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' THIRD AMENDED PETITION FOR BREACH OF FIDUCIARY DUTY, AIDING AND ABETTING A BREACH OF FIDUCIARY DUTY, UNJUST ENRICHMENT AND RESCISSION

DISCOVERY CONTROL PLAN

1. Discovery in this lawsuit (the "Action") 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") (collectively, "Lead Plaintiffs" or "Plaintiffs") submit this Third Amended Petition (the "Petition"). The Petition alleges derivative claims brought in the name of, and for the benefit of, nominal defendant Affiliated Computer Services, Inc. ("ACS" or the "Company") against certain current and former executive officers (and directors). Specifically, the Petition asserts claims against ACS founder and Chairman of the ACS Board of Directors (the "Board") Darwin Deason ("Deason"); former Chief Executive Officer, President and director Mark A. King; former Chief Executive Officer Jeffrey A. Rich; Chief Executive Officer, President and director Lynn R. Blodgett; former Executive Vice President and Chief Financial Officer Warren Edwards; Executive Vice President of Business Relations John M. Brophy; Executive Vice President, Chief Financial Officer and director John Rexford; and certain of ACS's current and former members of the Board of Directors

(collectively, "Defendants"). The Petition also asserts class action claims against Defendants relating to a recently-announced proposed transaction by Deason to take the Company private at an inadequate price and pursuant to a sales process that is fatally flawed from the outset (the "Proposed Transaction"). If effectuated, the Proposed Transaction will merely allow Deason and the other Defendants to avoid liability from the valuable derivative claims that are further described herein. Notably, Deason alone controls approximately 40% of any vote among the shareholders of ACS, and as described in detail herein, personally dominates and controls the other members of ACS's Board.

3. This Action arises from Defendants' unlawful and improper conduct in connection with their receipt, approval, and/or acquiescence in the issuance of backdated stock options to senior executives, which served to provide the recipients with windfall compensation at the direct expense of ACS and its shareholders. Additionally, Lead Plaintiffs seek to prevent Deason from (i) evading responsibility (and escaping liability) for his role in the backdating of ACS options; (ii) avoiding inquiry into numerous improper and self-interested transactions; and (iii) misappropriating corporate resources so that he can take ACS "private" at an inadequate price by misappropriating corporate resources and assembling a proposal to acquire the publicly held shares of ACS for a price that does not reflect the true value to ACS shareholders of their ownership interest in the Company. Specifically, on March 20, 2007, Deason announced the Proposed Transaction to acquire the outstanding shares of ACS that he does not already own or control for the price of $59.25 per share. As further explained below, the Proposed Transaction offers ACS shareholders entirely inadequate consideration for their shares. In fact, Defendants recently rejected the effort of a financial buyer to purchase the Company at a ***premium*** to the Proposed Transaction. This, as well as Deason's obvious self-interest in absolving or

indemnifying each of the Defendants for their roles in the stock option backdating scandal, establishes the inadequacy of the Proposed Transaction.

4. 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.

5. 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.

6. 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.

7. The practice of backdating grants of stock options also violates Generally Accepted Accounting Principles ("GAAP") and, as such, renders the company's financials

materially false and misleading. Specifically, GAAP requires that a company that grants an option at a price below actual market price on the day of the grant record such grant as a compensation expense. In contrast, when an option is granted at market price, the company need not report any compensation expense. Thus, backdating option grants creates a substantial risk that earnings have been, and will continue to be, misreported. Further, option backdating masks the true level of executive compensation and, as such, misleads investors.

8. 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."

9. 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' breaches of fiduciary duty and violations of the law.

10. 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).

11. 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.

12. 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 Company was deceived and harmed by Defendants' actions.

13. As further evidence of their disregard for the shareholders of ACS, on September 29, 2005, the Board caused the Company 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 Company'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%.

14. Subsequent to allowing Rich to lock in his illicit backdating gains and to the eruption of its option backdating scandal, the Company commenced and then concluded an internal investigation into the Company's option granting practices. Significantly, and not surprisingly, the results of ACS's own internal investigation into the Company's option granting practices ***concluded that ACS backdated its stock option grants***. Specifically, on November 27, 2006, the Company announced the results of its internal investigation, which determined that ACS used "hindsight" to "select favorable option date grants."

15. While the Company was preparing its disclosure of improper backdating, Deason took matters into his own hands to assure that he and his cohorts could avoid their extensive personal liability arising from this derivative suit. Specifically, as first disclosed in a Form 8-K filed by ACS on March 20, 2007, Deason began, in November 2006, to misappropriate confidential and proprietary ACS data and resources so that he could acquire all of the outstanding shares of ACS held by ACS's public shareholders for the inadequate price of $59.25 per share.

16. Deason, together with his favored bidding partner, Cerberus Capital Management, L.P. ("Cerberus"), first disclosed the Proposed Transaction when he delivered to the ACS Board

a proposal letter on March 20, 2007 (the "Proposal Letter"). As set forth below, the Proposal Letter openly admits that Deason misappropriated ACS's information and resources and also discloses that one director learned of Deason's misconduct and did nothing to stop it.

17. The Proposed Transaction, if consummated, will potentially terminate Lead Plaintiffs' standing to pursue these valuable derivative claims, and will thus likely result in Deason and the other Defendants claiming that their liability for their approval and receipt of unlawfully backdated stock options has been eliminated. Deason's efforts to bring this action to a premature end is not surprising, especially in light of recent opinions from the Court of Chancery of the State of Delaware[1] and statements from the U.S. Department of Justice,[2] each highlighting the significant prospect of personal liability facing ACS's executives and directors for their role in this egregious misconduct.

18. The Proposed Transaction is structured as a proposed merger of ACS into a newly created corporation. Deason would likely cause the surviving corporation to agree to indemnify the ACS Directors for all potential liabilities and expenses relating to this case as well as the related ongoing government investigations, thereby preventing the Company or its shareholders from recovering Defendants' ill-gotten excess compensation.

19. In light of the serious nature of stock-option backdating, the ACS Directors are unlikely to obtain such broad indemnity from an alternative offeror who is not operating in concert with Deason. Indeed, it is unlikely that any bidder paying a fair price for ACS shares would willingly assume the costs, burdens, and potential liability associated with the government

---

[1] *See Ryan v. Gifford*, Civ. A. 2213-N, 2007 WL 416162, *10 (Del. Ch. Feb. 6, 2007) (describing stock option backdating as "***so egregious on its face*** that board approval cannot meet the test of business judgment, and a ***substantial likelihood of director liability*** therefore exists.") (emphasis added).

[2] For example, on September 7, 2006, the *Wall Street Journal* quoted Deputy Attorney General Paul J. McNulty, who described the practice of stock option backdating as "a brazen abuse of corporate power to artificially inflate the salaries of corporate wrongdoers at the expense of shareholders."

investigations. In all likelihood, Deason and Cerberus are only willing to subject themselves to these problems because Deason has breached his duties by providing them with an unlawful opportunity to acquire ACS's shares at a substantial discount to their true value.

20. Moreover, any alternative bidder for ACS could well seek to provide ACS's shareholders with the highest possible value by making a superior bid for ACS's shares contingent on the ACS Directors returning to the Company any ill-gotten compensation and all other amounts for which they are potentially liable. However, in light of Deason's 40% voting stake in ACS and his insistence on working exclusively with Cerberus, it is unlikely under the current status quo that an alternative bidder will emerge (at least absent judicial intervention to require an open and fair bidding process).

21. This action, on behalf of the Company and its shareholders, seeks to remedy the aforementioned harms and breaches of Defendants' fiduciary duties, including their duties of undivided loyalty, good faith and truthful disclosure. Specifically, Lead Plaintiffs seek to: (i) cancel unexercised backdated options; (ii) have all of the financial gains from the recipients who exercised backdated options returned to ACS; (iii) hold accountable ACS's directors who administered and granted backdated options; and (iv) preclude completion of the Proposed Transaction on its current (and inadequate) terms, especially prior to Defendants' requiring the beneficiaries of the stock option backdating to return to the Company their millions of dollars in ill-gotten gains.

PARTIES

Lead Plaintiffs

22. 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.

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

24. By Order dated July 13, 2006, this Court appointed plaintiffs Anchorage Police & Fire and Huntsinger as Lead Plaintiffs in this Action.

Defendants

25. 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.

26. Defendant Deason, the founder of ACS, is the Chairman of the Board of Directors, a position he has held since the Company's formation in 1988. Deason served as Chief Executive Officer of the Company 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. Deason owns approximately 7% of ACS's common stock, but controls approximately 40% of any ACS shareholder vote through his ownership of ACS supervoting stock. 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.

27. Defendant King served as Chief Executive Officer, President of the Company as well as a Director from 2005 until November 26, 2006. 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 had been a member of the Board of Directors from 1996 until November 26, 2006. 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.

28. 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.

29. Defendant Lynn R. Blodgett ("Blodgett") has been a Director and Executive Vice President and Chief Operating Officer of ACS since September 2005. On November 26, 2006, Blodgett was promoted to President and Chief Executive Officer of the Company, replacing Defendant King. 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 has appeared in this action.

30. Defendant Warren Edwards ("Edwards") served as Executive Vice President and Chief Financial Officer of ACS from March 2001 until November 26, 2006. 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 has appeared in this action.

31. Defendant John M. Brophy ("Brophy") has been Executive Vice President of Business Relations since May 2005. From August 2001 until May 2005, Brophy 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 has appeared in this action.

32. Defendant John Rexford ("Rexford") has served as Chief Financial Officer and a director of ACS since November 26, 2006. Rexford previously served as Executive Vice President of Corporate Development of ACS from March 2001 until November 26, 2006. 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 has appeared in this action.

33. 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."

34. Defendant Joseph P. O'Neill ("O'Neill") has served as a Director of the Company 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 Company'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.

35. Defendant Frank A. Rossi ("Rossi") has served as a Director of the Company 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 Company'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 is a member of the ACS special committee reviewing The Proposed Transaction. Rossi has appeared in this action.

36. Defendant Dennis McCuistion ("McCuistion") has served as a Director of the Company 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.

37. Defendant J. Livingston Kosberg ("Kosberg") has been a Director of the Company 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 is a member of the ACS special committee reviewing The Proposed Transaction. Kosberg has appeared in this action.

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

39. Defendant Clifford M. Kendall ("Kendall") served as a Director of the Company 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 Company's materially false and misleading financial disclosures, as alleged herein. Kendall has appeared in this action.

40. Defendant David W. Black ("Black") served as a director of the Company from 1995 to 2000. Black served as an Executive Vice President, Secretary and General Counsel of

the Company 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.

41. Defendant Henry Hortenstine ("Hortenstine") served as a Director of the Company from 1996 to 2003. Hortenstine served as an Executive Vice President of the Company 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.

42. Defendant Peter A. Bracken ("Bracken") served as a Director of the Company from 1997 to 2003. Bracken served as an Executive Vice President of the Company 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.

43. Defendant William L. Deckelman, Jr. ("Deckelman") served as a director of the Company from 2000 to 2003. Deckelman served as an Executive Vice President, Corporate Secretary and General Counsel of the Company 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.

