew, or recklessly disregarded, that he was approving stock option grants after the fact in a manner that was unlawful and not a valid exercise of business judgment. Accordingly, there is reasonable doubt that Rossi is disinterested because he faces a substantial likelihood of liability for his breaches of fiduciary duties, including his duties of good faith, fair dealing and loyalty.

127. Second, Defendant Rossi served on the Audit Committee during the relevant period. Pursuant to the Audit Committee's charter (as set forth above), Rossi, as a member of the Audit Committee, was responsible for insuring that ACS's internal controls were adequate and that the Corporation's quarterly and annual financial statements were accurate. However, ACS's internal controls were deficient as evidenced by the now admitted improper backdating of stock option grants, and its financial statements were inaccurate as they did not account for the true amount of compensation being granted to ACS's executives. In his position, Rossi was directly responsible for approving the Corporation's false financial statement. Thus, there is reasonable doubt that O'Neill is disinterested because he faces a substantial likelihood of liability for his breaches of fiduciary duties.

128. For the reasons stated above, demand is futile as to Defendant Rossi.

* * * * * *

129. All of ACS's current Directors are incapable of objectively evaluating a pre-suit demand due to personal interests, improper outside influences, divided loyalties, domination and control. There is substantial reason to doubt that the current members of the Board of Directors can and/or will pursue litigation to remedy harms resulting from their own performance of, and/or acquiescence in, unlawful acts with no ascertainable connection to the exercise of business judgment. Accordingly, any demand upon the Board would be futile.

TOLLING OF THE STATUTE OF LIMITATIONS

130. Lead Plaintiffs' allegations and claims as set forth herein are timely. Lead Plaintiffs did not know, and had no reason to know, that Defendants had improperly and repeatedly backdated stock option grants to ACS executives. Lead Plaintiffs could not have known, even with the exercise of all reasonable diligence, that Defendants had acted unlawfully, because Defendants actively concealed this information.

131. Specifically, from as early as 1995 until March 2006, Defendants concealed their improper backdating of option grants and unlawful awarding of compensation to ACS executives by issuing false and misleading statements that falsely reported the dates of stock option grants as well as the practices employed by the Corporation for granting and approving stock option grants. Specifically, from 1995 to 2003, the Corporation, with the knowledge, approval, and participation of each of the Individual Defendants, for the purpose and with the effect of concealing the improper option backdating alleged herein, disseminated to shareholders and filed with the SEC annual proxy statements that falsely reported the dates of stock option grants to the Grantee Defendants, as follows:

a. ACS's proxy statement filed with the SEC on October 19, 1995, falsely reported that options granted to Rich and Hortenstine were granted on March 10, 1995;

b. ACS's proxy statement filed with the SEC on September 20, 1996, falsely reported that options granted to Rich and Hortenstine were granted on March 8, 1996;

c. ACS's proxy statement filed with the SEC on November 14, 1997, falsely reported that options granted to Rich, King, and Black were granted on April 7, 1997;

d. ACS's proxy statement filed with the SEC on September 29, 1998, falsely reported that options granted to King, Hortenstine, and Black were granted on May 18, 1998, and that options granted to Bracken were granted on December 16, 1997;

e. ACS's proxy statement filed with the SEC on September 29, 1999, falsely reported that options granted to Rich, King and Deason were granted on October 8, 1998;

f. ACS's proxy statement filed with the SEC on September 27, 2000, falsely reported that options granted to King and Hortenstine were granted on September 13, 1999;

g. ACS's proxy statement filed with the SEC on September 28, 2001, falsely reported that options granted to Rich, King, Blodgett, and Deckelman were granted on July 11, 2000, and that options granted to King and Deckelman were granted on March 21, 2001; and

h. ACS's proxy statement filed with the SEC on September 29, 2003, falsely reported that options granted to Rich, King, Deason, and Blodgett were granted on July 23, 2002.

