

**UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF GEORGIA (ATLANTA DIVISION)**

IN RE CBeyond, INC.  
SECURITIES LITIGATION

Civil Action No. 1:08-cv-1666 (CC)

**NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT**

**TO: ALL PERSONS AND ENTITIES THAT PURCHASED OR ACQUIRED THE COMMON STOCK OF CBeyond, INC. DURING THE PERIOD FROM NOVEMBER 1, 2007 THROUGH FEBRUARY 21, 2008, INCLUSIVE (THE "CLASS PERIOD") AND WERE DAMAGED THEREBY (THE "SETTLEMENT CLASS").**

**YOU MAY BE ENTITLED TO A PAYMENT FROM THIS PROPOSED SETTLEMENT.**

**A federal court authorized this notice. This is not a solicitation from a lawyer.**

- If approved by the Court,<sup>1</sup> the proposed Settlement will create a \$2.3 million settlement fund for the benefit of eligible investors who purchased or acquired the common stock of Cbeyond, Inc. ("Cbeyond" or the "Company") during the Class Period.
- The Settlement would resolve a class action lawsuit alleging that Cbeyond and its Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO") (collectively, "Defendants") misled investors about Cbeyond's financial condition (the "Securities Litigation"). The Settlement Class is represented in the Securities Litigation by court-appointed Lead Plaintiffs Genesee County Employees' Retirement System and the Essex Regional Retirement Board (the "Lead Plaintiffs" or "Plaintiffs").
- The Court will review the Settlement at the Settlement Hearing to be held on **January 5, 2010 at 1:30 p.m.**
- **Your legal rights are affected whether you act or do not act. Read this notice carefully.**

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

|  |  |
|--|--|
| <b>SUBMIT A CLAIM FORM BY<br/>JANUARY 11, 2010</b> | The <i>only</i> way to get a payment.  |
| <b>EXCLUDE YOURSELF BY<br/>DECEMBER 22, 2009</b>   | Get no payment. This is the <i>only</i> option that allows you to ever bring or be part of any <i>other</i> lawsuit against the Defendants and the other "Released Defendant Parties" about the "Released Claims." This is the <i>only</i> option that removes you from the Settlement Class, if you are a Class Member. |
| <b>OBJECT BY<br/>DECEMBER 22, 2009</b>             | Write to the Court about why you do not like the Settlement. This will not exclude you from the Settlement Class.  |
| <b>GO TO A HEARING ON<br/>JANUARY 5, 2010</b>      | Ask to speak in Court about the Settlement at the Settlement Hearing.  |
| <b>DO NOTHING</b>                                  | Get no payment. Give up rights.  |

**SUMMARY OF THIS NOTICE**

**Statement of Plaintiff Recovery**

This proposed Settlement will create a Settlement Fund of \$2.3 million in cash, plus interest as it accrues. Based on the Lead Plaintiffs' estimate of the number of shares of common stock that may have been damaged by the alleged fraud, and assuming that all those shares participate in the Settlement, Lead Plaintiffs estimate that the average recovery would be approximately \$0.24 per share.<sup>2</sup> This estimate is before deduction of any court-awarded expenses, such as attorneys' fees and litigation expenses, and the cost of sending this Notice and administering the distribution of the Settlement. The amount an eligible Class Member will actually recover will depend on numerous factors. These factors are fully explained in the Plan of Allocation beginning on page 7. Please refer to the Plan of Allocation for more information on your potential "Recognized Loss" (defined below).

**Statement of Potential Outcome if the Case Continued to Be Litigated**

The Parties disagree about whether each of the Defendants is liable for the claims asserted against them and whether each of the Defendants caused any damages. The issues on which the Parties disagree include, for example: (1) whether Defendants made any false or material misstatements or omissions; (2) whether Defendants acted with the required state of mind; (3) the amount by which the prices of Cbeyond common stock were artificially inflated (if at all) during the Class Period as a result of the alleged fraud; (4) the extent that Cbeyond's alleged misstatements and omissions influenced (if at all) the trading price of Cbeyond's common stock during the Class Period; (5) whether any purchasers of Cbeyond common stock suffered damages as a result of the alleged misstatements and omissions in the Company's public statements; and (6) the amount of such damages, assuming they exist.

The Defendants deny that they are liable to the Settlement Class and deny that the Settlement Class has suffered any damages attributable to Defendants' actions. While the Lead Plaintiffs believe they and the Settlement Class have meritorious claims, they recognize that there are significant obstacles to be overcome before there could be any recovery.

<sup>1</sup> All capitalized terms not otherwise defined in this document shall have the meaning provided in the Stipulation and Agreement of Settlement, dated August 28, 2009.