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

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

46. Defendant Cerberus Capital Management, L.P. ("Cerberus") is a leading private equity firm specializing in management buyouts and going private transactions. Cerberus stands to enjoy lucrative financial benefits by virtue of its acquisition, together with Deason, of ACS at an inadequate and unfair price. Cerberus is named herein solely with respect to two claims for aiding and abetting the breaches of fiduciary duty. Specifically, Cerberus is named as aiding and abetting Deason's misappropriation of corporate assets and resources, a derivative claim, and as aiding and abetting Deason's and the Board's breaches of duty in connection with the Going Private Deal. Cerberus is a non-resident which engages in business in Texas but does not maintain a regular place of business in this state or a designated agent for service of citation. Accordingly, pursuant to the Texas Long Arm statute, the Secretary of State of Texas is the agent of Cerberus for service of citation in this action by serving the Secretary of State at Capital Station, Austin, Texas. Cerberus principal office address is Cerberus Capital Management, L.P., 299 Park Avenue, New York, New York, 10171.

JURISDICTION AND VENUE

47. 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.

48. 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

49. 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 Company, including the administration of the affairs of the Company'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 Company 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.

50. 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 Company 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.

51. The Individual Defendants, particularly the members of the Audit Committee, were responsible for maintaining and establishing adequate internal accounting controls for the Company and ensuring that the Company'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.

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

a. Review the Company'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 Company's operations, changes, if any, during the year in the Company'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 Company'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.

53. 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.

54. The Individual Defendants participated in the wrongdoing complained of herein in order to improperly benefit themselves through the stock option 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.

55. 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 Company or its shareholders. The impropriety of the alleged conduct is beyond dispute. As Chancellor Chandler of the Court of Chancery of the State of Delaware recently made clear:

> A director who approves the backdating of options faces ***at the very least a substantial likelihood of liability***, if only because it is difficult to conceive of a context in which a director may simultaneously lie to his shareholders (regarding his violations of a shareholder-approved plan, no less) and yet satisfy his duty of loyalty. Backdating options qualifies as one of those "rare cases [in which] a transaction may be ***so egregious on its face*** that board approval cannot meet the test of business judgment, and a ***substantial likelihood of director liability*** therefore exists."[3]

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

---

[3] *Ryan v. Gifford*, 2007 WL 416162, *10 (Del. Ch. Feb. 6, 2007) (emphases added).

THE OPTION BACKDATING SCHEME

57. Defendants Rich, King and Deason, among others set forth below, received grants of stock options from the Company 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 Company.

58. 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 Company'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 on the date of grant. 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).

59. The Company'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 Company'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.

60. 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.

61. 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."

62. 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.[4] 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.

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

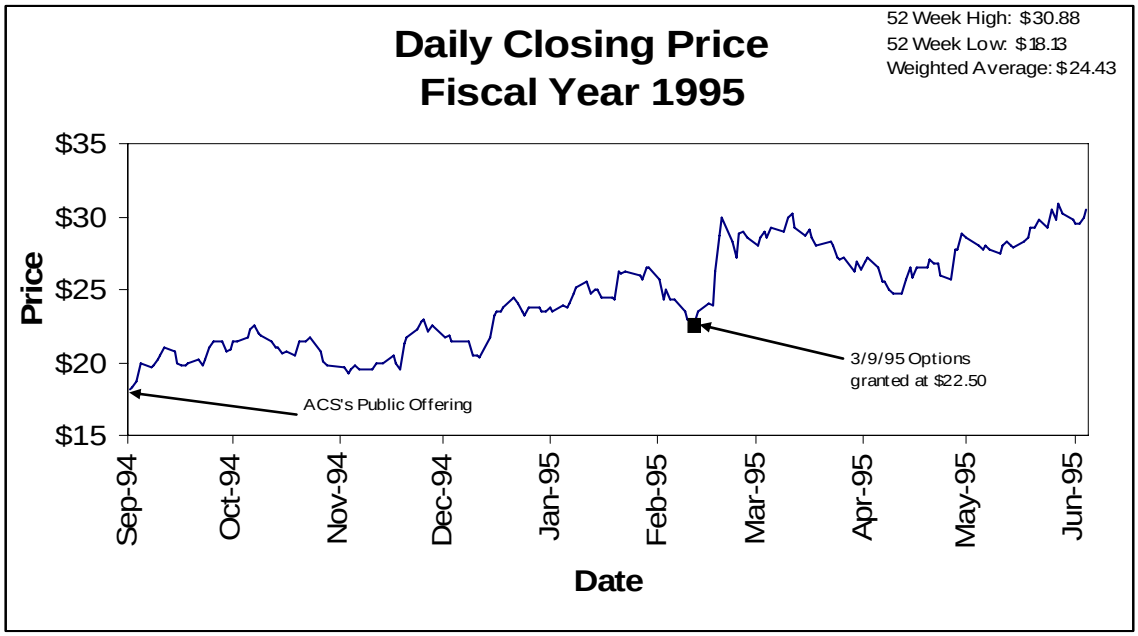
63. From 1995 to 2002, the ACS Board of Directors granted ACS stock options to certain of the Individual Defendants, among others, as follows:

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

64. 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:

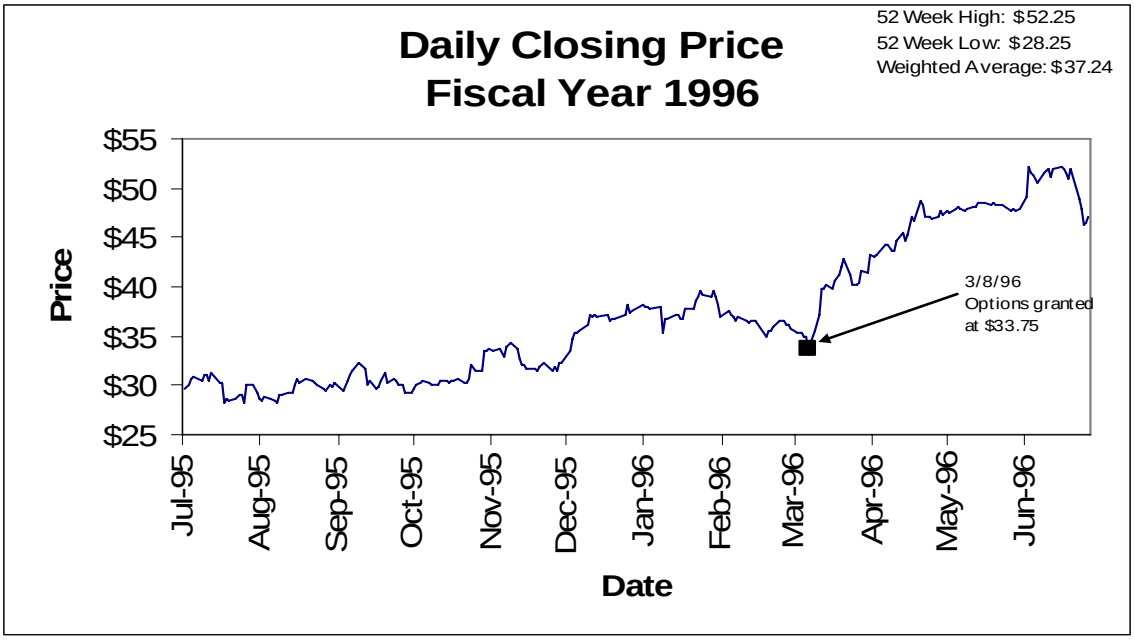
a. During ACS's fiscal year 1995, Defendants Rich and Hortenstine each received a grant, purportedly on March 9, 1995, of an option to purchase ACS shares at an exercise price of $22.50—the lowest price for the month. The options gave Rich the right to purchase 111,025 shares, and Hortenstine the right 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

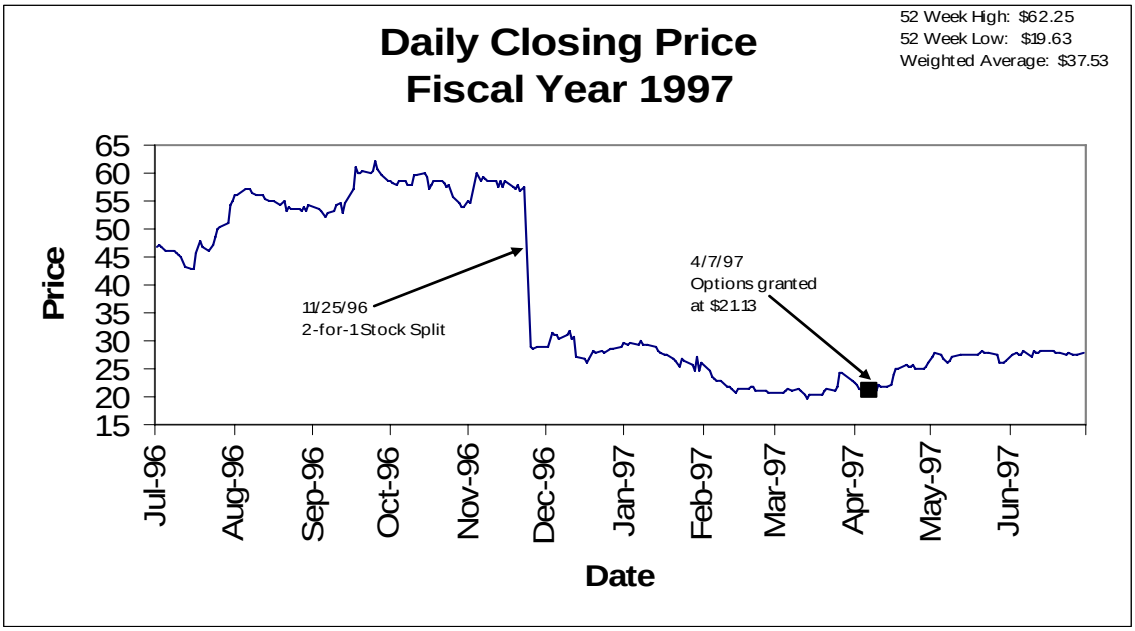
in the range of $28.25 to $52.25 during fiscal year 1996. A graph demonstrating the timing of these grants is set forth below:



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

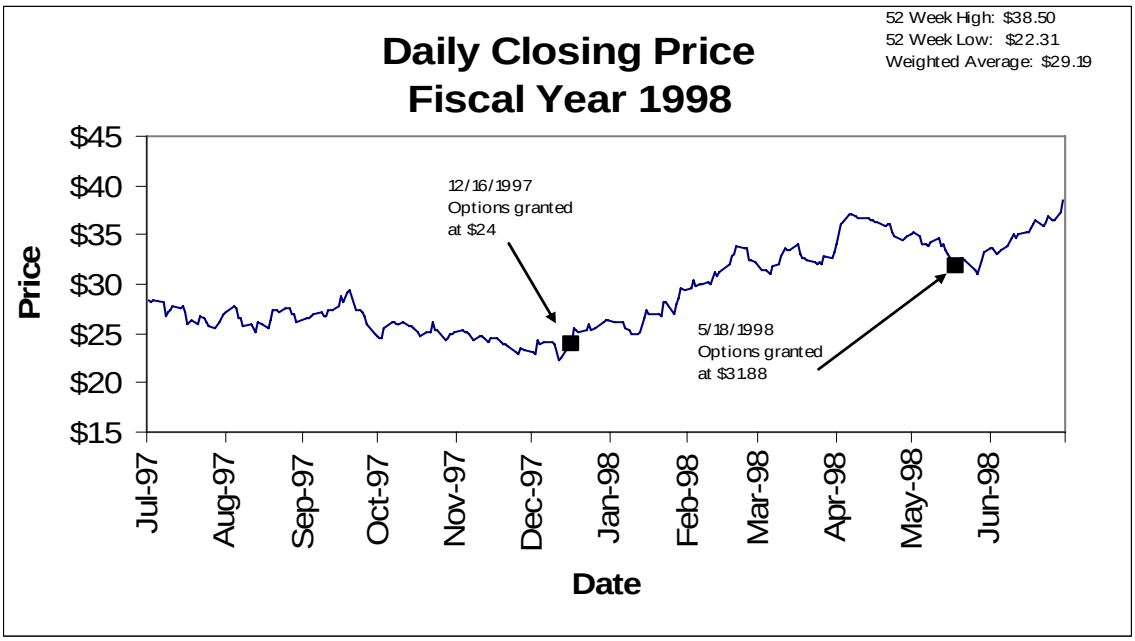
the twenty days preceding the purported option grant and was the lowest price for the twenty days following the purported option grant. Indeed, on May 5, 1997, the twentieth day following this option grant, the stock price had increased to $27.50, representing a 30.2% return. A graph demonstrating the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