132. Defendants also concealed their improper backdating of option grants and unlawful awarding of compensation to ACS executives by failing to disclose (1) how the Compensation Committee and the Special Compensation Committee approved, awarded and priced stock option grants failing; and (2) that grants of stock options to ACS executives were backdated and based on exercise prices that served only to enrich the recipient at the expense of the Company. Indeed, the information necessary to put Lead Plaintiff on notice of Defendants' unlawful stock option backdating was in the exclusive control of Defendants, who as fiduciaries,

had an affirmative obligation to disclose the facts giving rise to the claims alleged herein, but failed to do so.

133. On March 6, 2006, ACS filed with the SEC a Form 8-K announcing that on March 3, 2006, the Corporation received notice from the SEC that it was "conducting an informal investigation into certain stock option grants made by [ACS] from October 1998 through March 2005." Until March 6, 2006, ACS investors reasonably relied upon Defendants' materially false and misleading statements and could not determine from the pattern of ACS' option grants alone that Defendants were, in fact, backdating executive option grants. Upon the Corporation's March 6, 2006 disclosure and the additional disclosures that followed, however, the pattern of the Grantee Defendants' well-timed option grants was revealed to be more than "blind luck." Lead Plaintiffs promptly filed this case upon discovering these facts and have worked diligently to uncover the additional facts set forth herein demonstrating the Individual Defendants' wrongdoing. Thus, the statute of limitations should be tolled until at least the March 6, 2006 disclosure.

134. In addition, as shareholders of ACS, Lead Plaintiffs reasonably relied upon the good faith, loyalty and skill of the Individual Defendants in their actions on behalf of and with respect to the Corporation's property and processes. As set forth herein, however, the Individual Defendants, violated their fiduciary duties owed to ACS and its shareholders, including Lead Plaintiffs, and acted in a self-dealing, unlawful manner in their granting of stock options and awarding of compensation to the Corporation's executives and, in doing so, concealed from ACS's shareholders, including Lead Plaintiffs, the facts giving rise to the claims asserted herein. Accordingly, the Individual Defendants cannot rely on any limitations defense where they, as

fiduciaries, violated their fiduciary duties and concealed such violations and unlawful acts for their personal enrichment and to the detriment of the Corporation.

CAUSES OF ACTION

COUNT I

AGAINST THE INDIVIDUAL DEFENDANTS FOR BREACH OF FIDUCIARY DUTY

135. Lead Plaintiffs incorporate by reference and reallege each and every allegation contained above as though fully set forth herein.

136. The Individual Defendants, by reason of their positions as fiduciaries of the Corporation, owed duties of undivided loyalty, good faith, and truthful disclosure. The Individual Defendants violated and breached these duties. Each of the Grantee Defendants were recipients of backdated options bearing fraudulent prices. Each of the Grantor Director Defendants approved, ratified or were otherwise responsible for administering and/or permitting the backdated options to be granted to the Grantee Defendants. Additionally, each of the Grantor and Buyout Approval Director Defendants approved, ratified or were otherwise responsible for agreeing and/or permitting ACS to purchase Defendant Rich's vested options at a time when they possessed material, undisclosed information.

137. The Individual Defendants, particularly those Directors who were members of the Compensation Committee during the period that the backdated options were granted, each abandoned and abdicated their fiduciary responsibilities to the Corporation. Their conduct could not have been an exercise of good faith business judgment. Further, those Directors who were members of the Audit Committee breached their fiduciary duties to the Corporation by allowing the filing and dissemination of materially false and misleading financial statements not prepared in accordance with GAAP. In addition, the Grantor and Buyout Approval Director Defendants

breached their fiduciary duties by agreeing to purchase Rich's vested options at fraudulent prices and by failing to disclose his resignation prior to the Corporation's purchase of his options.

138. As a direct and proximate result of the Individual Defendants' breach of fiduciary duty and waste of corporate assets, the Corporation has sustained, and will continue to sustain, substantial harm.

139. The Individual Defendants are liable to the Corporation as a result of the acts alleged herein.

COUNT II

AGAINST THE GRANTOR AND THE GRANTOR AND BUYOUT APPROVAL DIRECTOR DEFENDANTS FOR AIDING AND ABETTING A BREACH OF FIDUCIARY DUTY

140. Plaintiffs incorporate by reference and reallege each and every allegation contained above as though fully set forth herein.