<sup>2</sup> An allegedly damaged share might have been traded more than once during the Class Period, and this average recovery would be the total for all purchasers of that share.

## Statement of Attorneys' Fees and Costs Sought

The Lead Plaintiffs and Settlement Class are represented by the law firm of Labaton Sucharow LLP ("Lead Counsel"). Lead Counsel has not received any payment for its services in litigating the Securities Litigation, nor has it been reimbursed for its litigation expenses. Lead Counsel intends to make a motion asking the Court to award it attorneys' fees of no more than 30% of the Settlement Fund (including any accrued interest), and reimbursement from the Settlement Fund of expenses incurred during the litigation, in an amount not to exceed \$55,000.00, plus interest. If the Court approves the fee and expense motion, the average amount of fees and expenses per damaged share of common stock will be approximately \$0.08. This amount will vary depending on the number of eligible claims submitted.

## Further Information

Further information regarding the Settlement and this Notice may be obtained by contacting the Claims Administrator: In re Cbeyond, Inc. Securities Litigation, Claims Administrator, c/o A.B. Data, Ltd., PO Box 170500, Milwaukee, WI 53217-8042, 800-524-0614, [www.abdataclassaction.com](http://www.abdataclassaction.com); or Lead Counsel: Labaton Sucharow LLP, 140 Broadway, New York, NY 10005, 800-321-0476, [www.labaton.com](http://www.labaton.com). **Please Do Not Call The Court Or Cbeyond With Questions About The Settlement.**

## Reasons for the Settlement

For the Lead Plaintiffs, the principal reason for the Settlement is the immediate benefit of a substantial cash recovery for the Settlement Class. This benefit must be compared to the risk that no recovery or a smaller recovery might be achieved after the motion to dismiss, expert discovery is complete, summary judgment motions by Defendants or a contested trial and likely appeals, possibly years into the future. For Defendants, who deny all allegations of wrongdoing, the principal reason for the Settlement is to eliminate the burden, expense, uncertainty and risk of further litigation.

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## BASIC INFORMATION

### 1. Why did I get this notice package?

You or someone in your family may have purchased or acquired Cbeyond, Inc. common stock during the period from November 1, 2007 through February 21, 2008, inclusive, and may be a Class Member in this Securities Litigation. This package explains the lawsuit, the Settlement, Class Members' legal rights, what benefits are available, who is eligible for them and how to get them.

The Court directed that this Notice be sent to Class Members because they have a right to know about a proposed settlement of this class action lawsuit, and about all of their options, before the Court decides whether to approve the Settlement. If approved, the Settlement will end all of the Settlement Class's claims against Defendants. The Court will review the Settlement at a Settlement Hearing on **January 5, 2010 at 1:30 p.m.** If the Court approves the Settlement, and after any objections and appeals are resolved, the claims administrator appointed by the Court will make the payments that the Settlement allows.

The Court in charge of the case is the United States District Court for the Northern District of Georgia (Atlanta Division), and the case is known as *In re Cbeyond, Inc. Securities Litigation*, No. 1:08-cv-1666 (CC). This case was assigned to United States District Judge Clarence Cooper. The people who brought the case are called lead plaintiffs, and the company and the persons they sued are called defendants.

On May 6, 2008, the first complaint in the Securities Litigation was filed and on August 21, 2008, Genesee County Employees' Retirement System and the Essex Regional Retirement Board were appointed Lead Plaintiffs for the class by the Court. Defendants named in the Consolidated Amended Complaint filed by Lead Plaintiffs in this case are: Cbeyond; James F. Geiger (Cbeyond's Chairman and Chief Executive Officer); and J. Robert Fugate (Cbeyond's Chief Financial Officer). Mr. Geiger and Mr. Fugate are referred to below as the Individual Defendants.

### 2. What is this lawsuit about and what has happened so far?

Cbeyond has principal executive offices in Atlanta, Georgia. It provides telecommunications services to small to medium-sized businesses, including local and long-distance telephone providers.

The main complaint in the Securities Litigation is the Consolidated Amended Complaint (the "Amended Complaint"). The Amended Complaint alleges, among other things, that Defendants violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rules 10b-5(a)-(c) by issuing allegedly false and misleading statements to investors during the Class Period. The statements allegedly contained misrepresentations and omissions concerning Cbeyond's "customer churn rates," a metric that compared the number of customers Cbeyond lost in a given period of time to its total customers, and its financial results. The Amended Complaint also alleged that the Individual Defendants were "control persons" and were liable under Section 20(a) of the Exchange Act. The Amended Complaint further alleges that Lead Plaintiffs and other Class Members purchased Cbeyond common stock during the Class Period at artificially inflated prices and were allegedly damaged when the truth was disclosed and the stock price dropped. The Securities Litigation seeks money damages against the Defendants for violations of these federal securities laws.

