

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is entered into this 30th day of May, 2002, by and between the States of New York, Maryland and California ("the Plaintiff States"), by their Attorneys General, and Davitt Felder and Davitt Felder, Inc. ("the Felder Defendants") (collectively "the Parties").

1. Introduction

- 1.1 The Attorney General of New York has carried out an investigation ("the New York Investigation") into claims that various persons or entities, acting in concert with the Felder Defendants and others, engaged in bid-rigging at public stamp auctions over a period lasting through 1997 (the "Alleged Illegal Conduct"). Based on information discovered during that investigation, the Plaintiff States have brought an action in the Southern District of New York, *New York, et al. v. Feldman, et al.*, No. 01-cv-6691 ("*New York v. Feldman*"), naming the Felder Defendants and others as Defendants.
- 1.2 On the basis of the New York Investigation, the Plaintiff States have concluded that the settlement set forth herein will confer substantial benefit on those individuals represented by the Plaintiff States, shorten proceedings in this case, and avoid the risks inherent in litigation.
- 1.2 The Parties have entered into this Settlement Agreement, which they intend as a final and complete resolution of all claims by the Plaintiff States against the Felder Defendants arising out of the Alleged Illegal Conduct, including all claims made by Plaintiff States on behalf of those they represent as *parens patriae* or otherwise, to the extent permitted under, and in accordance with the procedures set forth in, 15 U.S.C. § 15c.
- 1.3 Therefore, in consideration of the terms of this Settlement Agreement and other good and valuable consideration, receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

2. Definitions

As used in this Settlement Agreement:

- 2.1 "Crossing Off" means any act whereby actual or potential bidders at Public Stamp Auctions (acting themselves or through an agent or other authorized representative) in any way agree either not to bid against each other during a Public Stamp Auction, or to keep bids below a certain amount.
- 2.2 "Defendant" means any Defendant in *New York v. Feldman*, counsel for any such

Defendant, any individual acting on one or more Defendants' behalf, and any employee of any Defendant.

2.3 "Effective Date" means the date as of which all of the Parties have executed this Settlement Agreement.

2.4 "Parties" mean the signatories of this Settlement Agreement.

2.5 "Person" means any individual, association, cooperative, partnership, corporation, or other business or legal entity.

2.6 "Public Stamp Auction" means any auction at which stamp(s) are offered for sale through the competitive bidding process, when the date, time and place of the auction is made known to the public.

3. Resolution of Claims

3.1 The Parties agree to compromise, settle and resolve fully and finally on the terms set forth in this Agreement any and all claims, actions and causes of action brought by the Plaintiff States against the Felder Defendants in *New York v. Feldman*. The parties agree that this Settlement Agreement shall not be deemed or construed as evidence or an admission of any issue of fact or law, nor a determination that a violation of the law occurred, or of the truth of any of the claims or matters alleged by the Plaintiff States.

3.2 Except as expressly provided, this Agreement shall not be construed to limit or restrict any right that otherwise might be available to the Plaintiff States in relation to the Alleged Illegal Conduct. Nothing in this Agreement is intended to release the liability of any person who is not a Party to this Agreement, except as set forth in section 3.4.

3.3 This Settlement Agreement may be executed by counsel for the parties, and will become effective on the Effective Date. Each counsel who executes this document shall, by his or her signature, expressly represent that he or she is fully authorized by the Party he or she represents to execute this Settlement Agreement. This Settlement Agreement may be executed on separate signature pages, in counterparts or by facsimile, with the same effect as if all parties had signed the same physical page of this Agreement.

3.4 The Plaintiff States agree to dismiss all claims against the Felder Defendants in *New York v. Feldman*, with prejudice, upon the entry of a final judgment entered in accordance with 15 U.S.C. § 15c and the terms of this Agreement.