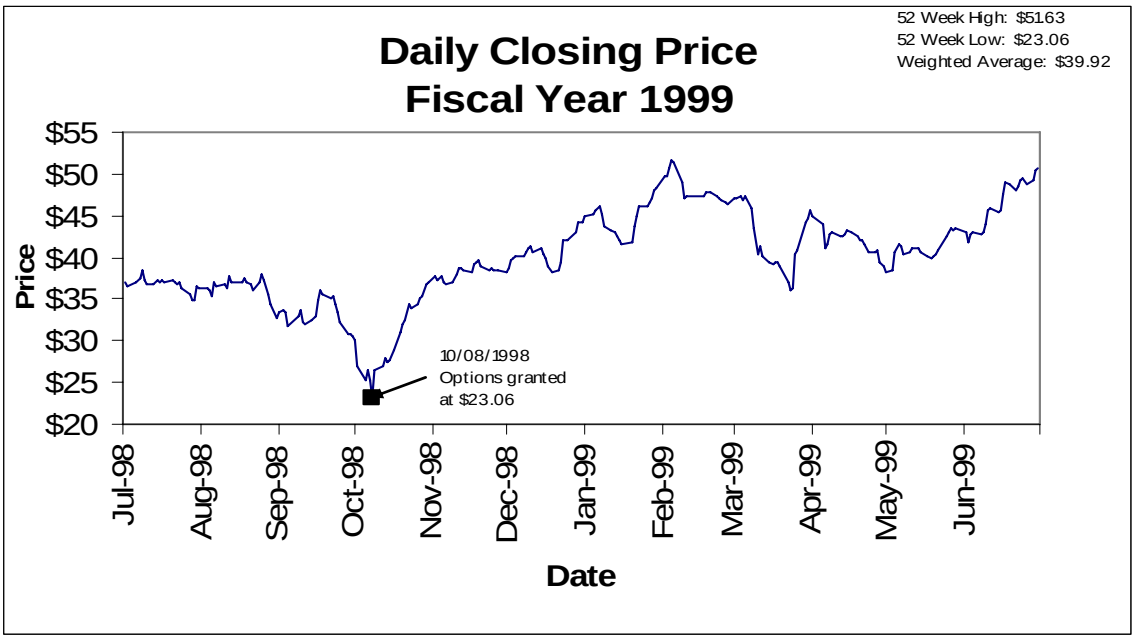
right to purchase 25,000 shares and Black the right to purchase 26,000 shares. As demonstrated in the graph below, this grant occurred right before a sharp rise in the price of ACS common stock. The stock price rose from the grant date price of $31.88 to $35.45 during the twenty days after the grant 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

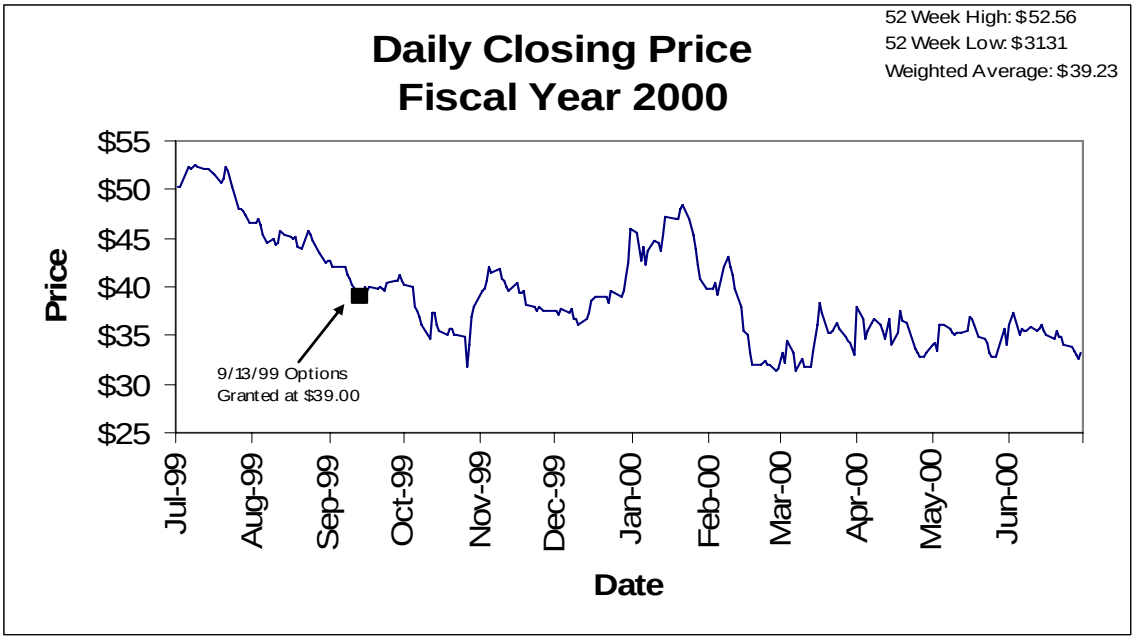
75,000 shares and Rexford the right to purchase 25,000 shares. These purported option grants occurred at the bottom of a steep dip in ACS's stock price. In fact, ACS's stock price had a negative return of more than -28% in the twenty days preceding the purported option grant and, after hitting the October 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,

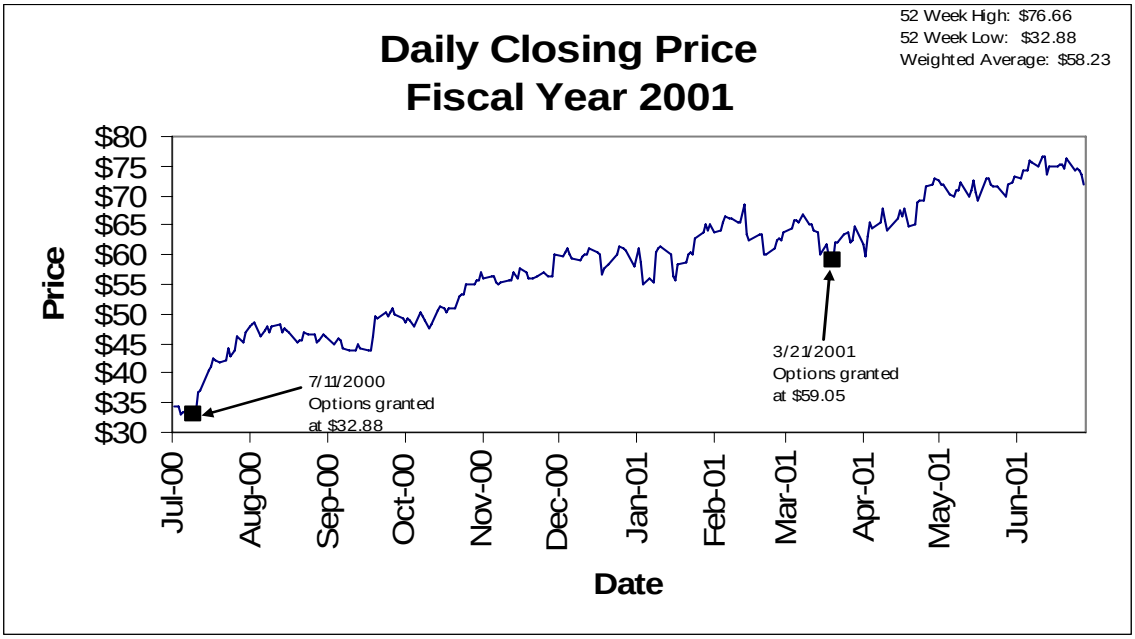
Edwards the right to purchase 25,000 shares and Rexford got 50,000 shares. A graph demonstrating the timing of these grants is set forth below:



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

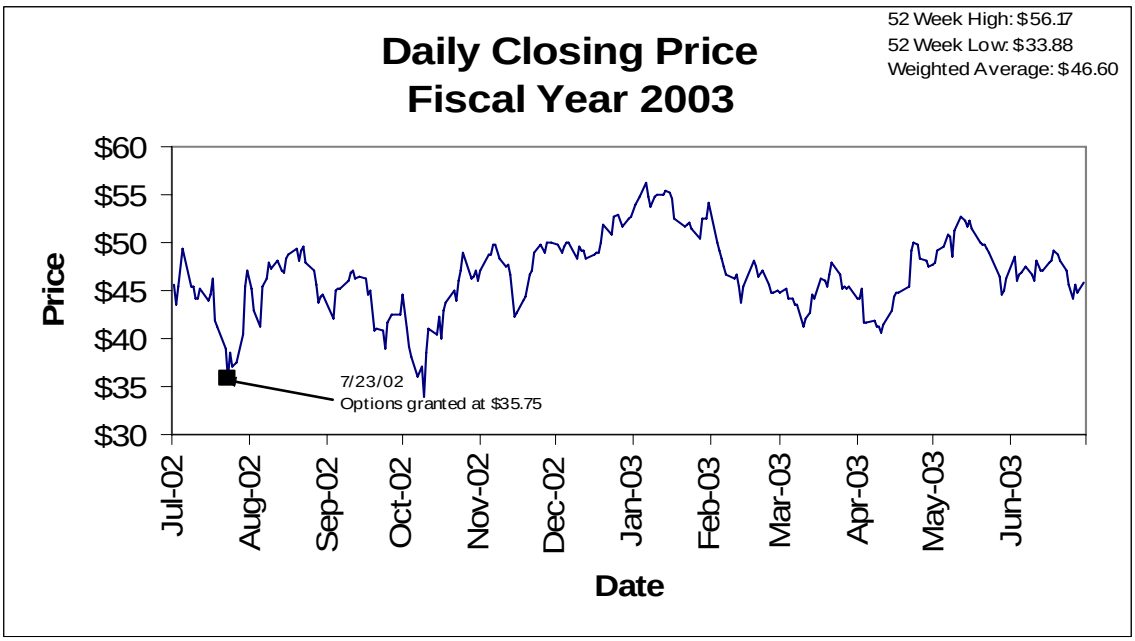
100,000, 25,000 and 50,000 options, respectively, at $59.05—the lowest closing price for the month. By the end of the month, ACS's stock price increased by more than $5.00. A graph demonstrating the timing of these grants is set forth below:



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.

65. 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.

66. 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.[5] 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.

67. 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 Company'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.

[5] 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

68. 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 Company.

69. 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 Company 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.

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.

70. 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 Company. 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 Company at an unfair and improperly low price, with the Company making up the difference.

71. 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 Company 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 Company's stock at the date of grant and issuance. Thus, ACS, with the knowledge and participation of the Individual Defendants, violated GAAP.