The Parties have been litigating the case since Lead Plaintiffs were appointed in August 2008. Lead Plaintiffs filed the Amended Complaint on October 24, 2008, after an extensive investigation that included, among other things: (a) review and analysis of publicly available information concerning Defendants, including newspaper articles, online publications, stock price charts, statements at analyst conferences and Bloomberg reports; (b) review and analysis of regulatory filings made by Defendants with the United States Securities and Exchange Commission ("SEC"); (c) review and analysis of securities analyst reports; (d) review and analysis of press releases and media reports issued by and disseminated by Defendants; and (e) interviews with former employees of Cbeyond, some of whom became confidential witnesses. On December 23, 2008, Defendants moved to dismiss the Amended Complaint in its entirety. Lead Plaintiffs filed papers opposing the motion on February 20, 2009. The motion to dismiss was pending at the time a settlement was reached.

Defendants deny all allegations of wrongdoing contained in the Amended Complaint and deny that they are liable. The Settlement should not be seen as an admission or concession on the part of any Defendant about any of the claims, their fault or liability for damages.

### 3. Why is this a class action?

In a class action, one or more people called class representatives (in this case the Lead Plaintiffs) sue on behalf of people or entities who have similar claims. They are known as class members. A class action allows one court to resolve in a single case many similar claims that, if brought separately by individual people, might be economically so small that they would never be brought. One court resolves the issues for all class members, except for those who exclude themselves, or “opt out,” from the class (discussed below).

### 4. Why is there a settlement?

The Court did not finally decide in favor of Lead Plaintiff or Defendants. The Settlement will end the Securities Litigation and avoid the uncertainties and costs of further litigation and any future trial. Affected investors will get compensation immediately, rather than after the time it would take to conduct additional litigation and discovery, have a trial and exhaust all appeals. The Settlement was reached after the Parties engaged in thorough investigations, briefed a challenging motion to dismiss and engaged in arms-length negotiations about a settlement. Several settlement discussions took place, including before an experienced impartial mediator, who is a former federal judge. These discussions ultimately resulted in an agreement to settle the claims asserted in the Securities Litigation. The Lead Plaintiffs and Lead Counsel believe the Settlement is in the best interest of Class Members.

## WHO IS IN THE SETTLEMENT

### 5. How do I know if I am part of the Settlement?

As part of the Settlement, the Court will be asked to certify this Securities Litigation as a class action and to order that everyone who fits the following description is a Class Member, unless they take steps to exclude themselves:

**all persons and entities that purchased or acquired the common stock of Cbeyond, Inc. during the period from November 1, 2007 through February 21, 2008, inclusive, and were damaged thereby. Excluded from the Settlement Class are: Defendants; the officers and directors of the Company or its subsidiaries or affiliates; the members of the immediate families of the Individual Defendants; the legal representatives, heirs, successors or assigns of any excluded person; any entity in which any excluded person has or had a controlling interest; and any person or entity that timely and validly seeks exclusion from the Settlement Class (“Settlement Class”).**

Receipt of this Notice does not mean that you are a Class Member. Please check your records or contact your broker to see if you purchased or acquired Cbeyond common stock during the Class Period.

### 6. Are there exceptions to being included in the Settlement Class?

There are some people who cannot be in the Settlement Class. The excluded persons are: (a) Defendants; (b) the officers and directors of Cbeyond or its subsidiaries or affiliates; (c) the members of the immediate families of the Individual Defendants; (d) the legal representatives, heirs, successors or assigns of any excluded person; (e) any entity in which any excluded person has or had a controlling interest; and (f) any person or entity that timely and validly seeks exclusion from the Settlement Class.

If you do not want to be a Class Member, for example if you want to bring your own lawsuit against the Defendants for these claims, you must exclude yourself by filing a request for exclusion in accordance with the requirements explained below.

If one of your mutual funds purchased or acquired shares of Cbeyond common stock during the Class Period, that alone does not make you a Class Member. You are a Class Member only if you (or your broker on your behalf) purchased or acquired Cbeyond common stock during the Class Period.

### 7. What if I am still not sure if I am included?

If you are still not sure whether you are included, you can ask for free help from the Claims Administrator: In re Cbeyond, Inc. Securities Litigation, Claims Administrator, c/o A.B. Data, Ltd., PO Box 170500, Milwaukee, WI 53217-8042, 800-524-0614, [www.abdataclassaction.com](http://www.abdataclassaction.com). Or you can fill out and return the Proof of Claim form (“Proof of Claim”) described on page 4, in Question 10, to see if you qualify.

