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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SANTA CLARA

12 CHRIS STOVALL, Derivatively on Behalf of )  
SUNRISE TELECOM, INC., )

13 Plaintiff, )

14 vs. )

15 PAUL A. MARSHALL, ROBERT C. )  
PFEIFFER, JEONG E. JOO, JENNIFER J. )  
WALT, PATRICK PENG-KOON ANG, )  
16 HENRY P. HUFF, PETER L. EIDELMAN, )  
MICHAEL HEAFEY, and DOES 1-25, )  
17 inclusive, )

18 Defendants, )

19 -and- )

20 SUNRISE TELECOM, INC., a Delaware )  
corporation, )

21 Nominal Defendant. )

Case No. 1:06CV076453

) NOTICE OF PENDENCY AND PROPOSED  
SETTLEMENT OF SHAREHOLDER  
DERIVATIVE ACTION

) Judge: Honorable James P. Kleinberg

) Dept.: 1C

) Date Action Filed: December 13, 2006

1 **TO: ALL OWNERS OF SUNRISE TELECOM TELECOM INCORPORATED**  
2 **("SUNRISE TELECOM" OR THE "COMPANY") COMMON STOCK AS OF MAY**  
3 **11, 2011 ("CURRENT SUNRISE TELECOM STOCKHOLDERS")**

4  
5 **PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS**  
6 **MAY BE AFFECTED.**

7 This notice has been sent to you, pursuant to an Order of the Superior Court of the State of  
8 California, County of Santa Clara (the "Court"). The purpose of the notice is to advise you of the  
9 proposed settlement, as set forth in a Stipulation of Settlement dated May 11, 2011, (the  
10 "Stipulation"), of the shareholder derivative litigation on behalf of Sunrise Telecom pending  
11 before the Court and of the Settlement Hearing (as defined below in ¶16). The settlement will fully  
12 resolve the Action (as defined below in ¶1) on the terms set forth in the Stipulation and  
13 summarized in this notice, including the dismissal of the Action with prejudice. For a more  
14 detailed statement of the matters involved in the Action, the settlement, and the terms discussed in  
15 this notice, the Stipulation may be inspected at the Clerk of Court's office, Superior Court of  
16 California, County of Santa Clara, 191 North First Street, San Jose, California 95113. The  
17 Stipulation is also available for viewing on the websites of Robbins Umeda LLP at  
18 <http://www.robbinsumeda.com/notices.html> and Sunrise Telecom at  
19 <http://www.sunrisetelecom.com/investors>.

20 This notice is not intended to be an expression of any opinion by the Court with respect to the  
21 merits of the claims made in the Action, but is merely to advise you of the pendency and settlement of  
22 the Action.

23 **I. DEFINITIONS USED IN THIS NOTICE**

24 As used in the Stipulation, the following terms have the meanings specified below:

25 1. "Action" means the shareholder derivative action pending in the Superior Court of  
26 the State of California, County of Santa Clara, captioned *Stovall v. Marshall, et al.*, Case No.  
27 1:06CV076453.

28 2. "Current Sunrise Telecom Stockholders" means any Persons who owned Sunrise  
Telecom common stock as of the date of the execution of the Stipulation and who continue to hold  
their Sunrise Telecom common stock as of the date of the final settlement approval hearing,

1 excluding the Individual Defendants, the officers and directors of Sunrise Telecom, members of  
2 their immediate families, and their legal representatives, heirs, successors, or assigns, and any  
3 entity in which the Individual Defendants have or had a controlling interest.

4 3. "Defendants' Counsel" means DLA Piper LLP (US), Fenwick & West LLP, and  
5 Farella Braun & Martel LLP.

6 4. "Defendants' Released Claims" means any and all claims, debts, rights, or causes of  
7 action or liabilities, including Unknown Claims, that could be asserted in any forum by the  
8 Released Parties or their successors and assigns or their subrogates, against the Plaintiff, Plaintiff's  
9 Counsel, or Sunrise Telecom, that arise out of or relate in any way to the institution, prosecution,  
10 or settlement of the Action (except for any claims to enforce the settlement), including, without  
11 limitation, any claim of any kind, for fees incurred in connection with any of the Individual  
12 Defendants' defense in this action (regarding which, the Individual Defendants represent that they  
13 have obtained the necessary authority from Sunrise Telecom's insurer, and any other potentially  
14 involved person or entity, to release any such claims).

15 5. "Effective Date" means the first date by which all of the events and conditions  
16 specified in ¶6.1 herein have been met and have occurred.

