

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

<p>THE PENNSYLVANIA AVENUE FUNDS, Individually And On Behalf of All Others Similarly Situated,</p> <p>Plaintiff,</p> <p>vs.</p> <p>INYX INC., JACK KACHKAR, STEVEN HANDLEY, RIMA GOLDSHMIDT, JAY M. GREEN and BERKOVITS &amp; COMPANY, LLP,</p> <p>Defendants.</p>	<p>Civil Action No. 08-cv-06857-PKC</p>
--	---

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION**

To: All purchasers of Inyx, Inc. common stock between April 1, 2005 and July 2, 2007, inclusive.

PLEASE READ THIS NOTICE CAREFULLY.

**YOUR RIGHTS WILL BE AFFECTED BY A CLASS ACTION LAWSUIT PENDING IN THIS COURT.**

PLEASE NOTE THAT IF YOU ARE A MEMBER OF THE CLASS, YOU MAY BE ENTITLED TO SHARE IN THE PROCEEDS OF THE SETTLEMENT DESCRIBED IN THIS NOTICE. TO CLAIM YOUR SHARE, YOU MUST TIMELY **SUBMIT A VALID PROOF OF CLAIM POSTMARKED NO LATER THAN JUNE 8, 2012**. THE PROOF OF CLAIM DOES NOT ACCOMPANY THIS NOTICE. YOU MAY REQUEST ONE FROM THE CLAIMS ADMINISTRATOR, AS EXPLAINED BELOW.

**I. SUMMARY OF THIS NOTICE**

This Notice has been sent to you pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Southern District of New York (the "Court"). The purpose of this Notice is to inform you of the proposed settlement of a class action lawsuit (the "Action"), as set forth in the Stipulation and Agreement of Settlement ("Stipulation" or "Settlement"), and of the hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement. This Notice is not intended to be, and should not be understood as, an expression of any opinion by the Court concerning the merits of this Action. This Notice describes the rights you may have in connection with the Settlement and what steps you may take in relation to the Settlement.

The proposed Settlement creates a fund in the amount of no less than \$600,000.00 (US) and no more than \$1,100,000.00 (US) in cash before deductions of attorneys' fees, costs, and expenses. Plaintiff David S. Lenington ("Plaintiff") and defendants Inyx, Inc. ("Inyx"), Jack Kachkar, Rima Goldshmidt, and Jay M. Green ("Defendants") disagree on the potential liability of Defendants and they do not agree on the average amount of damage per share, if any, that would be recoverable if Plaintiff were to have prevailed at trial on each claim alleged. Plaintiff and Class Counsel (as defined below) believe that the proposed Settlement is in the best interests of the Class (as defined below) in light of the risks and delays associated with proceeding to trial and through appellate proceedings.

The Class, as certified by the Court on July 5, 2011, consists of all Persons (other than those Persons who timely and validly request exclusion from the Class) who purchased the common stock of Inyx, Inc. between April 1, 2005 and July 2, 2007 (the "Class Period"), both dates inclusive, excluding Defendants, members of the immediate families of Jack Kachkar, Rima Goldshmidt, and Jay M. Green (the "Individual Defendants"), the directors, officers, subsidiaries, and affiliates of Inyx, any person, firm, trust, corporation, officer, director or other individual or entity in which any Defendant has a controlling interest, and the legal representatives, affiliates, heirs, successors-in-interest or assigns of any such excluded person (the "Class").

If the Settlement is approved by the Court, Brower Piven, A Professional Corporation ("Class Counsel") will apply to the Court for an award of attorneys' fees not to exceed 35% of the Settlement Fund (as defined below) as compensation for successfully prosecuting this Action and reimbursement of litigation expenses not to exceed \$110,000.00 (US). You may contact the claims administrator, The Garden City Group, Inc. ("Claims Administrator"), or a representative of Class Counsel for further information about the Settlement; see below under "Further Information" for the contact information.