## THE SETTLEMENT BENEFITS—WHAT YOU GET

### 8. What does the Settlement provide?

In the Settlement, the Defendants have agreed to fund a \$2.3 million (before interest) account to be divided, after deduction of court-awarded attorneys’ fees and expenses, settlement administration costs and any applicable taxes (“Net Settlement Fund”), among all Class Members who timely submit valid Proof of Claim forms.

### 9. How much will my payment be?

The Plan of Allocation discussed on pages 7 and 8 explains how claimants’ “Recognized Losses” will be calculated. Your share of the Settlement Fund will depend on several things, including: (a) the amount of Recognized Losses of other Class Members; (b) how many shares of Cbeyond stock you bought; (c) how much you paid for the shares; (d) when you bought them; and (e) whether or when you sold them (and, if so, for how much you sold them).

It is unlikely that you will get a payment for your entire Recognized Loss, given the number of potential Class Members. After all Class Members have sent in their Proof of Claim forms, the payment you get will be a portion of the Net Settlement Fund. Your share will be your Recognized Loss divided by the total of all Class Members' Recognized Losses and then multiplied by the total amount in the Net Settlement Fund. See the Plan of Allocation beginning on page 7 for more information.

Once all the Proofs of Claim are processed and claims are calculated, Lead Counsel, without further notice to the Settlement Class, will apply to the Court for an order distributing the Net Settlement Fund to the members of the Settlement Class. Lead Counsel will also ask the Court to approve payment of the Claims Administrator's fees and expenses incurred in connection with administering the Settlement that have not already been reimbursed.

## HOW YOU GET A PAYMENT—SUBMITTING A PROOF OF CLAIM FORM

### 10. How can I get a payment?

To qualify for a payment, you must timely send in a validly completed Proof of Claim form with supporting documents (DO NOT SEND ORIGINALS of your supporting documents). A Proof of Claim form is being circulated with this Notice. You may also get a Proof of Claim form on the Internet at the websites for the Claims Administrator: [www.abdataclassaction.com](http://www.abdataclassaction.com), or Lead Counsel: [www.labaton.com](http://www.labaton.com). Please read the instructions carefully, fill out the Proof of Claim form, include all the documents the form asks for, sign it and mail it to the Claims Administrator by First-Class Mail, **postmarked no later than January 11, 2010**. The Claims Administrator needs all of the information requested in the Proof of Claim in order to determine what you may be entitled to.

### 11. When would I get my payment?

The Court will hold a hearing on **January 5, 2010 at 1:30 p.m.**, to decide whether to approve the Settlement. All Proofs of Claim need to be submitted **postmarked no later than January 11, 2010**. If the Court approves the Settlement, there may still be appeals, which can take time to resolve, perhaps more than a year. It also takes time for all the Proofs of Claim to be processed. Please be patient.

### 12. What am I giving up by staying in the Settlement Class and getting a payment?

Unless you exclude yourself, you will stay in the Settlement Class, which means that once the Settlement becomes effective (the "Effective Date") and you become entitled to receive your share of the Net Settlement Fund, you will forever give up and release all "Released Claims" (as defined below) against the "Released Defendant Parties."<sup>3</sup> You will not in the future be able to bring a case asserting any Released Claim against the Released Defendant Parties.

"Released Claims" in this Settlement means all claims, rights, and causes of action (including any claims for costs but excluding claims for enforcement of the Settlement), held by the Settlement Class, whether asserted directly, derivatively, or otherwise, against any and all of the Released Defendant Parties, whether known or unknown (defined below) and whether arising under federal, state, or any other law (including, without limitation, the federal securities laws or Georgia state law), which have been, could have been, or could be asserted in the future against any of the Released Defendant Parties that relate in any way to alleged misstatements, omissions or other matters raised in the Securities Litigation. However, the release of the Released Claims shall not release, bar waive, or otherwise affect claims that have been brought or could have been brought in the shareholder derivative action captioned *In re Cbeyond, Inc., Derivative Litigation*, Docket No. 08-157216, pending in the Superior Court of Fulton County, State of Georgia, with respect to which all parties reserve their rights.

"Unknown Claims" means any and all Released Claims, which the Lead Plaintiffs in the Securities Litigation or any Class Member do not know to exist in his, her or its favor at the time of the release of the Released Defendant Parties, and any Released Defendants' Claims that any Defendant does not know to exist in his, her or its favor at the time of the release of the Released Plaintiff Parties, which if known by them might have affected their decisions with respect to the Settlement. With respect to any and all Released Claims and Released Defendants' Claims, the Parties stipulate and agree that, upon the Effective Date, the Lead Plaintiffs and the Defendants shall expressly, and each Class Member shall be deemed to have, and by operation of the Judgment shall have, expressly waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

The Lead Plaintiffs and Defendants acknowledge, and other Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims and Released Defendants' Claims was separately bargained for and was a key element of the Settlement.