17 6. "Final" means: (i) the date of final affirmance on an appeal of the Judgment; (ii) the  
18 date of final dismissal of any appeal from the Judgment; or (iii) if no appeal is filed, the expiration  
19 date of the time for filing or noticing any appeal from the Judgment.

20 7. "Individual Defendants" means collectively, Marshall, Pfeiffer, Chang, Joo, Walt,  
21 Ang, Huff, Eidelman, and Heafey.

22 8. "Judgment" means the Proposed Final Order of Dismissal With Prejudice and  
23 Judgment to be rendered by the Court, substantially in the form of Exhibit E attached to the  
24 Stipulation.

25 9. "Parties" means collectively, Plaintiff, the Individual Defendants, and Sunrise  
26 Telecom.

27 10. "Person" means an individual, corporation, limited liability corporation,  
28 professional corporation, partnership, limited partnership, limited liability partnership,

1 association, joint stock company, estate, legal representative, trust, unincorporated association,  
2 government or any political subdivision or agency thereof, and any business or legal entity and  
3 their spouses, heirs, predecessors, successors, representatives, or assignees.

4 11. "Plaintiff" means Chris Stovall, individually and derivatively on behalf of Sunrise  
5 Telecom.

6 12. "Plaintiff's Counsel" means Robbins Umeda LLP and the Shuman Law Firm.

7 13. "Related Persons" means each of the Individual Defendants' past or present  
8 subsidiaries, parents, successors and predecessors, officers, directors, agents, employees,  
9 attorneys, advisors, investment advisors, auditors, accountants, and any firm, trust, corporation,  
10 officer, director, or other individual or entity in which any Individual Defendant or Sunrise  
11 Telecom has a controlling interest, and the legal representatives, heirs, successors in interest, or  
12 assigns of any Individual Defendant.

13 14. "Released Claims" means any and all claims, debts, demands, rights, or causes of  
14 action or liabilities, including Unknown Claims, existing derivatively on behalf of Sunrise  
15 Telecom, against any of the Released Parties which arise out of and relate to: (i) the allegations in  
16 the Action; or (ii) the settlement, except for any claims to enforce the settlement.

17 15. "Released Parties" means collectively each of the Individual Defendants and each  
18 of their Related Persons.

19 16. "Settlement Hearing" means the hearing set by the Court to consider final approval  
20 of the settlement.

21 17. "Unknown Claims" means any of the Released Claims and any of the Defendants'  
22 Released Claims that any Party does not know or suspect exists in his, her, or its favor at the time  
23 of the settlement including, without limitation, those claims which, if known, might have affected  
24 the decision to enter into, or not object to, this settlement. The Parties expressly waive, relinquish,  
25 and release any and all provisions, rights, and benefits conferred by or under California Civil Code  
26 section 1542 ("§1542") or any other law of the United States or any state or territory of the United  
27 States, or principle of common law, which is similar, comparable, or equivalent to §1542, which  
28 provides:

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

4           The Parties acknowledge that they may discover facts in addition to or different from those now  
5           known or believed to be true by them, with respect to the Released Claims and Defendants'  
6           Released Claims in the settlement, as the case may be, but it is the intention of the Parties to  
7           completely, fully, finally, and forever compromise, settle, release, discharge, and extinguish any  
8           and all Released Claims and Defendants' Released Claims known or unknown, suspect or  
9            unsuspected, contingent or absolute, accrued or unaccrued, apparent or unapparent, which do not  
10          exist, or heretofore existed, or may hereafter exist, and without regard to the subsequent discovery  
11          of additional or different facts.

12           **II.       THE DERIVATIVE ACTION**

13           This Action is brought by Plaintiff solely on behalf of and for the benefit of Sunrise  
14           Telecom and against the Individual Defendants. Accordingly, Plaintiff does not seek recovery for  
15           the direct benefit of any Sunrise Telecom stockholder. Plaintiff generally alleges, among other  
16           things, that the Individual Defendants manipulated options grants, granted options in violation of  
17           the Company's 2000 Stock Plan, failed to account for option grants properly, and falsely disclosed  
18           that the Company's option grants were in compliance with the appropriate accounting principles in  
19           breach of their fiduciary duty of loyalty to the Company.