**Statement of Lead Plaintiff's Recovery** – The proposed Settlement with Defendants creates a fund in the amount of no less than \$600,000.00 (US) and no more than \$1,100,000 (US) in cash (the "Settlement Amount"), comprised of \$10,000.00 per month installment payments and periodic \$50,000.00 balloon payments made by Inyx over a five year period, plus interest that accrues prior to distribution (the "Settlement Fund"). The proposed Settlement provides for security in the form of certain intellectual property held by Inyx, as well as additional recourse protections agreed to by Defendants intended to secure payment of the Settlement Amount. The Stipulation also provides for Defendants to receive certain credits for early payment at various junctures. Defendants currently claim they do not have the funds to pay the Settlement Amount, and there is no assurance that if Plaintiff were to levy upon the security it could be monetized for the benefit of the Class. Therefore, payment of any or all of the Settlement Amount cannot be guaranteed. Based on Class Counsel's estimate of the number of shares of stock that may have been damaged by the alleged securities law

violations, and assuming that all those shares participate in the Settlement, Plaintiff estimates that the average recovery would be in the range between approximately \$.03 and \$.06 per share. Your recovery from this Settlement, however, will depend on a number of variables, including the number of shares of Inyx common stock you purchased during the Class Period, the timing of your purchases and any sales, and the number and amount of claims actually filed. You are advised to review the Plan of Allocation set forth on pages 4-5 below in the Notice, which provides the actual formula that will be applied to claims submitted by each person or entity who falls within the definition of the Class ("Class Member").

**Statement of Potential Outcome of Case** – Plaintiff and Defendants disagree on the potential liability of Defendants and they do not agree on the average amount of damages per share, if any, that would be recoverable were Plaintiff to have prevailed at trial on each claim alleged for himself and the Class. The issues on which the parties disagree include, without limitation: (1) whether any Defendant engaged in any conduct that violated the federal securities laws; and (2) the amount by which Inyx common stock was allegedly artificially inflated (if at all) during the Class Period.

**Statement of Attorneys' Fees and Costs Sought** – Class Counsel have committed a substantial amount of time prosecuting claims against Defendants on behalf of Plaintiff and the Class. In addition, they have not been reimbursed for out-of-pocket expenses. If the Settlement is approved by the Court, Class Counsel will apply to the Court for an award of attorneys' fees not to exceed 35% of the Settlement Fund and reimbursement of out-of-pocket expenses incurred in the prosecution of the Action not to exceed \$110,00.00 (US), to be paid from the Settlement Fund. If the amounts described above are requested and approved by the Court, the average cost per share will be between approximately \$.016 and \$.025 per share. In addition, Class Counsel may apply to the Court, from time to time, for their fees and expenses, including hourly time billing incurred solely for administration of the Settlement. The amount requested in attorneys' fees is substantially less than Class Counsel's hourly time billed to the Action.

**Reasons for Settlement** – Plaintiff believes that the proposed Settlement is in the best interests of the Class because of the risks and delays associated with continuing to litigate, proceeding through trial and appellate proceedings, and including the risks that the Class might not succeed on the merits, not prove damages, or not be able to collect on a final judgment and the Class, therefore, recovering little or nothing.

**Further Information** – You may contact a representative of Class Counsel for further information about the Settlement by calling the following toll-free number: 800-231-1815. You also may email Class Counsel at the following email address: inyxquestions@gcginc.com. Any written inquiries about this Action should be addressed to:

*The Pennsylvania Avenue Funds v. Inyx, Inc., et al., Class Action*  
c/o GCG  
PO Box 9349  
Dublin, OH 43017-4249  
Email: inyxquestions@gcginc.com

## **II. NOTICE OF HEARING ON PROPOSED SETTLEMENT**

A settlement hearing will be held on May 4, 2012, at 11:30 a.m., before the Hon. P. Kevin Castel, United States District Judge, at the Daniel Patrick Moynihan U.S. Courthouse, 500 Pearl Street, New York, New York 10007 (the "Settlement Hearing"). The purpose of the Settlement Hearing will be: (1) to determine whether the Settlement consisting of between \$600,000.00 (US) and \$1,100,000.00 (US) in cash as structured under the Stipulation should be approved as fair, reasonable, and adequate to the Class and the proposed Judgment entered; (2) to determine whether the proposed Plan of Allocation for the proceeds of the settlement is fair and reasonable, and should be approved by the Court; (3) to determine whether any applications for attorneys' fees or expenses to Class Counsel should be approved; and (4) to rule upon such other matters as the Court may deem appropriate. The Court may adjourn or continue the Settlement Hearing without further notice to the Class.