The "Effective Date" will occur when the Judgment by the Court approving the Settlement becomes final and is not subject to appeal. If you remain a member of the Settlement Class, all of the Court's orders will apply to you and legally bind you.

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<sup>3</sup> "Released Defendant Parties" means any and all of the Defendants, and the current or former officers, directors, employees, insurers, reinsurers, attorneys, affiliates, subsidiaries, committees, managers, or fiduciaries of any Defendant, including, without limitation, Cbeyond and current or former members of its board of directors.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this Settlement, but you want to keep any right you may have to sue or continue to sue the Released Defendant Parties on your own about the Released Claims, then you must take steps to exclude yourself from the Settlement. Excluding yourself is known as “opting out” of the Settlement Class. Defendants may withdraw from and terminate the Settlement if potential Class Members who purchased in excess of a certain amount of Cbeyond common stock during the Class Period opt out from the Settlement Class.

### 13. How do I “opt out” (exclude myself) from the proposed Settlement?

To “opt out” (exclude yourself) from the Settlement Class, you must send a signed letter by First-Class Mail stating that you “request exclusion from the Settlement Class in *In re Cbeyond, Inc. Securities Litigation*, No. 08-cv-1666.” Your letter must state the date(s), price(s) and number of shares of all your purchases, acquisitions and sales of Cbeyond common stock during the Class Period. This information is needed to determine whether you are a Class Member. In addition, you must include your name, address, telephone number and your signature. You must mail your exclusion request by First-Class Mail, **postmarked no later than December 22, 2009** to:

**IN RE CBEYOND, INC. SECURITIES LITIGATION**  
**CLAIMS ADMINISTRATOR**  
**EXCLUSIONS**  
**C/O A.B. DATA, LTD.**  
**PO BOX 170500**  
**MILWAUKEE, WI 53217-8042**

**You cannot exclude yourself or opt out by telephone or by e-mail.** Your exclusion request must comply with these requirements in order to be valid. If you write to request to be excluded, you will not get any settlement payment and you cannot object to the Settlement.

### 14. If I do not exclude myself, can I sue the Defendants and the other Released Defendant Parties for the same thing later?

No. Unless you exclude yourself, you give up any rights to sue Defendants and the other Released Defendant Parties for all Released Claims. If you have a pending lawsuit speak to your lawyer in that case **immediately**. You must exclude yourself from *this* Settlement Class to continue your own lawsuit. Remember, the exclusion deadline is **December 22, 2009**.

### 15. If I exclude myself, can I get money from the proposed settlement?

No. If you exclude yourself, do not send in a Proof of Claim form to ask for any money. But, you may exercise any right you may have to sue, continue to sue or be part of a different lawsuit against Defendants and the other Released Defendant Parties.

## THE LAWYERS REPRESENTING YOU

### 16. Do I have a lawyer in this case?

The Court appointed the law firm of Labaton Sucharow LLP in New York, New York to represent all Class Members. These lawyers are called Lead Counsel. You will not be separately charged for these lawyers. The Court will determine the amount of Lead Counsel’s fees and expenses, which will be paid from the Settlement Fund if they are approved. If you want to be represented by your own lawyer, you may hire one at your own expense.

### 17. How will the lawyers be paid?

Lead Counsel has not received any payment for its services in pursuing the claims against Defendants on behalf of the Settlement Class, nor has it been reimbursed for its litigation expenses. At the Settlement Hearing described below, or at such other time as the Court may order, Lead Counsel will ask the Court to award it, from the Settlement Fund, attorneys’ fees of no more than 30% of the Settlement Fund (including accrued interest), and to reimburse it for its litigation expenses, such as the cost of experts, that it has incurred in pursuing the Securities Litigation. The request for reimbursement of expenses will not exceed \$55,000.00, plus interest on the expenses at the same rate as may be earned by the Settlement Fund. If the application for attorneys’ fees and expenses is approved, the average amount of such fees and expenses per damaged share would be approximately \$0.08.

The fee requested by Lead Counsel would compensate it for its efforts in achieving the Settlement for the benefit of the Settlement Class and for the risk in undertaking the Securities Litigation on a contingency basis. A request of 30% may be determined by the Court to be reasonable given: (a) the time and labor spent by counsel; (b) the novelty and difficulty of the claims; (c) the risk that Lead Plaintiffs would not prevail; (d) the quality of counsel’s representation; and (e) the fees awarded in similar cases. The Court will determine the amount of the award.