20           **III.       PLAINTIFF'S CLAIMS AND THE BENEFITS OF SETTLEMENT**

21           Plaintiff believes the claims alleged in this Action have substantial merit. Nonetheless,  
22           Plaintiff and Plaintiff's Counsel recognize and acknowledge the expense and length of time that  
23           would be required to prosecute the Action through trial and possible appeals. Plaintiff's Counsel  
24           also have taken into account the uncertain outcome and the risk of any litigation, especially in  
25           complex cases such as this Action, as well as the difficulties and delays inherent in such litigation.  
26           Plaintiff's Counsel also are mindful of the inherent problems of proof and possible defenses to the  
27           claims alleged in such actions. Plaintiff's Counsel have conducted a thorough review and analysis  
28           of the relevant facts, allegations, defenses, and controlling legal principles, and believe that the

1 settlement set forth in the Stipulation is fair, reasonable, and adequate, confers substantial benefits  
2 upon, and is in the best interests of Sunrise Telecom and its stockholders. The settlement provides  
3 for corporate governance reforms that will provide for additional management oversight and  
4 review of the Company's policies and processes related to its stock option granting practices and  
5 general internal controls. The settlement also provides for the Company's insurer's potential  
6 reimbursement to the Company for certain costs if misdated options are exercised in the future. At  
7 the time the parties reached their settlement agreement in principle in July 2010, this agreement by  
8 Sunrise Telecom's insurer represented an aggregate intrinsic value of \$634,000. As part of the  
9 settlement, Sunrise Telecom has also acknowledged that, but for Plaintiff and Plaintiff's Counsel's  
10 filing and prosecution of the Action, Marshall would not have surrendered his misdated options,  
11 which had an intrinsic value of approximately \$524,800 at the time they were surrendered. Based  
12 upon Plaintiff's Counsel's evaluation, Plaintiff has determined that the settlement is in the best  
13 interests of Sunrise Telecom and Current Sunrise Telecom Stockholders and has agreed to settle  
14 the Action upon the terms and subject to the conditions set forth in the Stipulation.

15 **IV. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY**

16 The Individual Defendants and Sunrise Telecom (to the extent any claims could have been  
17 alleged against Sunrise Telecom) have denied and continue to deny they have committed,  
18 threatened, or attempted to commit, any violations of law, or breached any duty owed to Plaintiff,  
19 Sunrise Telecom, or Sunrise Telecom's stockholders. Without admitting the validity of any  
20 allegations made in the Action, or any liability with respect thereto, the Individual Defendants and  
21 Sunrise Telecom have concluded that it is desirable that the claims against them be settled on the  
22 terms reflected in the Stipulation. The Individual Defendants and Sunrise Telecom are entering  
23 into this settlement because it will eliminate the uncertainty, distraction, disruption, burden, risk,  
24 and expense of further litigation. Further, the Individual Defendants and Sunrise Telecom  
25 acknowledge that the settlement is fair, reasonable, adequate, and in the best interests of Sunrise  
26 Telecom and its stockholders.

27 Neither this Stipulation, nor any of its terms or provisions, nor entry of the Judgment, nor  
28 any document or exhibit referred or attached to this Stipulation, nor any action taken to carry out

1 this Stipulation, is, may be construed as, or may be used as evidence of the validity of any of the  
2 Released Claims or an admission by or against the Individual Defendants of any fault,  
3 wrongdoing, or concession of liability whatsoever.

4 **V. THE SETTLEMENT HEARING**

5 The Settlement Hearing will be held before the Honorable James P. Kleinberg on  
6 September 30, 2011 at 9:00 a.m. at the the Superior Court of the State of California, County of  
7 Santa Clara to determine whether: (i) the settlement is fair, reasonable, and adequate, and should  
8 be finally approved by the Court; (ii) a judgment should be entered dismissing the Action with  
9 prejudice; (iii) whether the Fees and Expenses Award should be approved; and (iv) whether  
10 Plaintiff's application for an incentive award should be approved. The Settlement Hearing may be  
11 continued by the Court at the Settlement Hearing, or at any adjourned session thereof without  
12 further notice.

13 **VI. TERMS OF THE THE SETTLEMENT**

14 The terms and conditions of the proposed settlement are set forth in the Stipulation  
15 described above. The Stipulation has been filed with the Court and is also available for viewing on  
16 the websites of Robbins Umeda LLP at <http://www.robbinsumeda.com/notices.html> and Sunrise  
17 Telecom <http://www.sunrisetelecom.com/investors>. The following is only a summary of its terms.

18 The Parties have conducted arm's-length negotiations over an extended period of time and  
19 have reached an agreement in good-faith to settle the Action. As consideration for the settlement,  
20 Sunrise Telecom has acknowledged certain monetary and non-monetary benefits, as discussed  
21 below. Sunrise Telecom has further acknowledged that, but for Plaintiff and Plaintiff's Counsels'  
22 filing and prosecution of this Action, the following benefits would not have occurred.