72. 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 Company 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 Company 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." In addition to the resources ACS must expend in connection with these investigations, ACS is also compensating its employees for any individual losses they suffer in connection with the Company's option backdating. Specifically, as a result of its internal investigation (the results of which are discussed below), the Company adjusted the exercise price of certain of its improperly backdated stock options grants. In connection with this adjustment, ACS announced, in its Form 10-K for the year ended December 31, 2006, filed with the SEC on January 23, 2007, that it would "pay to certain current and former employees approximately $8 million" to offset any individual loss of economic benefit or tax impact related to the adjustment of these stock options. Thus, these bonus payments to ACS employees costs the Company additional money, constitutes a further waste of corporate assets and continues the harmful and wrongful conduct underlying ACS's stock option backdating practices. Moreover, revelation of the backdating scandal has also inflicted substantial harm to the Company's reputation and reduced its market capitalization by billions of dollars. Thus, the practice of options backdating has, and will continue to have, significant economic impacts for the Company.

73. 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.

74. 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 Company 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."

75. 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.

76. 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.

DISSEMINATION OF FALSE FINANCIAL STATEMENTS IN CONNECTION WITH THE STOCK OPTION BACKDATING SCHEME

77. As a result of the improper backdating of stock options, the Company, 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.

78. The Company, 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.

79. The financial statements included in the foregoing Form 10-K filings were false because the Company, 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.

DISSEMINATION OF FALSE FINANCIAL STATEMENTS IN CONNECTION WITH THE STOCK OPTION BACKDATING SCHEME

80. As a result of the improper backdating of stock options, the Company, 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.

81. The Company, 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.

82. The financial statements included in the foregoing Form 10-K filings were false because the Company, 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.

RICH'S STOCK OPTION BUYOUT

83. 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 Company'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 Company 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 Company'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").

84. Rich and the Company 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.

85. 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 Company 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 Company, but only to Rich, in causing the Company 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.

86. ACS's failure to immediately disclose Rich's resignation caused the Company 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.

87. Even after his departure from the Company, Rich continues to be enriched by ACS. Most recently, on June 12, 2006, ACS announced that the Company 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 Company in connection with proposed acquisition candidates.

ACS ADMITS BACKDATING: THE RESULTS OF ITS INTERNAL INVESTIGATION

88. As a result of the SEC and Department of Justice investigations, ACS commenced its own internal investigation, conducted by Bracewell & Giuliani LLP. On November 27, 2006, the Company announced the results of its internal investigation, including the definitive determination that ACS used hindsight to select favorable option date grants. In other words, ACS concluded that its options were backdated. Specifically, the internal investigation concluded that "hindsight" was used to "select favorable grant dates." Further, the Company's investigation concluded that Defendants Rich, King and Edwards orchestrated and carried out the Company's backdating scheme. Indeed, in its Results of the Stock Option Investigation Press Release, ACS admitted that:

> Mr. Rich, Mr. King and/or Mr. Edwards often looked back in time and selected as the "grant date, a date on which the price was at a low, notwithstanding that the date had already passed and the stock price on the date of the actual selection was higher. Recommendation memoranda attendant to these grants were intentionally misdated at the direction of Mr. Rich, Mr. King and/or Mr. Edwards to make it appear as if the memoranda had been created at or about the time of the chosen grant date, when in fact, they had been created afterwards. As a result, stock options were awarded at prices that were at, or near, the quarterly low and the Company effectively granted "in the money" options without recording the appropriate compensation expense.

89. Based on these findings, ACS determined that Rich, King and Edwards violated the ACS Code of Ethics for Senior Financial Officers. ACS demanded that King and Edwards (Rich had previously left the Company) resign from their executive officer positions immediately.

THE IMPROPER SELF-DEALING AND UNFAIR ACQUISITION OFFER

90. Viewed in the context of recent developments, there is no doubt that the Going Private Deal is merely a ploy by Deason to insulate Defendants from liability while lining his pockets even more than ever.

Fiduciary Duties in the Mergers & Acquisitions Context

91. In any sale of a public company, as is contemplated by the Proposed Transaction, the Company's directors have an affirmative fiduciary obligation to maximize shareholder value.

92. Because the Proposed Transaction (as further detailed below) will terminate the ownership rights of the Company's approximately 92 million publicly-traded shares, the ACS Directors are obligated to explore all alternatives to maximize the price paid to ACS's shareholders. This is especially true when insiders, such as Deason, will continue to benefit from the Company's future profitability as a private company, while the public shareholders will not. To satisfy their obligations in the context of selling ACS, the ACS Directors must:

a. fully inform themselves of ACS's market value before taking, or agreeing to refrain from taking, action;

b. act solely in the interests of the Company's equity owners and not pursue transaction that favor themselves or ACS's senior management at the expense of the shareholders;

c. maximize shareholder value by seeking the highest consideration available to ACS's shareholders;

d. obtain the best financial and other terms when the Company's independent existence will be materially altered by the transaction;

e. decline any contractual provisions that would discourage or inhibit alternative offers to purchase control of the corporation or its assets or that would

otherwise limit the ACS Directors' freedom to solicit or respond to any alternative proposal that may provide greater shareholder value than the offer favored by the Company's management; and

f. in all respects act in accordance with the fundamental duties of loyalty, care and good faith.

93. Because of their respective positions with the Company, the ACS Directors also are required to:

a. act independently to ensure that the best interest of the corporation and its shareholders takes precedence over any interest possessed by a director, officer, or controlling shareholder;

b. ensure that any conflicts of interest between the Defendants' interest and their fiduciary obligations of loyalty are resolved in the best interest of ACS' public shareholders; and

c. provide the shareholders of ACS with their honest and fully informed judgment and recommendation with respect to any transaction brought to a shareholder vote.

94. In addition, when Company insiders stand on both sides of a challenged going-private deal, which is clearly the case with respect to the Proposed Transaction, and nonetheless fail to undertake steps to protect the rights of the Company's public shareholders, defendants bear the burden of demonstrating that both the process leading up to the proposed transaction, as well as the price, are entirely fair to the public shareholders. In light of Deason's domination of the Board and breaches of duty in assembling the Proposed Transaction (as detailed below), Defendants are required to ensure that the Proposed Transaction is entirely fair to ACS's public shareholders.

Both the Price and the Process Leading Up to the Proposed Transaction Are Unfair to ACS's Public Shareholders

95. On March 20, 2007, Deason announced his intention to acquire ACS's publicly-held stock in a press release stating, *inter alia*:

> Darwin Deason, the founder and Chairman of Affiliated Computer Services, Inc. (NYSE: ACS), today announced that he, together with his investment partner Cerberus Capital Management, L.P., has submitted a proposal to acquire, for a cash purchase price of $59.25 per share, all of the outstanding shares of common stock of Affiliated Computer Services, Inc. The total transaction value (including debt that would either be refinanced or remain outstanding) is approximately $8.2 billion. Citigroup Global Markets Inc. has provided a "highly confident" letter stating that it is highly confident of its ability to raise the debt necessary to complete the transaction.
>
> . . . .
>
> "***I would continue as Executive Chairman following the transaction, and the business would continue to be run in accordance with ACS's current practice*** while maintaining its valuable employee base, which Cerberus and I view as one of its most important assets. We also intend for ACS to continue to provide an uninterrupted high level of service to its commercial and governmental customers in the United States and internationally."
>
> ***The investment partners are prepared to enter into negotiations with the Company immediately and are ready to move quickly to complete the transaction***, which remains subject to customary conditions, including completion of confirmatory due diligence. Deason and Cerberus do not anticipate that any regulatory approvals or other impediments will preclude a timely closing.
>
> The proposal is subject to the negotiation of mutually satisfactory definitive transaction agreements. The investment partners have engaged Citigroup Global Markets Inc. to provide financial advice and arrange financing in connection with the transaction.

(emphasis added).

96. Although Deason claims the Offer provides ACS shareholders with a premium, the Offer consideration of $59.25 per share is 6.1% less than ACS's stock price on March 17, 2006, the day preceding the public disclosure of the massive backdating scheme as alleged

herein. More significantly, it is also lower than an offer of $62-$63 per share made by other private equity firms that Defendants, including Deason, ***rejected*** just 15 months ago.

97. Deason's actions are part of a disturbing trend of corporate managers attempting to take corporations private on the cheap, as recently noted in an article in *The Wall Street Journal* entitled "Fine Line of Selling, Selling Out, the Firm":

> These transactions stand to be lucrative for top managers, who typically keep their jobs and are awarded new equity along the way. Behind the scenes, the romancing has put a flock of boards into turmoil, say some of the Street's leading deal makers. That is because ***the chiefs are in a position to exploit their own office and ownership positions to pursue deals that serve them best***.
>
> ***A few executives are pursuing deals for weeks or months without alerting their boards. Others are subtly threatening to quit if a company isn't sold and delivered back to their buyout buddies. The effects can be paralyzing. "You won't find it in the background of the merger documents, but it does happen," says one banker. "They really try to squeeze the board."***
>
> . . . .
>
> Some of these players will eventually have to answer to the courts. Delaware judges appear eager to get their hands on a case involving what Wall Street calls a "P2P" -- public to private. Leading Delaware judge Leo E. Strine Jr., for instance, expressed some skepticism in a recent class at Harvard Law School: "The old worry would be that [CEOs] would receive offers and not tell the board," he said on a panel. "Now they go and solicit them and not tell the board."
>
> Companies are free to go private, of course. And managements are free to make proposals or be part of someone else's buyout plan. It's how the plans come together that can mean the difference between a fair deal and a crummy one for shareholders.
>
> ***Process matters because top executives carry enormous clout in buyout situations. Their knowledge and influence can subtly, or not so subtly, push a deal and its terms to a personally beneficial outcome. And they can advance a favored deal so far along that competing bidders won't come near it.***
>
> ***Boards are supposed to neutralize those advantages by controlling the flow of information to their CEOs***, while keeping them on a short leash.
>
> "In the life cycle of a company, this is one of the most important decisions ever taken," says the head of mergers and acquisitions at one Wall Street firm. "It shouldn't be taken unilaterally. And certainly ***not by the person who is in the***

most conflicted position at the end of the day."

. . . .

> Boards are slowly changing their ways, notes James Woolery, a partner at Cravath Swaine & Moore in New York. They're demanding that chief executives seek permission -- not forgiveness -- when even exploring the possibility of a private-equity hook up. ***"Boards shouldn't have to deal with grenades that come from inside their own tent,"*** he says.

(emphasis added).

98. As explained below, Deason has not only dropped this "grenade" on the ACS board and its shareholders, but his own letter proposing the deal to the ACS board makes clear that he has been misappropriating ACS data and resources for several months in order to assemble his deal and spring it at the moment most beneficial to himself and his co-bidders.

Deason's Misappropriation of Corporate Information and Resources for His Own Self-Interest

99. The Form 8-K filed by ACS on March 20, 2007, attaches the Proposal Letter from Deason, as well as the "Highly Confident Letter" from Citigroup Global Markets, Inc. ("Citigroup") to Deason and the acquisition subsidiary through which he proposes to close the Proposed Transaction. Most importantly, the Proposal Letter shows that long before disclosing the Proposed Transaction – indeed, long before so much as notifying a single ACS Director of his efforts in furtherance of the Proposed Transaction – Defendant Deason misappropriated corporate resources, management time and information for his own personal financial benefit in assembling the support needed to take ACS private at an unfairly low price. Specifically, Deason's Proposal Letter admits as follows:

> Since November 2006, Cerberus has dedicated substantial internal and external resources to its effort to familiarize itself with the Company and its management team. ***This effort has included a number of meetings with executive management as well as the management of the Company's Commercial Solutions and Government Solutions Groups, and has continued even after the change in the Company's executive management team. In addition, Cerberus***

> ***has reviewed certain business, financial and legal data made available via an online data room and in response to follow up diligence requests, pursuant to a confidentiality agreement with me***. Cerberus' initial due diligence effort culminated in its expressing a preliminary indication that it would be potentially interested in joining me to pursue the acquisition of the Company for $56.00 per share. I communicated this indication to the lead independent director of the Company's Board of Directors during the week of February 5, 2007. Following several weeks of additional analysis and discussion, Cerberus increased its interest level in the Company to $59.25 per share. ***We have agreed to submit this proposal and work together exclusively to negotiate a transaction with the Special Committee***. My participation in the transaction in partnership with Cerberus, combined with Cerberus' streamlined investment decision process, significant operational and financial resources ***and in depth understanding of the Company due to its initial due diligence efforts, will allow us to move substantially more quickly and with a higher degree of certainty than most buyers***.