## OBJECTING TO THE SETTLEMENT

### 18. How do I tell the Court that I do not like the proposed Settlement?

If you are a Class Member you can object to the Settlement or any part of it, the proposed Plan of Allocation and the application by Lead Counsel for attorneys’ fees and expenses. You must write to the Court setting out your objection, giving reasons why you think the Court should not approve any part or all of the Settlement.

To object, you must send a signed letter stating that you object to the proposed settlement in the case known as: *In re Cbeyond, Inc. Securities Litigation*, No. 08-cv-1666. You must include your name, address, telephone number and your signature; identify the date(s), price(s) and number of shares of all purchases, acquisitions and sales of Cbeyond stock you made during the Class Period; and state the reasons why you object to the Settlement. This information is needed to demonstrate your membership in the Settlement Class.

Unless otherwise ordered by the Court, any Class Member who does not object in the manner described in this Notice will be deemed to have waived any objection and will not be able to make any objection to the Settlement in the future.

Your objection must be filed with the Court and delivered or mailed First-Class (with a corresponding postmark) **no later than December 22, 2009** to all the following:

**COURT:**

**Clerk of the Court**

United States District Court for the  
Northern District of Georgia – Atlanta Div.  
Richard B. Russell Federal Building & Courthouse  
75 Spring Street, SW  
Atlanta, GA 30303-3361

**LEAD COUNSEL:**

**Labaton Sucharow LLP**

Jonathan Gardner  
140 Broadway  
New York, NY 10005

**DEFENDANTS' COUNSEL:**

**Latham & Watkins LLP**

J. Christian Word  
555 Eleventh Street, NW, Suite 1000  
Washington, DC 20004

**Latham & Watkins LLP**

Michael J. Faris  
233 South Wacker Drive, Suite 5800  
Chicago, IL 60606

**19. What is the difference between objecting and excluding?**

Objecting is simply telling the Court that you do not like something about the proposed Settlement. You can still recover from the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

**THE COURT'S SETTLEMENT HEARING**

**20. When and where will the Court decide whether to approve the proposed Settlement?**

The Court will hold a Settlement Hearing at **1:30 p.m. on January 5, 2010**, in Courtroom 1706 of the Richard B. Russell Federal Building and Courthouse, the United States District Court for the Northern District of Georgia (Atlanta Division), 75 Spring Street, SW, Atlanta, GA 30303-3361. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. The Court also will consider the proposed Plan of Allocation for the proceeds of the Settlement and the application of Lead Counsel for attorneys' fees and reimbursement of expenses. The Court will take into consideration any written objections filed in accordance with the instructions set out above in the answer to Question 18. We do not know how long it will take the Court to make these decisions.

You should also be aware that the Court may change the date and time of the Settlement Hearing without another notice being sent. If you want to come to the hearing, you should check with Lead Counsel before coming to be sure that the date and/or time has not changed.

**21. Do I have to come to the hearing?**

No. Lead Counsel will answer questions the Court may have. But, you are welcome to come at your own expense. If you validly submit an objection, you do not have to come to Court to talk about it.

**22. May I speak at the hearing and submit additional evidence?**

If you object to the Settlement, you may ask the Court for permission to speak at the Settlement Hearing. To do so, you must include with your objection (*see* Question 18 above) a statement that it is your "notice of intention to appear in *In re Cbeyond, Inc. Securities Litigation*, No. 08-cv-1666." Persons who intend to object and want to present evidence at the Settlement Hearing must also include in their written objection the identity of any witness they may call to testify and exhibits they intend to introduce at the Settlement Hearing. You cannot speak at the hearing if you excluded yourself from the Settlement Class or if you have not provided written notice of your intention to speak at the Settlement Hearing according to the procedures described above and in the answer to Question 18.

**IF YOU DO NOTHING**

**23. What happens if I do nothing at all?**

If you do nothing, you will get no money from this Settlement and you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants and the other Released Defendant Parties about the Released Claims in this case. To share in the Net Settlement Fund you must submit a Proof of Claim form (*see* Question 10). To start, continue or be a part of any *other* lawsuit against the Defendants and the other Released Defendant Parties about the Released Claims in this case you must exclude yourself from this Settlement Class (*see* Question 13).

## GETTING MORE INFORMATION

### 24. Are there more details about the proposed settlement and the lawsuit?

This Notice summarizes the proposed Settlement. More details are in the Stipulation and Agreement of Settlement dated August 28, 2009 (the “Stipulation”). You may review the Stipulation filed with the Court and all documents filed in the Securities Litigation during business hours at the Office of the Clerk of the United States District Court for the Northern District of Georgia (Atlanta Division), Richard B. Russell Federal Building & Courthouse, 75 Spring Street, SW, Atlanta, GA 30303-3361.