4. Monetary Payment

- 4.1 The Felder Defendants shall pay by certified or bank check to the New York Attorney General's Office the sum of \$187,500, by August 10, 2002. This money shall be placed by the States into an escrow account, and shall be disbursed in accordance with order of the Court in *New York v. Feldman*, for provision of damages, restitution, fees, costs and administrative expenses as the Court shall order.
- 4.2 Except as otherwise set forth in this Agreement, the Parties are to bear their own costs relating to this Agreement or the Alleged Illegal Conduct.
- 4.3 If (i) the Court declines to approve this Settlement Agreement preliminarily, or (ii) the Court preliminarily approves the Settlement Agreement but withdraws such preliminary approval, then whatever payments made by the Felder Defendants shall be returned to them within ten (10) business days of such event, less only Mr. Felder's proportional share, calculated as a percentage of his contribution to all settlement payments received by the States arising out of the Alleged Illegal Conduct, of: (a) the fees and costs of administration; (b) any accrued tax liability; and (c) the costs incurred in giving Court-approved notice. Nothing in this section shall preclude the Plaintiff States, in the event of the Felder Defendants' invocation of this provision, from pursuing this litigation, from reaching any other agreement with Mr. Felder on the disposition of these funds, or from maintaining Mr. Felder's payment in escrow by mutual agreement.

5. Subsequent Proceedings

- 5.1 The Felder Defendants shall fully, fairly and truthfully disclose all information and produce all records and other evidence in their possession, custody or control relevant to all inquiries made by the Plaintiff States concerning the Alleged Illegal Conduct.
- 5.2 In *New York v. Feldman*, or any related case brought by the Plaintiff States, service by any State of any subpoena or discovery request on the Felder Defendants may be made by mailing to Mr. Felder's home address, or to the address of the Felder Defendants' undersigned counsel. The Felder Defendants' consent to such service by mailing is in addition to, and not in lieu of, service by any other means authorized by law. The Felder Defendants shall not challenge any subpoena or discovery request by the Plaintiff States seeking relevant documents, or deposition, trial or other testimony, except on grounds of attorney-client privilege or work product, or any other privilege they could assert under Rule 501 of the Federal Rules of Evidence.
- 5.3 The Felder Defendants shall agree to be interviewed by assistant attorneys general or investigators employed by the Plaintiff States regarding the facts of this case whenever requested, by telephone or, at the States' discretion, in person at a location of Mr. Felder's choosing. Any such interview may be recorded or transcribed at the sole discretion of the Plaintiff States. At the interview, the Felder Defendants shall

answer all questions fully, fairly and truthfully, and may refuse to answer only on the grounds of attorney-client privilege or work product, or any other privilege they could assert under Rule 501 of the Federal Rules of Evidence. The Felder Defendants may be represented by counsel at any such interview.

- 5.4 The Felder Defendants shall fully, fairly and truthfully testify at any trial or other proceeding concerning the Alleged Illegal Conduct. Except as provided in paragraphs 5.2 and 5.3, the Felder Defendants shall not object to testifying on the ground of any constitutional, statutory or common law privilege, except that they may refuse to answer only on the grounds of attorney-client privilege or work product, or any other privilege they could assert under Rule 501 of the Federal Rules of Evidence.
- 5.5 The Felder Defendants shall provide the Plaintiff States with written notice of any written or oral communication that they or their counsel or other representative have, on or after the Effective Date of this Agreement, with any other Defendant regarding *New York v. Feldman* or the Alleged Illegal Conduct, within three days of any such communication, except that no notice need be provided regarding: 1) communications between counsel covered by any joint defense privilege in any civil or criminal investigation, litigation or proceeding brought by any party concerning the Alleged Illegal Conduct; and 2) communications between counsel concerning non-confidential information about the procedural status of *New York v. Feldman*. The Felder Defendants shall provide the Plaintiff States with written notice of any request or subpoena by the Defendants that Mr. Felder testify on any Defendant's behalf, any agreement regarding his testimony, or any request for documents including but not limited to a subpoena or discovery request, within three days of such request or agreement. The Felder Defendants will provide the Plaintiff States with any correspondence or other documents sent to or received from any Defendant, except communications made in the ordinary course of business and personal communications bearing no relation to the stamp business, stamp auctions or the Alleged Illegal Conduct.
- 5.6 Any failure by the Felder Defendants to comply with the provisions of section 5 shall constitute a material breach of this Agreement, and shall permit the Plaintiff States to declare this Agreement null and void for all purposes and to the same extent as if it were never executed.

6. Future Conduct

- 6.1 From the Effective Date of this Agreement, and for five years following the entry of judgment in *New York v. Feldman*, the Felder Defendants shall refrain from the following conduct:
- A. Directly, indirectly -- or through any corporation, joint venture, partnership,

or other entity or device -- entering into, attempting to enter into, organizing or attempting to organize, implementing, or soliciting or attempting to implement or solicit any agreement, understanding, contract or combination, either express or implied, with any other person or competitor:

1. To Cross Off bids to purchase any stamp(s) in a Public Stamp Auction held in the United States; or
2. To act in concert with any other Person to set, establish, inflate, suppress or maintain the price or other terms and conditions of any bids for the acquisition of any stamp(s) in a Public Stamp Auction held in the United States.