100. Thus, Deason has openly admitted to giving Cerberus extensive access to ACS's senior management and to ACS's proprietary and highly confidential information at least three full months before disclosing his actions to a single member of the ACS board, on February 5, 2007. Absent express prior permission from the full Board to appropriate ACS resources in this manner, Deason has breached his fiduciary duties to ACS and its public shareholders. Moreover, Deason is now touting the significant "head start" he unlawfully gave to Cerberus by saying that the "in-depth understanding" of the Company he has given Cerberus allows Deason to proceed "substantially more quickly and with a higher degree of certainty than most buyers."

101. It is also further indicative of Deason's utter disregard for the distinction between himself and ACS as a corporate entity that he executed a confidentiality agreement in his personal capacity, ***through which he provided Cerberus access to ACS resources***. The Cerberus "advantage" does not end there. By telling the world that Deason, who controls 40% of the total shareholder voting rights, intends to work "exclusively" with Cerberus "to negotiate a transaction with the Special Committee," both Deason and Cerberus have pre-emptively

impaired any effort by even a well-intentioned special committee to conduct an open and fair bidding process that solicits and obtains the highest price for ACS's public shareholders.

102. Along the same lines, and further confirming that ACS's Board is supine and dominated entirely by Deason, the "lead independent director" that belatedly learned about Deason's scheme on February 5, 2007, evidently did nothing to stop Deason in his tracks and to assure that any sale of the Company would be accomplished through a fair process that treated all potential bidders on an equal footing. Indeed, as set forth below in more detail, the ACS Board is comprised of directors who are controlled by Deason and are not independent. Accordingly, the ACS Board will not – and cannot be relied on – to protect the ACS shareholders.

103. In addition, unlike in the typical arms'-length negotiated deal, in which the potential acquirer must use its own resources to facilitate and raise the financing, Deason has further violated his fiduciary duties by providing access to ACS management and to ACS proprietary information to Citigroup in order to obtain the financing needed to support his Proposed Transaction. As indicated in the Highly Confident Letter:

> In evaluating the Acquisition, ***pursuant to your request***, we have reviewed certain information regarding the Company, including public financial reports issued as of the date of this letter (***and certain other due diligence materials), and have held a discussion with members of ACS's management team***.

104. Thus, Deason misappropriated corporate resources in at least two unlawful ways: first, by giving access to people and information to Cerberus to solicit Cerberus to partner with Deason to take ACS private, and second, by giving access to people and information to Citigroup to obtain the financing needed to support the Proposed Transaction.

105. Pursuant to Delaware law, a merger, such as the transaction contemplated by the Proposed Transaction, may extinguish the derivative liability of corporate fiduciaries because a

merger and the subsequent dissolution of the company in question may deprive shareholders of the merged corporation of standing to maintain a derivative action. As the members of the ACS Board face a substantial likelihood of liability for their involvement in ACS's options backdating scheme, they possesses a substantial conflict of interest that precludes them from independently and fairly evaluating a sale of ACS: the members of the ACS Board may extinguish their liability under every derivative claim alleged herein by facilitating a sale of the Company.

106. By taking the Company private, Deason and the Directors are seeking to remove the SEC investigation of the Company's backdating scandal from the public spotlight and investor scrutiny, and to *eliminate* their civil liability for the derivative claims asserted herein. It is notable that Deason and others at the Company face potential criminal liability and/or severe SEC sanctions should it be determined that they purposefully manipulated the Company's granting of stock options. Numerous directors and officers at other public companies engulfed in the options backdating scandal have been subjected to criminal liability. By taking the Company private, Defendants are attempting to minimize public pressure on the SEC and federal prosecutors to pursue civil and/or criminal charges against Deason and others at the Company who manipulated stock option grants.

107. Not only may the Defendants be able to extinguish their derivative liability for their conduct relating to the Company's options backdating scheme by facilitating a sale of the Company, each of the recipients of the backdated stock options will receive a substantial financial benefit from such a transaction. Pursuant to the Company's Plans:

> If the Company undergoes a Change of Control, then all of the outstanding Options held by any Optionee, whether or not such Options are vested at such time, shall become vested and exercisable, effective the day immediately prior to such Change of Control.

108. Thus, according to the terms of the Plans, each of the backdated stock options that was granted to Grantee Defendants will become immediately exercisable and they will be able to cash out each of these stock options at the price offered by Deason for the purchase of the Company, currently $59.25 per share. In addition, each and every unexercised stock option granted to all Board members will become immediately exercisable upon consummation of the sale of the Company, thus enabling each of the Individual Defendants to receive substantial financial gain through the sale of the Company.

109. For example, Defendants Deason, Rich, King, Blodgett, and Edwards received 300,000, 500,000, 475,000, 400,000, and 275,000 stock options in 2004 and 2005, respectively, none of which have yet vested. The Proposed Transaction, however, would accelerate the vesting of these nearly ***2 million stock options*** given to these top five compensated ACS officers, allowing them to exercise and sell these options at a substantial profit. This is yet another perquisite of this self-dealing transaction that reasonably leads such executives to "squeeze the board."

110. This substantial financial gain, the proceeds and the profits from the premature exercise and sale of backdated stock options substantially impairs the ability of the Individual Defendants to fulfill their fiduciary duties to ACS. These and other potential proceeds and profits from the exercise of unlawfully backdated stock options, which rightfully belong to the Company and not the Grantee Defendants, would increase the value of the Company upon their return. That increase in value could result in other bidders being willing to pay more than $59.25 per share for its Company.

111. Furthermore, Deason and his handpicked directors and officers are motivated to promote and push through the Going Private Deal – no matter the price – for their own self-

interested reasons and not for the benefit of the Company's shareholders. First, Deason has already negotiated his survival as Chairman of the Company – and that of his senior officers – should Deason's chosen acquirer be able to consummate the Proposed Transaction. Second, the Proposal Letter acknowledges that he will continue as Chairman following the acquisition and "would receive performance-based equity incentives" as would other members of management.

112. Accordingly, because the proposed sale of the Company to Deason provides the Individual Defendants with a means by which to potentially extinguish their liability under the derivative claims herein, grants Defendants the opportunity to prematurely cash out their backdated stock options for substantial profits, and preserves the profitability of certain ACS assets for Deason at the expense of shareholders, the proposed sale of the Company to Deason is wrongful, unfair, and harmful to ACS's public stockholders, and represents an effort by Individual Defendants to aggrandize their own financial position and interests at the expense of and to the detriment of ACS.

113. As detailed below, Deason's own prior conduct demonstrates the fundamental inadequacy and unfairness of the currently proposed Going Private Deal.

The Company Recently Rejected a Bid Exceeding the Price Offered in the Proposed Transaction

114. In late 2005, a consortium of private investment firms launched an ***unsolicited*** bid to acquire ACS. It was widely reported in the press that the consortium, led by Texas Pacific Group and including Bain Capital and the Blackstone Group, offered to purchase the Company for between $62 and $65 per share.

115. When rumors and press reports of the potential offer circulated in December 2005, ACS shareholders expressed concern and noted the Company's true valuation exceeded

the rumored bid by a substantial amount. *The Dallas Morning News* reported on December 24, 2005, quoting an institutional investor's valuation:

> "We would have to think hard about whether we would vote for a deal like that as shareholders," said William Rice, president of Anchor Capital Advisors Inc., a Boston-based investment management firm. "***Seventy bucks a share, 75 bucks a share would seem more representative***."

116. *The Dallas Morning News* article reported that Mr. Rice's opinion was not unique and that other professionals in the market believed the Company's true value in an acquisition far exceeded the rumored $62-$65 bid:

> Others familiar with the industry also said they would have expected a steeper premium.
>
> "If you look at market comparables, you expect to see a 20 percent or even a 30 percent premium," said Gary Fernandes, the former vice chairman of Plano-based rival Electronic Data Systems Corp. Private equity firms have gone on a $259 billion spending spree this year.

117. Equity analysts covering ACS agreed the bid price was too low and cautioned shareholders against taking the under-priced offer. For instance, on December 23, 2005, Prudential Equity Group, LLC issued a report stating:

> Private equity has recently showed interest in IT service companies, and it is now turning its focus towards ACS after failing to clinch a deal with CSC. The New York Times is reporting today that a group of private equity firms led by Texas Pacific Group, Bain Capital, and the Blackstone Group could reach a deal to acquire ACS for ~$8B (or ~$62 per share) as soon as next week. A $62 takeout price represents a 7% premium to yesterday's close, ***which we think current shareholders could balk at as being low.***
>
> * * *
>
> In FY05, the company generated $450M in FCF, which represents an FCF yield of ~6%, and a takeout price of ~$62 represents approximately 7.5x our CY06 EBITDA per share estimate (***surprisingly below the 10x-15x buyout multiples we have seen for recent IT service deals***).

118. The unsolicited bid was ultimately unsuccessful. Media reports assert that Deason – via his virtual control over the Company – made the decision to reject the unsolicited

bid, a hostile bid which surely would have led to Deason's removal as Chairman. Now, by contrast, when Deason is the buyer, rather than the seller, he is flagrantly attempting to take the Company private "on the cheap," by offering a price of $59.25 that he himself would surely reject.

Management Recently Valued the Company's Shares Far in Excess of the Current Bid Price

119. After refusing to sell the Company for a price likely exceeding $62 per share, Defendants further reaffirmed that they believed the Company's true worth to be at least $63 per share. Just one year ago, when ACS stock traded at prices ***$6 per share higher*** than they did prior to Deason's Proposed Transaction, Defendants went so far as to expressly tell investors that the market was substantially ***undervaluing*** the Company's true worth.

120. On January 26, 2006, after the Company's stock closed for the day at $57.17 per share, the Company issued a press release announcing it would purchase the Company's shares at prices up to $63:

> Affiliated Computer Services, Inc. (NYSE: ACS) today announced that its Board of Directors has authorized a modified "Dutch Auction" tender offer to purchase up to 55.5 million shares of its Class A common stock at a price per share not less than $56.00 and not greater than $63.00. The tender offer is expected to commence on or about February 6, 2006, and to expire on or about March 6, 2006, unless extended. The number of shares proposed to be purchased in the tender offer represents approximately 45% percent of ACS' currently outstanding common stock.
>
> * * *
>
> "***The tender offer we announced today is consistent with our confidence in the long-term future of ACS*** and our commitment to enhancing shareholder value," stated Darwin Deason, ACS' Founder and Chairman of the Board.