## **III. THE LITIGATION**

Beginning on July 31, 2008, a putative class action was filed in the United States District Court for the Southern District of New York, (the "Court") on behalf of purchasers of Inyx common stock during a period of time alleging violations of the federal securities laws. On November 7, 2008, the Court (i) appointed Plaintiff as lead plaintiff and (ii) approved Plaintiff's selection of the law firm Brower Piven, A Professional Corporation, as counsel ("Brower Piven"). On March 10, 2009, Plaintiff filed a Consolidated Amended Class Action Complaint for Violations of the Federal Securities Laws (the "Amended Complaint") asserting claims under Sections 10(b) and 20(a) of the Securities Exchange Act ("Exchange Act"), and SEC Rule 10b-5 on behalf of himself and the Class. Following extensive briefing, on March 1, 2010, the Court (i) granted the motion to dismiss the Amended Complaint filed by Defendant Berkovits & Company LLP and (ii) granted in part and denied in part the motion to dismiss the Amended Complaint filed by Inyx and Defendants Kachkar, Goldshmidt, and Green. Following extensive briefing, on July 5, 2011, the Court (i) certified the Class; (ii) appointed Plaintiff as the Class representative; and (iii) appointed Brower Piven as Class Counsel. On December 15, 2011, the Court issued an Order setting the a trial date of February 6, 2012. Following the final pretrial conference on February 3, 2012, at the recommendation of the Court, the Settling Parties engaged in extensive and complex negotiations between February 3, 2012 and February 5, 2012, and reached an agreement in principle to settle this Action. On February 6, 2012, the Settling Parties described all material terms of the proposed Settlement on the record to the Court and the Court adjourned the trial of this Action until February 14, 2012 to permit the Parties to complete the necessary formal documentation for a class action settlement. The formal Stipulation was executed by the Settling Parties on February 9, 2012.

#### IV. CLAIMS OF THE CLASS AND BENEFITS OF SETTLEMENT

Plaintiff believes that the claims asserted in this Action against Defendants have merit and that the evidence developed to date supports those claims. However, Plaintiff recognizes and acknowledges the expense and length of continued proceedings necessary to prosecute this Action through trial and through appeals. Plaintiff also has taken into account the uncertain outcome and the risk of any litigation, especially in complex actions such as this Action, as well as the difficulties and delays inherent in such litigation. Further, Plaintiff has taken into account Defendants' ability to pay damages, including the lack of insurance available to Defendants, certain preexisting orders restricting Defendants ability to dispose of their assets, and other debts and claims against Defendants that could take priority to a final judgment in this Action. Plaintiff also is mindful of the inherent difficulties of proof under and possible defenses to the securities law violations asserted in this Action. Plaintiff believes that the Settlement set forth in the Stipulation confers substantial benefits upon the Class. Based on his evaluation, and that of Class Counsel, Plaintiff has determined that the Settlement set forth in the Stipulation is in the best interests of the Class.

#### V. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY

Defendants expressly have denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in this Action. Defendants also continue to believe the claims asserted against them in the Amended Complaint are without merit. Defendants also have denied and continue to deny, among other things, the allegations that the lead plaintiff or the Class have suffered damages, that the prices of Inyx securities were artificially inflated by reasons of alleged misrepresentations, non-disclosures or otherwise, and that the lead plaintiff or the Class were harmed by the conduct alleged in the Amended Complaint or its predecessor complaints. Nonetheless, Defendants have agreed to enter into the Settlement solely to avoid the expense, distraction, and time associated with continuing this Action. Defendants have concluded that further conduct of this Action would be protracted and expensive and that it is desirable that this Action be fully and finally settled in the manner and upon the terms and conditions set forth in the Stipulation. Defendants also have taken into account the uncertainty and risks inherent in any litigation, especially in complex cases such as this Action. Defendants have, therefore, determined that it is desirable and beneficial to them that this Action be settled in the manner and upon the terms and conditions set forth in the Stipulation.