B. Directly, indirectly -- or through any corporation, joint venture, partnership, or other entity or device -- communicating or inquiring about any intentions, decisions, or plans to bid or to refrain from bidding on any particular lot or lots, including any intentions, decisions, or plans regarding any actual or proposed bid amounts to purchase any stamp(s) in a Public Stamp Auction held in the United States, where such communication or inquiry is to:

1. Any other Person who is known or reasonably should be known by the Felder Defendants to be an actual or a potential bidder to purchase stamp(s); or
2. Any other Person who has announced an intention to bid to purchase stamps(s).

C. Directly, indirectly -- or through any joint venture, partnership or other entity or device -- requesting, suggesting, urging or advocating that any other Person not bid on, or suggesting that it would not be appropriate for any other Person to bid on, any particular lot or group of lots offered for sale at a Public Stamp Auction held in the United States.

- 6.2 From the effective date of this Agreement and for five years following the entry of judgment in *New York v. Feldman*, the Felder Defendants shall provide the New York Attorney General's Office, on a semi-annual basis, with: 1) a list of all auctions in the United States at which they have bid during the previous six months, the identity of any agent that represented them, and the particular auctions at which that agent acted on their behalf; and 2) a sworn certification that their participation at those auctions was in conformity with the terms of this Agreement.
- 6.3 For the purpose of determining or securing compliance with this Agreement, and subject to any legally recognized privilege, from time to time duly authorized representatives of the Plaintiff States, or anyone designated by them as such, may,

upon written request and on reasonable notice, be permitted to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the Felder Defendants relating to Public Stamp Auctions, and to interview any employees of the Felder Defendants on matters relating to Public Stamp Auctions. During any such inspection, the Felder Defendants may have counsel present.

- 6.4 Nothing in this Agreement shall be construed to provide that any of the prohibited conduct set forth in this section 6 will or would be permissible under any state or federal laws upon the expiration of this Agreement.
- 6.5 The Felder Defendants consent to the entry of a judgment in *New York v. Feldman* prohibiting the conduct barred in section 6.
- 6.6 Nothing in this Agreement shall be construed to prohibit Mr. Felder from: 1) bidding through an auction agent; 2) acting as an auction agent; 3) communicating with any customer regarding the price to be paid for any lot, unless Mr. Felder knows or reasonably should know that the customer may bid against him for that lot; or 4) communicating with any employee of Davitt Felder, Inc., unless such communication facilitates a violation of section 6 with other parties.

7. Choice of Law

- 7.1 This Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to an agreement negotiated, executed, entered into and performed solely within the State of New York.

8. Enforcement

- 8.1 Each and every obligation of this Settlement Agreement that is binding on the Felder Defendants shall be binding upon their successors, assigns and legal representatives.
- 8.2 Each and every obligation required to be performed by the Felder Defendants under this Settlement Agreement shall be a joint and several obligation on each of the Felder Defendants.
- 8.3 Nothing in this Agreement is intended to confer upon any other Persons any rights or remedies of any nature.

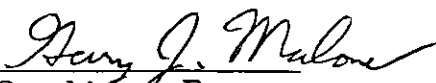
9. Integration

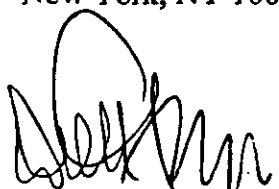
- 9.1 This Settlement Agreement contains the entire agreement and complete understanding of the parties. There are no additional promises or terms of the Settlement Agreement other than those contained above. This Agreement shall not

be modified except in writing, signed by all the parties or by their authorized representatives.

AGREED AND CONSENTED TO:

DAVITT FELDER AND
DAVITT FELDER, INC.

By: 
Gary Malone, Esq.
Constantine & Partners
477 Madison Avenue, 11th Floor
New York, NY 10022


Davitt Felder

STATE OF NEW YORK
ELIOT SPITZER
Attorney General

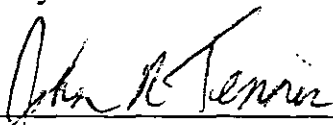
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