121. Dow Jones reported on January 27, 2006 that the reason for the tender offer was that the Company's management believed the Company's stock price was substantially undervalued by the market:

> Affiliated Computer Services Inc. (ACS) ***Chief Executive Mark King called his company undervalued Thursday***, a trend he said was driven home during the evaluation of a recent unsolicited buyout offer for it.
>
> The potential deal was scrapped earlier this month, but it '***galvanized our view that we were undervalued***,' King told analysts during a post-earnings conference call.
>
> King said the company's new plan - unveiled Thursday - to repurchase up to 55.5 million shares through a Dutch auction is designed to help rectify that situation and increase shareholder value.
>
> '***We believe that [Affiliated] is undervalued***, [and] we also realize that there's some of our shareholders that want to be able to have liquidity, and [the Dutch auction] gives them a great opportunity,' he said.
>
> Affiliated announced on Jan. 17 that a proposed private-equity buyout of the company was off, saying an acceptable valuation couldn't be agreed upon. Affiliated, based in Dallas, never officially released details of the unsolicited buyout offer, although the proposed deal was widely rumored to have been priced at $62 a share to $65 a share.
>
> ***King said Thursday the lengthy process of considering the offer convinced Affiliated executives that the company was undervalued, as well as under-leveraged, and that they needed to do more to increase shareholder value***.

122. On January 26, 2006, the Company's stock closed at $57.17 before shooting up to nearly $63 on January 27, 2006, after the Company's tender offer was announced.

123. Critically, the $63 per share offer was widely rejected as too low by ACS' shareholders. Despite offering to pay $63 per share, only ***six percent*** of the Company's shares were tendered by the time the tender closed on March 17, 2006. Thus, at least as of March 2006, it is clear that the vast majority of the Company's shareholders valued the Company's shares in excess of $63. ***Mr. Deason himself did not sell any stock at the offer price***, showing that he knew that ACS was worth more than $63 per share.

124. Analysts covering ACS were in agreement that the Company's shareholders clearly valued the Company in excess of $63 per share. On March 20, 2006, Credit Suisse issued an analyst report stating: "The small turnout indicates ***a significant portion of the shareholder***

base believes ACS is worth more than $63 per share, and the potential for management to attempt another tender offer or large share repurchase in the future could provide support for the stock."

125. Also on March 20, 2006, Jefferies & Company, Inc. issued an analyst report echoing this same point and reiterating its $70 price target for ACS shares: "Light participation in ACS's large Dutch auction tender suggests ***the Street believes in improving fundamentals and is reluctant to part with the stock, which is currently trading above the high end of the tender range***." Similarly, on March 20, 2006, Bear Stearns issued a report stating:

> ***Shareholders, by not tendering, seem to be saying the stock is worth more than $63*** (stock was trading above $63 for much of the offer period). Recall that ACS was recently in discussions with Private Equity firms regarding a sale of the company in the range of $62-$65 per share (we believe ACS was demanding more than $65).
>
> * * *
>
> We maintain an Outperform on the shares of ACS. ***Our [year]-end price target is $75*** or 18x our calendar 07 EPS est.

The Going Private Deal Exploits a Temporary Depression in the Company's Share Price Caused By Defendants' Own Misconduct

126. ACS shares are down approximately 19% over the past year. The drop in ACS shares is not indicative of a decline in the Company's long-term fundamental business operations. Rather, ACS shares have traded at a depressed price primarily because of revelations and ongoing troubles concerning the Company's stock option backdating scandal.

127. The Company's underlying business fundamentals remain strong, and ACS's true value far exceeds the price offered in the Going Private Deal Despite being tainted by scandal – of the Defendants' own making – that has caused the Company's stock price to be depressed, the Company's recently reported strong financial results for the second quarter of 2007 indicate the Company's long term growth prospects and future earnings potential have improved – not

deteriorated – since the Defendants previously valued the Company's shares at and/or in excess of $63. Indeed, the Company's February 13, 2007 press release touted the second quarter results and quoted Defendant Blodgett as extremely optimistic about the Company's business, both as measured against prior performance and with regard to measures indicative of future financial growth:

> "***I am very pleased with our results this quarter***. We saw improvements in operating margins in both the Commercial and Government segments. ***Our renewal rates were excellent*** at approximately 90% for the second quarter and approximately 95% for the first six months of the year. I would like to thank our clients for their continued confidence in ACS," said Lynn Blodgett, ACS' President and Chief Executive Officer. "Internal revenue growth in our Government segment improved to 4% ***which is a sign that the steps we started taking 18 months ago to restructure our sales force have driven the desired results***. We achieved good cash flow results in the second quarter and reduced capital expenditures in absolute terms and as a percent of revenue from the prior year and prior quarter. ***All in all this was a good quarter for ACS*** . . . "

128. On February 13, 2007, during ACS's earnings conference call for analysts and shareholders to discuss the second quarter financial results, Defendant Blodgett reiterated her positive statements and further noted the Company was well-positioned to achieve additional growth. In that same conference call, Defendant Rexfold similarly reported that ACS was improving its business performance and that senior management was confident that these results were encouraging:

> I will briefly recap our quarterly results. Revenue for the quarter was approximately 1.4 billion, representing total growth of 6%. Excluding the impact of the WWS divestiture, revenue grew 10%. Consolidated internal revenue growth for the quarter was 4%. At the consolidated level, reported operating profit margins increased 30 basis points sequentially, from 10.2% to 10.5% . . . Reported earnings per share increased by 22% on a sequential basis. ***Again, we are encouraged with these improved results***.

129. On February 14, 2007, after the release of the Company's financial results for the Second Quarter of 2007, AG Edwards issued an analyst research report to the public reiterating its Buy/Aggressive rating, commenting positively about the Company's future prospects: "On a

qualitative basis we felt it was a good quarter and we are encouraged going forward…." AG Edwards also reiterated its $68 valuation of the Company and opined that its valuation was conservative given the Company's historic growth rate and future prospects.

Market Reaction to the Proposed Transaction Shows Its Unfairness

130. Following the public disclosure of the Going Private Deal, market participants roundly criticized the offer and noted the alternative benefits to Deason in doing the deal.

131. On March 21, 2007, an article in *The Wall Street Journal* came out strongly against the Proposed Transaction, finding the terms offered by Deason inadequate and casting doubt upon the integrity of Deason's motives for entering the deal in the first place. The article, entitled "Can ACS Get Better Deal? Chairman Deason's Perks Provide a Clear Reason Why He Aims to Go Private," pulled no punches in criticizing the deal:

> If any company belongs in private hands, it is Affiliated Computer Services. Annual shareholder returns over the past five years have been a measly 1%. All the while, executives at the computer-outsourcing company have enjoyed generous perquisites at shareholder expense. So it will take great willpower for investors to resist the $6 billion that Chairman Darwin Deason and buyout shop Cerberus are dangling before them -- ***but resist they must***.
>
> ***The $59.25-a-share offer is insufficient in many respects***. ACS's peers trade around 20 times estimated 2007 earnings, according to A.G. Edwards. ***Yet the buyout price comes in at less than 19 times***. It is also out of whack with previous offers the company has received.
>
> Early last year, ACS broke off talks with private-equity firms reportedly willing to pay up to $65. ACS then offered to buy back up to 45% of outstanding stock for as much as $63 a share. Only 6% of the shares were tendered. ***Mr. Deason himself didn't sell any stock, leaving the impression that investors, including the chairman and founder, thought ACS was worth more than $63***.
>
> ***So what's changed since then?*** Mr. Deason declined to comment on how he valued the company. In November, the company's top two executives resigned amid a probe into backdated stock options. Mr. Deason, who headed the compensation committee during the period the grants were made, emerged untouched. In fact, ACS actually reimbursed him $650,000 for the loss in the value of his own backdated options when the grant date was corrected.

> ***It is easy to see why Mr. Deason would want to take ACS out of the public spotlight. It would, for example, end having to disclose pesky related-party transactions, such as the $9 million of office products and services ACS purchased from a firm owned by Mr. Deason's daughter-in-law. Or ACS's write-off of $600,000 in unused prepaid charter flights from an airplane leasing outfit in which Mr. Deason owns a majority stake. But for this privilege, ACS's independent directors should demand a higher price for their stock -- $63 per share would be a good start.***

132. A separate article also published on March 21, 2007, in *The Wall Street Journal*, titled "ACS Chairman's Offer Puts Board on the Spot -- Deason Holds Power Both With Bidding And Voting Shares," similarly expressed substantial concern regarding the fairness of the Going Private Deal:

> The proposed $6 billion management buyout of Affiliated Computer Services Inc. will prove an important test for both the board and shareholders of the company, who previously rejected higher offers for their shares in the computer-outsourcing company.
>
> * * *
>
> The board still faces some sensitive matters. Mr. Deason maintains about a 40% control over the company via a special supervoting class of stock. ***That gives him ability to essentially control the fate of the company, a power he exercised when killing a previous private-equity deal that was priced in the low $60-per share range***, according to people familiar with the matter.
>
> * * *
>
> [I] t is clear that Mr. Deason retains the ability to pick his partners, an ability that could hamper the company's ability to harvest a large number of competing bidders.

133. The final comment above is especially important. The Proposed Transaction will effectuate a "change of corporate control," thus triggering the entire Board's ***duty to maximize*** the price paid for ACS's public shares. As currently structured, Deason has not only made an inadequate offer, but has insisted on working exclusively with Cerberus, thus preventing the Special Committee from running an effective auction geared towards selling ACS to the highest

bidder. In short, Deason has already indicated that a bid from any party other than Cerberus likely would be a waste of time and resources.

134. On March 21, 2007, the *Financial Times* (London) also concluded the Proposed Sale price was inadequate: "[T]he price should have to rise from the current bid of $59.25 a share . . . The bidders will have left some room to sweeten the offer so that a special committee of ACS directors can 'prove' its independence."

The Special Committee Is Not Independent Is Not Capable of Protecting ACS Shareholders' Interests

135. On March 21, 2007, the Board of Directors created a Special Committee consisting of three purportedly independent directors (Defendants Holland, Kosberg and Rossi) "for the purpose of evaluating the Company's strategic alternatives, including a thorough review of the [Proposed Transaction]."

136. However, the Special Committee is not truly independent and cannot be relied upon to act in the shareholders' best interests.

137. Kosberg's membership on the Special Committee is particularly egregious. Among other reasons, as detailed herein, Kosberg and Deason allegedly previously conspired to defraud investors by engaging in transactions that violated federal banking laws and which resulted in ACS being fined $500,000 and the Office of Thrift Supervision fining Kosberg millions of dollars and barring him from banking. And, as detailed herein, Kosberg served on the board of directors of Precept, another public company run by Deason. According to Precept's Trustee in bankruptcy, Kosberg was "grossly negligent" in allowing Deason and his family members to loot Precept for their own personal gain. Kosberg's history of illegal and/or improper conduct to advance his own (or Deason's) interests at shareholders' expense prohibits

him from being able to impartially and independently review the Proposed Transaction or perform his duties on the Special Committee.

138. As detailed herein, Rossi also is incapable of independently or impartially reviewing the Proposed Transaction, because if the Proposed Transaction is consummated, he will likely receive substantial personal benefits resulting from the termination of claims made against him for his role in the Company's backdating scandal. As a result of Rossi's involvement in the backdating of stock options grants, Rossi faces a substantial likelihood of liability. 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 Company'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 and O'Neill were directly responsible for administering the Company's stock option compensation for executives, and they were otherwise responsible for backdated stock option grants.

139. The Special Committee exists solely to attempt to provide cover for Deason in acquiring ACS at an unfair price. Moreover, even if the Special Committee were truly motivated to protect ACS shareholders, Deason has already tainted the process so deeply – through his misappropriation of corporate assets (which gave Deason and Cerberus an impermissible "head start" in making its bid), his insistence on working exclusively with Cerberus, and his insistence that ACS enter a merger agreement with Deason and Cerberus ***before*** conducting a full and open auction – that the Special Committee is not capable of rising above the level of a sham and ineffectual process.