#### VI. TERMS OF THE PROPOSED SETTLEMENT

Inyx shall pay, or cause to be paid, cash in the amount of \$10,000.00 (US) per month for a period of five years, totaling \$600,000.00 (US) cumulatively, into the Settlement Fund, as provided by the Stipulation. In the third, fourth, and fifth years of the Settlement, Inyx shall pay, or cause to be paid, the additional amount of \$50,000.00 (US) per year for each of those three years, totaling \$150,000.00 (US) cumulatively, into the Settlement Fund, as provided by the Stipulation. Inyx shall also pay, or cause to be paid, an additional single cash payment of between \$250,000.00 (US) and \$400,000.00 (US) into the Settlement Fund as provided by the Stipulation, if during the five years of the Settlement Inyx realizes any financial return from an intellectual property tied to certain pharmaceutical patents. As a further security, Defendants have agreed to certain additional Class recovery protections, intended to further secure payment of the Settlement Amount, as provided in the Stipulation. In exchange for such payments, the Released Claims will be released, discharged, and dismissed with prejudice as against each of the Released Persons. A portion of the Settlement Fund will be used for certain administrative expenses, including the costs of printing and mailing this Notice, the cost of publishing newspaper notices, payment of any taxes assessed against the Settlement Fund and costs associated with the processing of claims submitted. In addition, as explained herein, a portion of the Settlement Fund may be awarded to Class Counsel as attorneys' fees and reimbursement of expenses. The Settlement Fund less (i) any Court-awarded attorneys' fees, costs, and expenses; (ii) notice and administration costs; (iii) taxes and tax expenses; and (iv) other Court-approved deductions that occur before distribution of the proceeds of the Settlement to the Class ("Net Settlement Fund"), will be distributed to Class Members whose claims for recovery have been allowed pursuant to the terms of the Stipulation ("Authorized Claimant") according to the Plan of Allocation described below.

Because the terms of the proposed Settlement provide for the establishment of a Settlement Fund comprised of cash installment payments by Defendants expected to accumulate over time, distribution of the Settlement Fund will not be immediate and is expected to be periodic. Specifically, Class Counsel anticipates (but does not guarantee) that, consistent with the Stipulation, an initial distribution to the Class will not be made until at least the third anniversary of the Settlement and a second distribution to the Class will be made on the fifth anniversary of the Settlement. Class Counsel will only make distributions from the Settlement Fund to Class members when they believe it is economically reasonable and practical to make such distributions.

#### VII. REQUESTING EXCLUSION FROM THE CLASS

If you do **not** wish to be included in the Class and you do not wish to participate in the proposed settlement described in this Notice you may request to be excluded. To do so, you must send a letter, postmarked **no later than April 9, 2012**. In this letter, you must set forth: (a) your name, current address, and day-time and evening telephone numbers; (b) your holdings in Inyx common stock one day prior to the commencement of the Class Period, March 31, 2005, your holdings in Inyx common stock during the Class Period, and your holdings in Inyx stock at the close of the market on July 1, 2007; and (c) a clear and unambiguous statement that you wish to be excluded from the Class. The request for exclusion should be addressed as follows:

*The Pennsylvania Avenue Funds v. Inyx, Inc., et al., Class Action*  
c/o GCG  
PO Box 9349  
Dublin, OH 43017-4249

NO REQUEST FOR EXCLUSION WILL BE CONSIDERED VALID UNLESS ALL OF THE INFORMATION DESCRIBED ABOVE IS INCLUDED IN ANY SUCH REQUEST. NO FURTHER OPPORTUNITY TO REQUEST EXCLUSION WILL BE GIVEN IN THIS ACTION.

If you validly request exclusion from the Class: (a) you shall be excluded from the Class; (b) you shall have no rights under the Stipulation; (c) you shall not be entitled to submit any Proof of Claim forms; (d) you shall not share in the proceeds of the Settlement described herein; (e) you shall not be bound by any Judgment entered in this Action; and (f) you shall not be precluded, by reason of your decision to request exclusion from the Class, from otherwise prosecuting an individual claim, if timely, against the Defendants based on the matters complained of in this Action.

