

**IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF ALABAMA
 SOUTHERN DIVISION**

In re HEALTHSOUTH		Consolidated Case No.
CORPORATION SECURITIES		CV-03-BE-1500-S
LITIGATION		
		<u>CLASS ACTION</u>
This Document Relates To:		
<i>In re HealthSouth Corporation</i>		
<i>Bondholder Litigation, Consolidated</i>		
Case No. CV-03-BE-1502-S		

**ORDER PRELIMINARILY APPROVING SETTLEMENTS
 WITH ERNST & YOUNG LLP AND THE UBS DEFENDANTS
 AND PROVIDING FOR NOTICE**

This class action comes before the court on “Bondholder Lead Plaintiff’s Motion for Preliminary Approval of Proposed Class Settlements With Ernst & Young LLP and UBS Defendants” (doc. 1667); the Stipulation of Settlement with Ernst & Young LLP, dated as of April 22, 2010 that has been entered into by Bondholder Lead Plaintiff and Ernst & Young LLP (the “E&Y Stipulation”); and the Stipulation of Settlement With UBS Defendants dated as of April 22, 2010 (the “UBS Defendants Stipulations”) that has been entered into by Bondholder Lead Plaintiff and UBS Defendants¹ (the E&Y Stipulation and the UBS Defendants Stipulation are collectively referred to herein as the “Stipulations”).² The court has reviewed the motion and Stipulations with their respective attached exhibits, and finds that the motion is due to be granted.

The court entered an Order dated September 30, 2009 (the “September 30, 2009 Order”),

¹The UBS Defendants means defendants UBS AG, UBS Warburg, LLC, Howard Capek, Benjamin D. Lorello and William C. McGahan.

²E&Y and the UBS Defendants are collectively referred to herein as the “Settling Defendants.”

certifying the Bondholder Action to proceed as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure, and certifying a Bondholder Class of all persons and entities who purchased, exchanged or otherwise acquired HealthSouth bonds during the periods (a) beginning July 30, 1999 through and including March 18, 2003 as to claims against Richard Scrushy; or (b) beginning March 30, 2000 through and including March 18, 2003 as to claims against Ernst & Young LLP; or (c) beginning September 20, 2000 through and including March 18, 2003 as to claims against the UBS Defendants; and who were damaged thereby. The September 30, 2009 Order further provides that, for the purposes of the Section 11 claims only, this class does not include claims of QIBs as to bonds obtained through a Rule 144A/Exxon Capital Exchange; and excluded from the Bondholder Class are (a) current or former defendants; (b) any officer or director during the Bondholder Class Period of HealthSouth or any of its subsidiaries or affiliates; (c) members of the immediate families of any of the current or former Individual Defendants; (d) any entity in which any current or former Defendant has or had a controlling interest; and (e) the legal representatives, heirs, successors or assigns of any such excluded party; and

The September 30, 2009 Order also certified Bondholder Lead Plaintiff Retirement Systems of Alabama and additional named plaintiffs Houston Firefighters' Relief and Retirement Fund and State Universities Retirement System of Illinois as Bondholder Class representatives, and appointed Bondholder Plaintiffs' Lead Counsel Bernstein Litowitz Berger & Grossmann LLP and Cunningham Bounds, LLC as Bondholder Class Counsel and Donaldson & Guin, LLC as Bondholder Class Liaison Counsel.

The E&Y Bondholder Class, which is a subset of the certified Bondholder Class, means

all persons and entities who, between March 30, 2000 and March 18, 2003, inclusive, purchased, exchanged or otherwise acquired the bonds, notes or other debt instruments of HealthSouth and were damaged thereby.

The UBS Bondholder Class, which is a subset of the certified Bondholder Class, means all persons and entities who, between September 20, 2000 and March 18, 2003, inclusive, purchased, exchanged or otherwise acquired the bonds, notes or other debt instruments of HealthSouth and were damaged thereby.

Excluded from the E&Y Bondholder Class and the UBS Bondholder Class (i) are all persons and entities excluded by definition from the Bondholder Class; (ii) are those persons and entities who are found by the court to have timely and validly requested exclusion from the class pursuant to the Notice of Pendency of Class Action and Proposed Settlements of Class Action With Ernst & Young LLP and the UBS Defendants (“Notice”) to be disseminated to the class; and (iii) by agreement of Bondholder Lead Plaintiff and the Settling Defendants, are the partners, directors and officers of E&Y and the UBS Defendants, and certain other individuals and entities as set forth in the Stipulations.

Bondholder Lead Plaintiff and the Settling Defendants have made application, pursuant to Federal Rule of Civil Procedure 23(e), for an order preliminarily approving the settlements of the Bondholder Action in accordance with the respective Stipulations which, together with their respective attached exhibits, set forth the terms and conditions for the proposed settlements of the Bondholder Action as to E&Y and the UBS Defendants and for dismissal of the Bondholder Action as to the Settling Defendants with prejudice upon the terms and conditions set forth in the respective Stipulations.

All capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Stipulations.