DERIVATIVE ACTION ALLEGATIONS

140. 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 Company 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.

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

142. 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.

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

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

DEMAND EXCUSED ALLEGATIONS

145. 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. Defendants have already agreed in this matter not to challenge Plaintiffs' arguments regarding the futility of making a demand. Nevertheless, for purposes of this pleading, Plaintiffs preserve intact their prior allegations of demand futility.

146. 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.

147. 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 backdated options. Indeed, on November 27, 2006, the Company announced the results of its internal investigation, which concluded that "hindsight" was used to "select favorable grant dates." Additionally, in the Company's May 10, 2006 SEC filing, the Company 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 Company, itself, was being harmed. In fact, the Company has now further admitted 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 has recorded a charge for the excess compensation created by backdating in the range of approximately $51 million, as set forth in the Company's Form 10-K for the year ended December 31, 2006.

148. In addition, in this same filing, as well as in previous SEC filings including the Company's Form 10-Q for the quarter ended March 31, 2006, the Company admitted that its practice at all times prior to 2003 was 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 relevant times) 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 the responsibility for granting options delegated to any other group or subcommittee; rather, 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.)

149. Furthermore, all but one member of the 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.[6] 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 Company. 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.

150. At the time this Action was commenced on April 7, 2006, the ACS Board of Directors consisted of the following seven individuals: Deason, King, Blodgett, Kosberg, O'Neill, Rossi and McCuistion. These Directors are and were incapable of objectively evaluating a pre-suit demand due to personal interests, improper outside influences, divided loyalties, and Deason's domination and control of the Board. Accordingly, as set forth below, any demand upon the Board would have been futile.

151. 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 was constituted at the time the Original Petition was filed. Specifically, five (Deason, King, Blodgett, O'Neill and Rossi) of the seven current members of the ACS Board of 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 Company'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 Company's stock option compensation for executives, and

[6] Defendant 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

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 Company'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.

152. 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

153. Defendant Deason is not disinterested as he personally benefited from the backdated stock options at issue, and because he clearly stands on both sides of the Proposed Transaction. 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.

154. 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

---

vacancy.

$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.

155. 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 Company'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 Company'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.

156. 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.).[7]

[7] 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,

157. 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.

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

159. 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

---

(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").

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.

160. 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.

161. 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.

162. 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."

163. 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.

164. 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.

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

Defendant King

166. Defendant King was a member of the Board of Directors at the time the Original Petition was filed. Defendant King was also the Chief Executive Officer and President of ACS. Defendant King is not disinterested or independent as King orchestrated and participated in ACS's backdating scheme. He also 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.

167. First, according to the results of the Company's internal investigation as set forth in its Press Release dated November 26, 2006, King orchestrated and carried out the Company's backdating scheme. Indeed, in this Press Release, ACS admitted that:

> Mr. Rich, Mr. King and/or Mr. Edwards often looked back in time and selected as the "grant date, a date on which the price was at a low, notwithstanding that the date had already passed and the stock price on the date of the actual selection was higher. Recommendation memoranda attendant to these grants were intentionally misdated at the direction of Mr. Rich, Mr. King and/or Mr. Edwards to make it appear as if the memoranda had been created at or about the time of the chosen grant date, when in fact, they had been created afterwards. As a result, stock options were awarded at prices that were at, or near, the quarterly low and the Company effectively granted "in the money" options without recording the appropriate compensation expense.

168. Based on these findings, ACS determined that King violated the ACS Code of Ethics for Senior Financial Officers. ACS concurrently demanded that King resign from his executive officer and director positions immediately.[8] Thus, King is not disinterested.

169. Second, 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. 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

[8] As set forth above, King was replaced on the Board by Defendant Rexford, who is also not dinsterested or independent as he personally received received backdated stock option grants during the relevant period and is a longstanding executive of ACS. Specifically, Rexford started working at ACS in 1996, serving as Executive Vice President of Corporate Development from March 2001 until November 2006, and serving as Executive Vice President and Chief Financial Officer since November 2006. During this time, Rexford received and benefited from millions of dollars in unlawful compensation by means of backdated stock options. Specifically, as set forth above, Rexford received 25,000 options on October 8, 1998, at an exercise price of $23.06, the lowest price for the fiscal year; 50,000 options on September 13, 1999, at an exercise price of $39.00 per share, the lowest price for the fiscal quarter and month; 15,000 options on July 11, 2000, at an exercise price of $32.88, the lowest price for the fiscal year; and 50,000 options on July 23, 2002, at an exercise price of $35.75, the lowest price for the fiscal quarter and month. In addition, starting at least as early as 1996, Defendant Rexford has received, and continues to receive, substantial sums of money in salary, bonuses, and other forms of compensation. Because Rexford continues to receive substantial monetary compensation, stock options and other benefits, Rexford 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. Rexford would also not disinterestedly consider a demand to institute an action against the other directors who control his compensation.

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 continued to receive substantial monetary compensation, stock options and other benefits throughout the majority of 2006. Accordingly, King would not have impartially evaluated a demand, as he had an interest in protecting the stock options and compensation that he has received and from ACS.

170. Third, 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 worked for Deason from the inception of ACS in 1988 until his resignation. 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.

171. 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 was still under Deason's control and influence and therefore cannot make an impartial evaluation with respect to demand.

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

Defendant Blodgett

173. 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, as Executive Vice President and Chief Operating Officer from September 2005 to November 2006, and as President and Chief Operating Officer since November 2006. 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

174. 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.

175. 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.

176. 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."

177. *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.

178. 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.

179. 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%.

180. 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.

181. 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.

182. 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.

183. 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.

184. 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.

185. 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

186. 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 Committee 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.

187. First, O'Neill served on the Compensation Committee and/or the Special Compensation Committee from 1996 to 2003. The Compensation Committee and the Special Compensation Committee were directly responsible for administering and managing the Company'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 Company 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.

188. 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 Company to any governmental body or the public, including but not limited to, the integrity of the Company's financial statements and the Company's compliance with legal and regulatory requirements; (2) the Company's system of internal controls regarding finance, accounting, legal compliance and ethics that management and the Board have established; (3) the Company's auditing, accounting and financial reporting processes, including, but not limited to, the independent accountant's qualifications and independence and the performance of the Company'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 Company'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 Company'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.

189. 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.

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

Defendant Rossi

191. 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 Committee 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.

192. First, Rossi served on the Compensation Committee and/or the Special Compensation Committee from 1997-2002. The Compensation Committee and the Special Compensation Committee were directly responsible for administering and managing the Company'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 Company 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.

193. 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 Company'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 Company's false financial statement. Thus, there is reasonable doubt that Rossi is disinterested because he faces a substantial likelihood of liability for his breaches of fiduciary duties.

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

* * * * * *

195. The members of the ACS Board at the time the Original Petition was filed 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 they 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.

CLASS ACTION ALLEGATIONS

196. With respect to the allegations relating to and claims arising from the Proposed Transaction, Plaintiffs bring this action pursuant to Rule 42 of the Texas Rules of Civil

Procedure, individually and on behalf of all other stockholders of the Company (except the Defendants herein and any persons, firm, trust, corporation, or other entity related to or affiliated with them and their successors in interest) (the "Class").

197. This action is properly maintainable as a class action.

198. The Class is so numerous that joinder of all members is impracticable. There are nearly one hundred millions shares of ACS common stock outstanding, nearly 92 million of which are in the public float. The number of shareholders of ACS is unknown, but likely numbers in the thousands, and includes investors spread across the country.

199. There are questions of law and fact which are common to the Class and which predominate over questions affecting only individual class members. The common questions include, inter alia, the following:

a. Whether Deason and the other Defendants have engaged and are continuing to engage in a plan and scheme to benefit themselves at the expense of the members of the Class;

b. Whether Deason, who controls approximately 40% of any ACS shareholder vote, and obviously stands to benefit from the Proposed Transaction, has fulfilled, or is even capable of fulfilling, his fiduciary duties to Plaintiffs and the other members of the Class, including his duty of loyalty, due care, and candor, which include, in this instance, the duty to maximize share value and to ensure that ACS is sold through a fair process and at a fair price;

c. Whether the ACS Directors have fulfilled, or are even capable of fulfilling, their fiduciary duties to Lead Plaintiffs and the other members of the Class, including their duties of loyalty, due care, and candor, which include, in

this instance, the duty to maximize share value and to ensure that ACS is sold through a fair process and at a fair price;

d. Whether Deason is engaging in self-dealing in connection with the Proposed Transaction;

e. Whether Deason is unjustly enriching himself and other insiders or affiliates of ACS;

f. Whether the Proposed Transaction is entirely fair to the members of the Class; and

g. Whether Lead Plaintiffs and the other members of the Class would be irreparably damaged if the Defendants are not enjoined from effectuating the conduct described herein.

200. Lead Plaintiffs are committed to prosecuting this action and have retained competent counsel experienced in litigation of this nature. Lead Plaintiffs' claims are typical of the claims of the other members of the Class and Lead Plaintiffs have the same interests as the other members of the Class. Accordingly, Lead Plaintiffs are adequate representatives of the Class and will fairly and adequately protect the interests of the Class.

201. The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for Defendants, or adjudications with respect to individual members of the Class which would, as a practical matter, be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

202. To the extent Defendants take further steps to effectuate the Proposed Transaction, preliminary and final injunctive relief on behalf of the Class as a whole will be entirely appropriate because Defendants have acted, or refused to act, on grounds generally applicable and causing injury to the Class.

203. The class action device is a superior method of adjudicating these claims to any alternative.

204. To the extent Lead Plaintiffs seek damages on behalf of the proposed Class concerning any false and/or misleading statements, this case is exempt from the provisions of the Securities Litigation Uniform Standards Act of 1998 because, among other reasons, this case involves: (1) a recommendation, position, or other communication with respect to the sale of the Company; (2) that is made by or on behalf of the Company or an affiliate of the Company to holders of equity securities of the Company; and (3) concerns decisions of such equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights. Lead Plaintiffs' class allegations are limited to those concerning breaches of fiduciary duties and duties of loyalty and care in connection with the Proposed Transaction.

TOLLING OF THE STATUTE OF LIMITATIONS

205. 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.

206. Specifically, from as early as 1995 until at least 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 Company for granting and approving stock option grants. Specifically, from 1995 to 2003, the Company, 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.

207. 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.

208. On March 6, 2006, ACS filed with the SEC a Form 8-K announcing that on March 3, 2006, the Company 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 at least March 6, 2006, ACS investors reasonably relied upon Defendants' materially false and misleading statements and could not determine from the pattern of ACS's option grants alone that Defendants were, in fact, backdating executive option grants. Upon the Company'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.

209. 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 Company'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 Company'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 Company.

CAUSES OF ACTION

COUNT I

DERIVATIVE CLAIM AGAINST THE INDIVIDUAL DEFENDANTS FOR BREACH OF FIDUCIARY DUTY

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

211. The Individual Defendants, by reason of their positions as fiduciaries of the Company, owed duties of undivided loyalty, good faith, and truthful disclosure. The Individual Defendants violated and breached these duties. Each of the Grantee Defendants received backdated options bearing fraudulent prices. Each of the Grantor Director Defendants approved, ratified or was 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.

212. 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 Company. 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 Company 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 Company's purchase of his options.

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

214. The Individual Defendants are liable to the Company as a result of the acts alleged herein.

COUNT II

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

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

216. By reason of their positions as fiduciaries of the Company, 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.

217. By virtue of their role in creating and administering the Company'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.