You also can call the Claims Administrator toll free at 800-524-0614; call Lead Counsel at 800-321-0476; write to *In re Cbeyond, Inc. Securities Litigation*, Claims Administrator, c/o A.B. Data, Ltd., PO Box 170500, Milwaukee, WI 53217-8042; or visit the websites [www.abdatacassaction.com](http://www.abdatacassaction.com) or [www.labaton.com](http://www.labaton.com), where you can find answers to common questions about the Settlement, download copies of the Stipulation or Proof of Claim form and locate other information to help you determine whether you are a Class Member and whether you are eligible for a payment. **Please Do Not Call The Court Or Cbeyond With Questions About The Settlement.**

#### PLAN OF ALLOCATION OF NET SETTLEMENT FUND AMONG CLASS MEMBERS

The \$2.3 million Settlement Amount and any interest it earns is called the Settlement Fund. The Settlement Fund, minus all taxes, costs, fees and expenses (the “Net Settlement Fund”), will be distributed according to the Plan of Allocation described below to members of the Settlement Class who timely submit valid Proofs of Claim (“Authorized Claimants”). Class Members who do not timely submit valid Proofs of Claim will not share in the Settlement proceeds, but will otherwise be bound by the terms of the Settlement.

The Claims Administrator will determine each Authorized Claimant’s share of the Net Settlement Fund based upon each Authorized Claimant’s “Recognized Loss,” as described below. The Plan of Allocation is not intended to estimate the amount a Class Member might have been able to recover after a trial, nor is it intended to estimate the amount that will be paid to Authorized Claimants. The Plan of Allocation is the basis upon which the Net Settlement Fund will be proportionately divided among all the Authorized Claimants. The Court will be asked to approve the Claims Administrator’s determinations before the Net Settlement Fund is distributed to Authorized Claimants. No distributions to Authorized Claimants who would receive less than \$10.00 will be made, given the administrative expenses of processing and mailing such checks.

Defendants, their respective counsel and all other Released Defendant Parties will have no responsibility for or liability whatsoever for the investment of the Settlement Fund, the distribution of the Net Settlement Fund, the Plan of Allocation or the payment of any claim. The Lead Plaintiffs and Lead Counsel likewise will have no liability for their reasonable efforts to execute, administer and distribute the Settlement.

The following Plan of Allocation reflects the allegations that the price of Cbeyond common stock during the Class Period was inflated artificially by reason of allegedly false and misleading statements made by the Defendants. Defendants deny any allegations of liability. The artificial inflation allegedly began on November 1, 2007 when Cbeyond reported its financial results for the third quarter of 2007. The Lead Plaintiffs allege that this periodic report and related statements, together with subsequent statements throughout the Class Period, made materially false and misleading representations and omissions about the business, management and operations of Cbeyond.

The Lead Plaintiffs allege that the artificial inflation was gradually eliminated after disclosures between February 4 and February 5, 2008 and after the close of trading on February 21, 2008 when, among other things, Cbeyond reported new information about its operations and increasing “churn rate.” The price of Cbeyond common stock, which had closed at \$33.34 per share on February 4, 2008, fell approximately 19% over the following trading days to close at \$27.01 per share at the end of trading on February 6, 2008. The price of the stock was \$18.76 at the end of trading on February 21, 2008. The Plan of Allocation described below was created with the assistance of a damages expert who analyzed the movement of Cbeyond’s common stock after the alleged disclosures. It takes into account the portion of the stock drops attributable to the alleged fraud.

#### PLAN OF ALLOCATION

To the extent there are sufficient funds in the Net Settlement Fund, each Authorized Claimant will receive an amount equal to the Authorized Claimant’s Recognized Loss, as defined below. If, however, the amount in the Net Settlement Fund is not sufficient to permit payment of the total of all Recognized Losses, then each Authorized Claimant will be paid the percentage of the Net Settlement Fund that each Authorized Claimant’s recognized claim bears to the total of the claims of all Authorized Claimants (“*pro rata* share”). You will be eligible to participate in the distribution of the Net Settlement Fund only if you have a net loss on all transactions in Cbeyond common stock.

To calculate the Recognized Loss on Cbeyond common stock purchased and sold during the Class Period, such sales must be matched against purchases during the Class Period. To do so, the earliest sale will be matched first against those shares in the claimant’s opening position on the first day of the Class Period, and then matched chronologically thereafter against each purchase made during the Class Period (“FIFO Matching”). This means that sales of Cbeyond common stock will be first matched with any pre-Class Period holdings and then matched with purchases during the Class Period in chronological order. Sales of pre-Class Period purchases shall have no Recognized Loss. In addition to the calculation of Recognized Losses, the total out-of-pocket market profits and losses by a claimant will be calculated by the Claims Administrator. To the extent a claimant realized a net profit on the total of all of the claimant’s transactions in Cbeyond common stock during the Class Period, the claimant shall have no recognized claim.