#### **VIII. THE RIGHTS OF CLASS MEMBERS**

If you are a Class Member, you have the following options:

1. You may file a Proof of Claim. If you submit a Proof of Claim, you will share in the proceeds of the proposed Settlement if your claim is valid and if the proposed Settlement is finally approved by the Court. In addition, you will be bound by the Judgment and release described below.
2. You may object to the Settlement, unless you have previously requested to be excluded from the Class. (See Section XIV, below.) However, if your objection is rejected, you will be bound by the Settlement and the Judgment just as if you had not objected.
3. You may do nothing at all. If you choose this option, you will not share in the proceeds of the Settlement, but you shall be bound by any Judgment entered by the Court in connection with the Settlement, and you shall be deemed to have, and by operation of the Judgment shall have, fully released all of the Released Claims against the Released Persons.
4. You may, but are not required to, enter an appearance through counsel of your own choosing at your own expense. If you do not do so, you will be represented by Class Counsel. You will not be charged personally for the services of Lead Counsel.

#### **IX. PLAN OF ALLOCATION**

The Net Settlement Fund will be distributed to Class Members who submit valid and timely Proofs of Claim in connection with this Settlement, and have an allowable loss under the Plan of Allocation described herein.

The Net Settlement Fund will be allocated to all Authorized Claimants *pro rata* on a per share basis based on the number of shares of Inyx common stock held at the close of the market on July 1, 2007 by all Authorized Claimants divided by the amount of the Net Settlement Fund at the time of each distribution. As set forth above, because the proposed Settlement provides for a Settlement Fund comprised of cash installment payments by Defendants expected to accumulate over time, distribution of the Settlement Fund will not be immediate and, if all required payments are made, is expected to be periodic starting no sooner than December 2015.

The Net Settlement Fund shall be distributed pursuant to the calculation of "Recognized Loss" as set forth in the Plan of Allocation described herein. 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 entire Recognized Loss. However, if the amount in the Net Settlement Fund is not sufficient to permit payment of the total Recognized Loss of each Authorized Claimant, then each Authorized Claimant shall be paid the percentage that each Authorized Claimant's claim bears to the total of the claims of all Authorized Claimants. In determining whether a Class Member is an Authorized Claimant with a Recognized Loss and entitled to a distribution from the Net Settlement Fund, the following rules shall be applied:

- For each share of Inyx common stock purchased prior to April 1, 2005, the Recognized Loss is \$0.
- For each share of Inyx common stock sold prior to the opening of the market on July 2, 2007, the Recognized Loss is \$0.
- For all purposes, the transaction date and not the settlement date shall be used as the date for determining eligibility to file a claim. Acquisition of shares of Inyx common stock other than through purchase of Inyx's publicly-traded shares (*e.g.*, gifts, transfers and private purchases of securities) are not eligible purchases.
- In no event shall there be any Recognized Loss arising out of transactions by Class Members in which the shares were "sold short." No distributions will be made to Authorized Claimants who would otherwise receive a distribution of less than \$10.00.
- For purposes of calculating an Authorized Claimant's Recognized Loss, Class Period sales of shares of Inyx common stock will be matched against and offset by the most recent prior Class Period purchases of shares of Inyx common stock on a first-in, first-out ("FIFO") basis.

Payment in this manner shall be deemed conclusive against all Authorized Claimants. No Person shall have any claim against Released Persons, Plaintiff (whether individually or as representative of the Class), Class Members, Class Counsel, the Claims Administrator or other Persons based on distributions made substantially in accordance with the Stipulation, the Settlement, the Plan of Allocation, or further orders of the Court. ***All Class Members who have failed to file a complete, valid and timely Proof of Claim in this Settlement shall be barred from participating in distributions from the Net Settlement Fund (unless otherwise ordered by the Court), but otherwise shall be bound by all of the terms of the Stipulation, including the terms of the Class Judgment entered and the releases given.*** The Court has reserved jurisdiction to allow, disallow or adjust the claim of any Class Member on equitable grounds, and may modify the Plan of Allocation without further notice to the Class.

The Plan of Allocation is a matter separate and apart from the proposed Settlement, and any decision by the Court concerning the Plan of Allocation shall not affect the validity or finality of the Settlement. The Plan of Allocation may be modified in connection with, among other things, a ruling by the Court without further notice to the Class.

#### **X. PARTICIPATION IN THE SETTLEMENT**

TO PARTICIPATE IN THE DISTRIBUTION OF THE NET SETTLEMENT FUND, YOU MUST TIMELY COMPLETE AND RETURN A VALID PROOF OF CLAIM IN CONNECTION WITH THIS SETTLEMENT.