218. 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 Company has sustained, and will continue to sustain, substantial harm.

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

COUNT III

DERIVATIVE CLAIM AGAINST THE GRANTEE DEFENDANTS FOR UNJUST ENRICHMENT

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

221. 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 Company of millions of dollars in payments that the Company should have received upon exercise of the options.

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

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

COUNT IV

DERIVATIVE CLAIM AGAINST THE GRANTEE DEFENDANTS FOR RESCISSION

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

225. 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.

226. 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 Company, and all such executory contracts cancelled and declared void.

COUNT V

DERIVATIVE CLAIM AGAINST DEASON FOR BREACH OF FIDUCIARY DUTY THROUGH MISAPPROPRIATION OF CORPORATE RESOURCES

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

228. As the Company's Founder and Chairman, Deason owes a duty of undivided loyalty to ACS's shareholders. In structuring the Proposed Transaction, Deason used his access to internal financial information about ACS, its true value, expected increase in true value and the benefits of his ownership of ACS to which Plaintiffs are not privy. Deason is using such proprietary inside information to benefit himself in the Proposed Transaction, to the detriment of ACS and its public shareholders.

229. Moreover, Deason has admitted, as evidenced by the Proposal Letter, that at least three months before disclosing his actions to any other members of the ACS Board, he misappropriated ACS's proprietary and confidential information and resources in order to assemble the Proposed Transaction and to obtain the support of Cerberus and Citigroup for the Proposed Transaction. Among other things, Deason caused members of ACS's senior management to attend meetings with both Cerberus and Citigroup, even though the ACS Board has not taken any step to authorize such conduct.

230. The initiation and timing of the Proposed Transaction based on Deason's misappropriation of inside information and of ACS resources and personnel are in flagrant disregard of Deason's fiduciary duties of loyalty and fair dealing to ACS and its shareholders. Absent judicial intervention, ACS and its shareholders will be damaged. Further, the ACS shareholders will suffer irreparable harm in the event the Proposed Transaction, based on Deason's misappropriation of inside information and of ACS resources and personnel, is

consummated because the sale of ACS may extinguish the derivative liability of the Defendants herein, a harm that cannot be cured by monetary relief.

231. Deason has not and will not deal fairly, much less at arms'-length, with ACS's shareholders. As the financial interests of Deason and the other Defendants are adverse to the interests of ACS's shareholders, it is imperative that Deason behave and be treated as if he were a third party operating at arms'-length. In this regard, the Company's resources and confidential information should be safeguarded from misappropriation by Deason for use in facilitating his efforts to obtain the Company at the lowest possible price.

COUNT VI

DERIVATIVE CLAIM FOR AIDING AND ABETTING BREACH OF FIDUCIARY DUTY

AGAINST CERBERUS

232. Lead Plaintiffs repeat and reallege each and every allegation above as if set forth in full herein.

233. Defendant Deason owes a duty of loyalty and good faith to ACS, which includes safeguarding the proprietary and confidential information of ACS, and assuring that ACS resources and personnel are not employed for any personal purpose or for the advantage of a third party outside. That Deason owes ACS fiduciary duties of this sort is well known to Cerberus.

234. As is detailed in the preceding paragraphs, the ACS Directors have breached their fiduciary duties to the Class. Among other things, in connection with assembling the Going Private Deal, Deason was required to obtain the express permission of ACS before misappropriating confidential ACS information and providing that information to any third party. Instead, Deason personally gave Cerberus access to ACS data and personnel months before

disclosing his actions to any member of the Board, much less obtaining express authorization of the Board for his activities.

235. Cerberus aided and abetted Deason's breaches of fiduciary duty. Cerberus actively and knowingly induced Defendant Deason to breach his fiduciary duties with the promise of lucrative and powerful employment with the entity following the consummation of the Proposed Transaction. This inducement allowed Defendant Deason to both receive the substantial benefits of staying with the Company while also acquiring ACS at a bargain price and avoiding further inquiry into his prior breaches of fiduciary duty.

236. Cerberus colluded in or aided and abetted, and was an active and knowing participant in, Deason's breaches of fiduciary duties owed to ACS.

237. Cerberus participated in the breach of the fiduciary duties by Deason for the purpose of advancing its own financial interests. Cerberus will benefit, *inter alia*, from the acquisition of the Company at a grossly inadequate and unfair price if the Proposed Transaction is consummated.

238. ACS has been harmed by Cerberus' aiding and abetting Deason's breaches of fiduciary duty.

239. ACS has no adequate remedy at law.

COUNT VII

CLASS ACTION CLAIM FOR BREACH OF FIDUCIARY DUTY – ENTIRE FAIRNESS

240. Plaintiffs repeat and reallege the preceding allegations as if fully set forth herein.

241. Because Deason dominates the Board of ACS and stands on both sides of the Proposed Transaction, the Proposed Transaction must be entirely fair, both in terms of price and process, to ACS's public shareholders. The Proposed Transaction fails to meet that standard's

rigorous requirements. Defendants cannot demonstrate the entire fairness of the Proposed Transaction because, among other things: (a) Deason and all Defendants will receive enormous personal benefit as a result of the Going Private Deal significantly in excess of that to be received by the Company's minority shareholders; (b) the transaction calls for the payment of a price that is exceedingly below fair value, much less "true value", and (c) the Proposed Transaction does not provide for any sort of meaningful procedural protections for the Company's public shareholders.

242. The unfairness of the terms of the Proposed Transaction is compounded by the gross disparity between the knowledge and information possessed by Defendants (by virtue of their positions of control of ACS) and that possessed by Lead Plaintiffs and the Company's other public shareholders.

243. Because entire fairness applies to the Proposed Transaction and because of their respective positions with the Company, the Defendants are obligated to:

a. act independently to ensure that the best interest of the corporation and its shareholders takes precedence over any interest possessed by a director, officer, or controlling shareholder.

b. ensure that if there are conflicts between the Defendants' interests and their fiduciary obligations of loyalty, that they are resolved in the best interest of the ACS's public shareholders.

c. ensure that the Proposed Transaction is entirely fair to ACS's public shareholders.

244. By reason of the foregoing, Deason and the other Defendants have breached and will continue to breach their fiduciary duties owed to the public shareholders of ACS, and are

engaging in, or facilitating the accomplishment of, an unfair and self interested transaction that is not entirely fair to the public shareholders of ACS. The ACS Directors are unable or unwilling to protect the rights of ACS's public shareholders because doing so would require them to take positions adverse to the interests of Deason.

COUNT VIII

CLASS ACTION CLAIM FOR BREACH OF FIDUCIARY DUTY – *REVLON* CLAIM

245. Lead Plaintiffs repeat and reallege each and every allegation above as if set forth in full herein.

246. The Individual Defendants, as ACS directors, owe the Class the utmost fiduciary duties of due care, good faith, and loyalty. Because the Going Private Deal represents a "change-in-control" transaction, the individual Defendants are required to secure the transaction offering the highest value reasonably available for the ACS shareholders – and they are required to exercise their fiduciary duties to further that end. They are required to employ all measures necessary to inform themselves about competing offers for the Company and choose the offer that best maximizes shareholder value. To satisfy this obligation, the Defendants have a duty to:

a. fully inform themselves of ACS's market value before taking, or agreeing to refrain from taking, action;

b. to act solely in the interests of the equity owners;

c. to obtain the best financial and other terms when the Company's independent existence will be materially altered by the transaction; and

d. to act in accordance with the fundamental duties of loyalty, care and good faith.

247. The Individual Defendants have failed to fulfill their fiduciary duties in the sale of control of ACS. Lead Plaintiffs and the Class have been harmed by these breaches of fiduciary duty, as this transaction is their only chance to capture a control premium. The Individual Defendants have squandered that chance by allowing Deason to misappropriate corporate resources to propose the inadequate Proposed Transaction and to structure it in a manner that prevents and precludes the successful emergence of a superior offer from emerging.

248. Lead Plaintiffs and the Class have no adequate remedy at law.

COUNT IX

CLASS ACTION CLAIM FOR AIDING AND ABETTING BREACH OF FIDUCIARY DUTY AGAINST CERBERUS

249. Lead Plaintiffs repeat and reallege each and every allegation above as if set forth in full herein.

250. The ACS Directors owe the Class the fiduciary duties of care, good faith and unflinching loyalty. That the ACS Directors owe the Class these fiduciary duties is well known to Cerberus.

251. As is detailed in the preceding paragraphs, the ACS Directors have breached their fiduciary duties to the Class.

252. Cerberus aided and abetted the ACS Directors' breaches of fiduciary duty. Cerberus actively and knowingly induced Defendant Deason to breach his fiduciary duties with the promise of lucrative and powerful employment with the entity following the consummation of the Proposed Transaction. This inducement allowed Defendant Deason to both receive the substantial benefits of staying with the Company while also acquiring ACS at a bargain price and avoiding further inquiry into his prior breaches of fiduciary duty.

253. Cerberus also induced the ACS Directors as a group to breach their fiduciary duties to ACS and its shareholders by plying them with the promises of the extinguishment of their personal liability to ACS for the breaches of their fiduciary duties in connection with their prior option backdating transgressions.

254. Cerberus colluded in or aided and abetted the Defendants' breaches of fiduciary duties, and was an active and knowing participant in Defendants' breaches of fiduciary duties owed to plaintiffs and the members of the Class.

255. Cerberus participated in the breach of the fiduciary duties by the ACS Directors for the purpose of advancing its own financial interests. Cerberus will benefit, *inter alia*, from the acquisition of the Company at a grossly inadequate and unfair price if the Proposed Transaction is consummated.

256. The Class has been harmed by Cerberus' aiding and abetting the ACS Directors' breaches of fiduciary duty.

257. Lead Plaintiffs and the Class have no adequate remedy at law.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs demand judgment as follows:

A. Awarding to the Company 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 Company 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 Company 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. Certifying the Class with respect to the claims challenging the Proposed Transaction;

F. Enjoining the Proposed Transaction from being consummated and requiring Defendants to take all reasonable steps to maximize the price paid to ACS shareholders in any transaction resulting in the elimination of all or substantially all of the current public shareholders' interests in ACS;

G. Awarding punitive damages against the Grantee Defendants;

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

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

JURY DEMAND

Lead 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: March 26, 2007

Respectfully Submitted,

_____

Roger L. Mandel (Bar No. 12891750)
STANLEY, MANDEL & IOLA, LLP
3100 Monticello Avenue, Suite 750
Dallas, Texas 75202
Telephone: (800) 687-333
Facsimile: (214) 443-4302

Liaison Counsel for Plaintiffs

Lee D. Rudy
Michael Hynes
Emanuel Shachmurove
SCHIFFRIN BARROWAY TOPAZ & KESSLER, LLP
280 King of Prussia Road
Radnor, PA 19087
Telephone: (610) 667-7706
Facsimile: (610) 667-7056
Co -Lead Counsel for Plaintiffs and Counsel for Plaintiff Huntsinger

Salvatore J. Graziano
Hannah E. Greenwald
BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP
1285 Avenue of the Americas
New York, NY 10019
Telephone: (212) 554-1400
Facsimile: (212) 554-1444

Co-Lead Counsel for Plaintiffs and Counsel for Anchorage Police & Fire Retirement System

KLAUSNER & KAUFMAN, P.A.
Robert D. Klausner
10059 N.W. 1st Court
Plantation, FL 33324
Telephone: (954) 916-1202
Facsimile: (954) 916-1232

Additional Counsel for Plaintiff Anchorage Police & Fire Retirement System