141. By reason of their positions as fiduciaries of the Corporation, the Grantee Defendants, the Grantor Director Defendants and the Grantor and Buyout Approval Director Defendants owed duties of undivided loyalty, good faith, and truthful disclosure. The Grantee Defendants and the Grantor and Buyout Approval Director Defendants violated and breached these duties.

142. By virtue of their role in creating and administering the Corporation's stock option plan, and their approval and authorization of the stock options that were backdated as alleged herein, the Grantor Director Defendants were able to, and in fact did, render aid and assistance to the Grantee Defendants in their breach of fiduciary duty. The Grantor and the Grantor and Buyout Approval Director Defendants did so knowing, or but for their gross negligence would have known, of the Grantee Defendants' fiduciary breach.

143. As a direct and proximate result of the Grantor and the Grantor and Buyout Approval Director Defendants' aiding and abetting the Grantee Defendants' breach of fiduciary duty, the Corporation has sustained, and will continue to sustain, substantial harm.

144. The Grantor and the Grantor and Buyout Approval Director Defendants are liable to the Corporation as a result of the acts alleged herein.

COUNT III

AGAINST THE GRANTEE DEFENDANTS FOR UNJUST ENRICHMENT

145. Plaintiffs incorporate by reference and reallege each and every allegation contained above as though fully set forth herein.

146. The Grantee Defendants have exercised hundreds of thousands of backdated options at fraudulently low prices and have then sold the shares. Consequently, the Grantee Defendants have been unjustly enriched by garnering millions of dollars in illicit profits and depriving the Corporation of millions of dollars in payments that the Corporation should have received upon exercise of the options.

147. As a direct and proximate result of the acts alleged herein, the Grantee Defendants wrongfully deprived the Corporation of substantial wealth and were unjustly enriched thereby.

148. The Grantee Defendants are liable to the Corporation as a result and should be required to disgorge their unjust gains and return them to the Corporation.

COUNT IV

AGAINST THE GRANTEE DEFENDANTS FOR RESCISSION

149. Plaintiffs incorporate by reference and reallege each and every allegation contained above as though fully set forth herein.

150. As a result of the acts alleged herein, all stock option contracts between the Grantee Defendants and ACS entered into during the relevant period were obtained through the Grantee Defendants' fraud, deceit and abuse of control. Further, the backdated stock options and the shares underlying these options were not duly authorized by the Board, as was legally required, because they were not authorized in accordance with the terms of the publicly filed contracts—including the Plan and the Grantee Defendants' employment agreements—approved by ACS shareholders and filed with the SEC.

151. All stock option contracts between the Grantee Defendants and ACS entered into during the relevant period should, therefore, be rescinded, with all sums paid under such contracts returned to the Corporation, and all such executory contracts cancelled and declared void.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs demand judgment as follows:

A. Awarding to the Corporation money damages against all Individual Defendants, jointly and severally, for all losses and damages suffered as a result of the acts and transactions complained of herein;

B. Awarding to the Corporation restitution from each of the Grantee Defendants and ordering disgorgement of all profits, benefits, and/or other compensation obtained by the Grantee Defendants as a result of the acts and transactions complained of herein;

C. Rescission of all option contracts granted to the Grantee Defendants as a result of the acts and transactions complained of herein and the cancellation, nullification, and declaration as void of any and all current or future obligations of the Corporation under all executory

contracts obtained by the Grantee Defendants as a result of the acts and transactions complained of herein;

D. Formation of a constructive trust to hold all executory options contracts issued to the Grantee Defendants;

E. Awarding punitive damages against the Grantee Defendants;

F. Awarding to Plaintiffs the costs and disbursements of the action, including reasonable attorneys' fees, accountants' and experts' fees, costs, and expenses; and

G. Granting such other relief as the Court may deem just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all claims so triable. The jury fee was paid at the same time the Original Petition was filed.

Dated: July 21, 2006

Respectfully submitted,

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