A Proof of Claim is not being sent with this Notice. If you are a Class Member and need a Proof of Claim, copies may be obtained by telephoning the Claims Administrator at 800-231-1815 or by downloading the form on the Internet at [www.qcgin.com](http://www.qcgin.com).

The Proof of Claim, with all supporting documents (DO NOT SEND ORIGINALS), must be postmarked **no later than June 8, 2012** and delivered to the Claims Administrator at the address below. DO NOT SEND a Proof of Claim to Class Counsel or the Court.

*The Pennsylvania Avenue Funds v. Inyx, Inc., et al.*, Class Action  
c/o GCG  
PO Box 9349  
Dublin, OH 43017-4249

Unless the Court orders otherwise, if you do not timely submit a valid Proof of Claim, you will be barred from receiving any payment from the Net Settlement Fund, but will in all other respects be bound by the provisions of the Stipulation and the Judgment. The Court may disallow or adjust the claim of any Class Member. Each claimant will be deemed to have submitted to the jurisdiction of the Court.

#### **XI. DISMISSAL AND RELEASES**

If the proposed Settlement is approved, the Court will enter a Final Judgment dismissing the Action with prejudice ("Judgment"). The Judgment will dismiss the Released Claims with prejudice as to the Released Persons, as such terms are defined below. The Judgment will provide that all Class Members shall be deemed to have released and forever discharged all Released Claims against all Released Persons and that the Released Persons shall be deemed to have released and discharged all Released Persons' Claims against Plaintiff, Class Counsel, and Class Members.

"Released Claims" shall collectively mean any and all claims, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, class or individual in nature, that have been asserted at any time against any of the Released Parties by any Class Member, in any capacity, in this Action or in any court of competent jurisdiction or other tribunal or adjudicative body, which arise out of or relate to: (a) purchases of Inyx common stock during the Class Period; (b) the charges made by Plaintiff against Defendants; (c) any alleged misrepresentation or omission occurring during the Class Period concerning or relating to the financial condition, results of operations, financial statements, press releases, public filings, or any public disclosures by Inyx or any of the Released Parties relating in any way to Inyx; or (d) the conduct of the business of Inyx by any of the Released Parties or Inyx with regard to any of the allegations, transactions, facts, matters, occurrences, representations or omissions made by Plaintiff.

"Released Parties" means each and all of Defendants, and all of their respective past or present employees, independent contractors, officers, directors, subsidiaries, parents, successors and predecessors, agents, attorneys, advisors, insurers, investment advisors, auditors, accountants, all members of their immediate families, all trusts which are for the benefit of any of them and/or member(s) of their family, the legal representatives, heirs or successors in interest of all of the foregoing, and any person, firm, trust, corporation, officer, director or other individual or entity in which any one of them has a controlling interest or which is related to or affiliated with any of the foregoing. The Released Parties are third party beneficiaries of the Stipulation and the Settlement.

#### **XII. APPLICATION FOR ATTORNEYS' FEES AND EXPENSES**

At the Settlement Hearing, Class Counsel will request that the Court award them attorneys' fees in an amount not to exceed 35% of the Settlement Fund, plus their costs and expenses in an amount not to exceed \$110,000.00 (US), which were incurred and not previously reimbursed in connection with prosecuting the claims in this Action, plus interest. Class Members are not personally liable for any such fees, costs, or expenses. Class Counsel have committed a substantial amount of time prosecuting claims on behalf of lead plaintiff and the Class. The requested attorneys' fees are substantially less than Class Counsel's actual hourly time billings expended in the prosecution of this Action. In addition, they have not been reimbursed for any of their costs and expenses. The amounts requested by Class Counsel will compensate counsel for their efforts in achieving the Settlement for the benefit of the Class, and for their risk in undertaking this representation on a wholly contingent basis. Class Counsel may also from time to time apply to the Court, without further notice to the Class, for additional payments of hourly attorneys' fees and expenses incurred solely in connection with administering the Settlement.