23 **Financial Benefits.** Sunrise Telecom and the Individual Defendants acknowledge and  
24 agree that the surrender of stock options and the reimbursement for misdated options exercised in  
25 the future, as described below, would not have been made to the Company but for Plaintiff's and  
26 Plaintiff's Counsels' filing, prosecution, and settlement of the Action.

27

28

1 (a) Stock options with a grant date of January 10, 2001 that were surrendered to  
2 the Company by Defendant Marshall, which had an intrinsic value of approximately \$524,800  
3 when they were surrendered.

4 (b) With respect to the 94,700 options with a grant date of January 10, 2001,  
5 which were outstanding when the parties reached their settlement agreement in principle in July  
6 2010 but that have since expired, the Individual Defendants' insurance carrier agreed to reimburse  
7 the Company for the difference between the fair market value of the option(s) upon actual exercise  
8 and the option's respective strike price of \$4.94, provided that the maximum reimbursement per  
9 exercised option was \$6.56.

10 (c) With respect to the 37,551 outstanding options with a grant date of June 6,  
11 2002, the Individual Defendants' insurance carrier shall reimburse the Company for the  
12 difference between the fair market value of the option(s) upon actual exercise and the option's  
13 respective strike price of \$1.76, provided that the maximum reimbursement per exercised option  
14 shall be \$0.29.

15 (d) The Parties acknowledge and agree that the aggregate intrinsic value of the  
16 potential payments to the Company described in paragraphs (b) and (c) above at the time the  
17 parties entered into their Settlement Agreement was \$634,000.

18 **Corporate Governance Reforms.** Sunrise Telecom has agreed to adopt the corporate  
19 governance reforms set forth in Exhibit A to the Stipulation within sixty days from the entry of the  
20 Stipulation and to keep such reforms in force and effect for a period of no less than five years.  
21 Sunrise Telecom and the Individual Defendants further acknowledge and agree that the corporate  
22 governance reforms regarding Sunrise Telecom's stock option granting practices that have already  
23 been implemented, as set forth in Exhibit A to the Stipulation, would not have been implemented  
24 but for Plaintiff's and Plaintiff's Counsels' filing and prosecution of the Action. Sunrise Telecom  
25 and the Individual Defendants also acknowledge and agree that the corporate governance reforms  
26 are significant and extensive and confer substantial benefits upon Sunrise Telecom and Current  
27 Sunrise Telecom Stockholders by, among other things, strengthening Sunrise Telecom's internal  
28 controls and helping to address issues alleged in the Action.

1 **VII. DISMISSAL AND RELEASES**

2 In connection with the Court's approval of the settlement, Plaintiff will file a dismissal with  
3 prejudice of all claims asserted by Plaintiff against the Individual Defendants in the Action.

4 Upon the entry of the Judgment, Plaintiff, Sunrise Telecom, and Current Sunrise Telecom  
5 Stockholders shall have, and by operation of the Judgment, shall be deemed to have fully, finally,  
6 and forever released, relinquished, and discharged all Released Claims against the Released  
7 Parties.

8 Further, upon entry of the Judgment, the Released Parties shall have and by operation of  
9 the Judgment shall be deemed to have fully, finally, and forever released, relinquished, and  
10 discharged Plaintiff, Plaintiff's Counsel, and Sunrise Telecom from Defendants' Released Claims.

11 **VIII. PLAINTIFF'S ATTORNEYS' FEES AND EXPENSES**

12 After negotiating the substantive terms of the settlement, and in recognition of the  
13 substantial benefits conferred on Sunrise Telecom through the settlement, the Parties reached an  
14 agreement as to a fair and reasonable sum to be paid to Plaintiff's Counsel for their attorneys' fees  
15 and expenses. The Individual Defendants' insurer shall pay to Plaintiff's Counsel the  
16 agreed-to-amount of \$925,000 for their attorneys' fees and reimbursement of expenses (the "Fee  
17 and Expenses Award"). Plaintiff's Counsel shall request approval of the Fees and Expenses Award  
18 at the Settlement Hearing. To date, Plaintiff's Counsel have neither received any payment for their  
19 services in conducting the Action, nor have Plaintiff's Counsel been reimbursed for their  
20 out-of-pocket expenses incurred. Plaintiff's Counsel believe that the Fee and Expenses Award  
21 requested is within the range of fees and expenses awarded to Plaintiff's Counsel under similar  
22 circumstances in litigation of this type. Neither Sunrise Telecom nor its stockholders are  
23 personally liable for the Fees Award.

24 In addition, Plaintiff will apply to the Court for an incentive award not to exceed \$5,000  
25 ("Incentive Award"), to be paid from the portion of the Fees and Exepnses Award received by  
26 Plaintiff's Counsel.