A purchase or sale of Cbeyond common stock will be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date. Any person or entity that sold Cbeyond common stock “short” will have no Recognized Loss with respect to such purchase during the Class Period to cover said short sale. Gifts and transfers of stock are also not eligible purchases. Payment in this manner will be deemed conclusive against all Authorized Claimants. A Recognized Loss will be calculated as defined below.

## Publicly Traded Cbeyond Common Stock

The Recognized Loss for common stock is based on the per-share amounts of alleged artificial inflation present in Cbeyond's stock price set forth below and shall be calculated as follows, and cannot be less than zero:

- I. For shares of Cbeyond common stock purchased or acquired on or after November 1, 2007 through and including February 4, 2008, and:
  - (a) Sold on or before February 4, 2008, the Recognized Loss per share is \$0;
  - (b) Sold on February 5, 2008 before the close of business, the Recognized Loss per share is the lesser of the purchase price minus the sale price, and \$3.23;
  - (c) Sold on or after February 6, 2008 but before the close of business on February 22, 2008, the Recognized Loss per share is the lesser of the purchase price minus the sale price, and \$4.47;
  - (d) Still held as of the close of business on February 22, 2008, the Recognized Loss per share is the lesser of the purchase price minus \$17.90, and \$9.16.
- II. For shares of Cbeyond common stock purchased or acquired on February 5, 2008, and:
  - (a) Sold on February 5, 2008, the Recognized Loss per share is \$0;
  - (b) Sold on or after February 6, 2008 but before the close of business on February 22, 2008, the Recognized Loss per share is the lesser of the purchase price minus the sale price, and \$1.24;
  - (c) Still held as of the close of business on February 22, 2008, the Recognized Loss per share is the lesser of the purchase price minus \$17.90, and \$5.93.
- III. For shares of Cbeyond common stock purchased or otherwise acquired on or after February 6, 2008 through and including February 21, 2008, and:
  - (a) Sold on or before February 21, 2008, the Recognized Loss per share is \$0;
  - (b) Sold on February 22, 2008 before the close of business, the Recognized Loss per share is the lesser of the purchase price minus the sale price, and \$4.69;
  - (c) Still held as of the close of business on February 22, 2008, the Recognized Loss per share is the lesser of the purchase price minus \$17.90, and \$4.69.

### SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES

If you purchased or acquired Cbeyond common stock (NASDAQ ticker: CBEY; ISIN US1498471051) during the period from November 1, 2007 through February 21, 2008, inclusive, for the beneficial interest of a person or organization other than yourself, the Court has directed that, WITHIN SEVEN (7) CALENDAR DAYS OF YOUR RECEIPT OF THIS NOTICE, you either: (a) provide to the Claims Administrator the name and last known address of each person or organization for whom or which you purchased or acquired Cbeyond common stock during such time period (preferably in an MS Excel data table, setting forth (i) title/registration, (ii) street address, (iii) city/state/zip; or electronically in MS Word or WordPerfect files; or on computer-generated mailing labels); or (b) request additional copies of this Notice and the Proof of Claim form, which will be provided to you free of charge, and within seven (7) calendar days send by First-Class Mail the Notice and Proof of Claim form directly to the beneficial owners of those Cbeyond shares.

If you choose to follow alternative procedure (b), the Court has directed that, upon such mailing, you send a statement to the Claims Administrator confirming that the mailing was made as directed. You are entitled to reimbursement from the Settlement Fund of your reasonable expenses actually incurred in connection with the foregoing, including reimbursement of postage expense and the cost of ascertaining the names and addresses of beneficial owners. Those expenses will be paid after request and submission of appropriate supporting documentation. All communications concerning the foregoing should be addressed to the Claims Administrator:

**IN RE CBEYOND, INC. SECURITIES LITIGATION**  
**CLAIMS ADMINISTRATOR**  
**ATTENTION: FULFILLMENT DEPARTMENT**  
**C/O A.B. DATA, LTD.**  
**3410 WEST HOPKINS STREET**  
**PO BOX 170500**  
**MILWAUKEE, WI 53217-8042**

**Phone: 866-561-6065**

**Fax: 414-961-7499**

**[fulfillment@abdata.com](mailto:fulfillment@abdata.com)**

**[abdataclassaction.com](http://abdataclassaction.com)**

DATED: OCTOBER 1, 2009

By Order of the Court  
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CLERK OF THE COURT