#### **XIII. CONDITIONS FOR SETTLEMENT**

The Settlement is conditioned upon the occurrence of certain events described in the Stipulation. Those events include, among other things: (1) entry of the Judgment by the Court, as provided for in the Stipulation and (2) expiration of the time to appeal from or alter or amend the Judgment. If, for any reason, any one of the conditions described in the Stipulation is not met or the Stipulation otherwise does not become effective or, under certain specified conditions, the Stipulation is terminated and, thereby, becomes null and void, the parties to the Stipulation will be restored to their respective positions as of February 6, 2012.

**XIV. THE RIGHT TO OBJECT AND BE HEARD AT THE HEARING**

Any Class Member who has not excluded himself, herself, or itself from the Class can object to the Settlement, the Plan of Allocation and/or Class Counsel's application for an award of attorneys' fees and expenses. To object, any such Person must submit a written objection and copies of any and all papers and briefs so they are received **on or before April 9, 2012**, by each of the following:

Clerk of the Court  
United States District Court  
for the Southern District of New York  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, NY 10007

Brower Piven  
A Professional Corporation  
David A.P. Brower  
488 Madison Avenue  
New York, NY 10022

***Class Counsel***

Any written objection must demonstrate the objecting Person's membership in the Class, including the dates of all such Class Member's purchases and/or sales of Inyx common stock during the Class Period, the number of shares purchased and/or sold on each such date, and the prices paid and/or received for all such shares on each such date. Only Class Members who have submitted written objections in this manner will be entitled to be heard at the Settlement Hearing, unless the Court orders otherwise. Persons who intend to object to the Settlement and desire to present evidence at the Settlement Hearing must include in their written objections the identity of any witnesses they may call to testify and any exhibits they intend to introduce into evidence at the Settlement Hearing.

If you wish to attend in person and speak at the Settlement Hearing, you must ask the Court for permission. To do so, you must submit a written statement noting your intention to appear at the Settlement Hearing to the persons noted above so that it is received **on or before April 9, 2012**.

**XV. SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES**

If you purchased Inyx common stock (NASDAQ: IYXI) between April 1, 2005 and July 2, 2007, inclusive, for the beneficial interest of a person or entity other than yourself, **THE COURT HAS DIRECTED THAT WITHIN 7 DAYS OF YOUR RECEIPT OF THIS NOTICE**, you either (a) provide to the Claims Administrator identified below the name and last known address of each person or entity for whom or which you purchased Inyx common stock during such time period or (b) request additional copies of this Notice, which will be provided to you free of charge, and within seven days mail the Notice directly to the beneficial owners of that Inyx common stock. If you select option (a) above, the Claims Administrator will cause copies of this Notice to be forwarded to the beneficial owners of common stock referred to herein. 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. The reasonable costs of obtaining the names and addresses of beneficial owners and sending the notice to such beneficial owners will be paid upon request and submission of appropriate supporting documentation. All requests for reimbursement should be sent to the Claims Administrator.

All communications concerning the foregoing should be addressed to the Claims Administrator: *The Pennsylvania Avenue Funds v. Inyx, Inc., et al.*, Class Action, c/o GCG, PO Box 9349, Dublin, OH 43017-4249, or by email to [inyxquestions@gcginc.com](mailto:inyxquestions@gcginc.com).

**XVI. EXAMINATION OF PAPERS**

This Notice is a summary and does not describe all of the details of the Stipulation. For full details of the matters discussed in this Notice, you may review the Stipulation filed with the Court, which may be inspected during business hours, at the office of the Clerk of the Court, United States District Court for the Southern District of New York, Daniel Patrick Moynihan U.S. Courthouse, 500 Pearl Street New York, NY 10007 or at [www.gcginc.com](http://www.gcginc.com).

If you have any questions about the Settlement, you may contact a representative of Class Counsel by calling the following toll-free number: 800-231-1815. You also may email Lead Counsel at the following email address: [inyxquestions@gcginc.com](mailto:inyxquestions@gcginc.com). Any written inquiries about this Action should be addressed to Lead Counsel at:

*The Pennsylvania Avenue Funds v. Inyx, Inc., et al.*, Class Action  
c/o GCG  
PO Box 9349  
Dublin, OH 43017-4249

***PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.***

Dated: February 9, 2012

BY THE ORDER OF THE UNITED STATES DISTRICT  
COURT FOR THE SOUTHERN DISTRICT OF NEW YORK