27

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1 **IX. THE RIGHT TO OBJECT AND/OR BE HEARD AT THE HEARING**

2 Any Current Sunrise Telecom Stockholder may object and/or appear and show cause, if he,  
3 she, or it has any concern, why the settlement should not be approved as fair, reasonable, and  
4 adequate, or why the Judgment should not be entered thereon, or why the Fees and Expenses  
5 Award should not be awarded to Plaintiff's Counsel, or the Incentive Award granted to Plaintiff;  
6 provided, however, unless otherwise ordered by the Court, no Current Sunrise Telecom  
7 Stockholder shall be heard or entitled to contest the approval of the terms and conditions of the  
8 settlement, or, if approved, the Judgment to be entered thereon approving the same, or the  
9 attorneys' fees and reimbursement of expenses to be awarded to Plaintiff's Counsel, unless that  
10 stockholder has, ***at least ten business days prior to the Settlement Hearing***: (i) filed with the Clerk  
11 of the Court a written objection to the settlement setting forth: (a) the nature of the objection; (b)  
12 proof of ownership of Sunrise Telecom common stock through the date of the Settlement Hearing,  
13 including the number of shares of Sunrise Telecom common stock and the date of purchase; and  
14 (c) any documentation in support of such objection; and (ii) if a Current Sunrise Telecom  
15 Stockholder intends to appear and requests to be heard at the Settlement Hearing, such stockholder  
16 must have, in addition to the requirements of (i) above, filed with the Clerk of the Court: (a) a  
17 written notice of such stockholder's intention to appear; (b) a statement that indicates the basis for  
18 such appearance; and (c) the identities of any witnesses the stockholder intends to call at the  
19 Settlement Hearing and a statement as to the subject of their testimony. If a Current Sunrise  
20 Telecom Stockholder files a written objection and/or written notice of intent to appear, such  
21 stockholder must also simultaneously serve copies of such notice, proof, statement, and  
22 documentation, together with copies of any other papers or briefs such stockholder files with the  
23 Court (either by hand delivery or by first class mail) upon each of the following:

24 ***The Court:***

25 Clerk of the Court  
26 Superior Court of California  
27 County of Santa Clara  
191 North First Street  
San Jose, CA 95113

24 ***Counsel for Plaintiff:***

25 ROBBINS UMEDA LLP  
26 Attn: Lauren Levi  
600 B Street, Suite 1900  
27 San Diego, CA 92101  
Telephone: (619) 525-3990

1 Any Current Sunrise Telecom Stockholder who does not make his, her, or its objection in  
2 the manner provided herein shall be deemed to have waived such objection and shall forever be  
3 foreclosed from making any objection to the fairness, reasonableness, or adequacy of the  
4 settlement as incorporated in the Stipulation, to the Fees and Expenses Award to Plaintiff's  
5 Counsel, as well as the Incentive Award to Plaintiff, unless otherwise ordered by the Court, but  
6 shall otherwise be bound by the Judgment to be entered and the releases to be given

7 **X. CONDITIONS FOR SETTLEMENT**

8 The settlement is conditioned upon the occurrence of certain events described in the  
9 Stipulation, which requires, among other things: (i) entry of the requested Judgment by the Court;  
10 and (ii) expiration of the time to appeal from, or alter or amend, the Judgment. If, for any reason,  
11 any one of the conditions described in the Stipulation is not met and the entry of the Judgment does  
12 not occur, the Stipulation might be terminated and, if terminated, will become null and void; and  
13 the Parties to the Stipulation will be restored to their respective positions as of the execution date  
14 of the Stipulation.

15 **XI. EXAMINATION OF PAPERS AND INQUIRIES**

16 There is additional information concerning the Settlement available in the Stipulation and  
17 Agreement of Settlement, which may be viewed on the website of Robbins Umeda LLP at  
18 <http://www.robbinsumeda.com/notices.html> and on the website of Sunrise Telecom at  
19 <http://www.sunrisetelecom.com/investors>. You may also inspect the Stipulation during business  
20 hours at the office of the Clerk of the Court, Superior Court of California, County of Santa Clara,  
21 191 North First Street, San Jose, California 95113. Or you may call Robbins Umeda LLP, 600 B  
22 Street, Suite 1900, San Diego, California 92101, telephone: (619) 525-3990, for additional  
23 information concerning the settlement.

24 **PLEASE DO NOT TELEPHONE THE COURT OR SUNRISE TELECOM**  
25 **REGARDING THIS NOTICE.**

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