NOW, THEREFORE, the court hereby ORDERS:

1. The court does hereby preliminarily approve the Stipulations and the respective settlements, subject to further consideration at the Settlement Hearing described below.

Therefore, it GRANTS Bondholders' motion for preliminary approval of the proposed class settlements with E&Y and the UBS Defendants.

2. The court adopts the definitions of the E&Y Bondholder Class and the UBS Bondholder Class and the exclusions from them as set forth in the respective Stipulations.

3. A hearing (the "Settlement Hearing") shall be held before this court on **Thursday, July 22, 2010 at 10:00 a.m.**, at the Hugo L. Black United States Courthouse, 1729 Fifth Avenue North, Birmingham, Alabama to determine: whether the proposed Settlements of the Bondholder Action as to E&Y and the UBS Defendants on the terms and conditions provided for in the respective Stipulations are fair, reasonable and adequate to the E&Y Bondholder Class and the UBS Bondholder Class and should be approved by the court; whether Judgments as provided in ¶1.24 of the E&Y Stipulation and ¶1.20 of the UBS Defendants Stipulation should be entered; and whether any applications for attorneys' fees or expenses should be approved. The court may adjourn the Settlement Hearing without further notice to members of the E&Y Bondholder Class and the UBS Bondholder Class.

4. The court approves, as to form and content, (a) the Notice of (I) Pendency of Class Action; (II) Proposed Settlements With Ernst & Young LLP and the UBS Defendants; and (III) Proposed Dismissal of Claims (the "Notice"); (b) the Summary Notice for publication; and

(c) the Proof of Claim Form and Release, annexed respectively as Exhibits 1 to 3, and finds that the mailing and distribution of the Notice and publishing of the Summary Notice substantially in the manner and form set forth in ¶5 of this Order meet the requirements of Federal Rule of Civil Procedure 23, the Securities Act of 1933, 15 U.S.C. §77z-1(a)(7), as amended, by the Private Securities Litigation Reform Act of 1995, the Securities Exchange Act of 1934, 15 U.S.C. §78u-4(a)(7), as amended, including by the Private Securities Litigation Reform Act of 1995, and due process, and is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled to notice.

5. The firm of Rust Consulting, Inc. (“Claims Administrator”) is hereby appointed to supervise and administer the notice procedure as well as the processing of claims as more fully set forth below:

(a) HealthSouth shall cooperate, to the extent necessary, in making its transfer records and shareholder information available to the Claims Administrator no later than seven days following entry of this Order for the purpose of identifying and giving notice to the Bondholder Class (which includes the E&Y and the UBS Bondholder Classes);

(b) Bondholder Plaintiffs’ Lead Counsel shall make reasonable efforts to identify all persons and entities who are potential members of the Bondholder Class, and not later than fifteen business days after entry of this Order (the “Notice Date”), Bondholder Plaintiffs’ Lead Counsel shall cause a copy of the Notice substantially in the form annexed as Exhibit 1, to be mailed by first class mail to all potential Bondholder Class Members who can be identified with reasonable effort;

(c) Not later than ten business days after the Notice Date, Bondholder

Plaintiffs' Lead Counsel shall cause the Summary Notice, substantially in the form annexed as Exhibit 2, to be published once in *Investor's Business Daily* and once over the *PR Newswire*; and

(d) At least twenty-one calendar days prior to the Settlement Hearing, Bondholder Plaintiffs' Lead Counsel shall cause to be served on the Settling Defendants' counsel and filed with the court proof, by affidavit or declaration, of such mailing and publishing.

6. Nominees who purchased the bonds, notes or other debt instruments of HealthSouth for the beneficial ownership of Bondholder Class Members during the period beginning July 30, 1999 through and including March 18, 2003 shall send the Notice to all beneficial owners of such HealthSouth securities within ten days after receipt thereof, or send a list of the names and addresses of such beneficial owners to the Claims Administrator within ten days of receipt thereof, in which event the Claims Administrator shall promptly mail the Notice to such beneficial owners. The Claims Administrator shall, if requested, reimburse banks, brokerage houses or other nominees solely for their reasonable out-of-pocket expenses incurred in providing notice to beneficial owners who are class members out of the Settlement Funds, which expenses would not have been incurred except for the sending of such Notice, subject to further order of this court with respect to any dispute concerning such compensation.

7. All Members of the E&Y Bondholder Class and the UBS Bondholder Class shall be bound by all determinations and the respective applicable Judgments in the Bondholder Action concerning the Settlements, whether favorable or unfavorable.

8. Pending final determination of whether the Stipulations should be approved, Bondholder Plaintiffs' Lead Counsel, Bondholder Lead Plaintiffs, the Settling Defendants, any E&Y Bondholder Class Member and any UBS Bondholder Class Member are barred and

enjoined from commencing or prosecuting any action asserting any Released Claims against any Released Persons as defined in the respective and applicable Stipulations.

9. Any E&Y Bondholder Class Members and any UBS Bondholder Class Members who do not timely and validly request exclusion from the Bondholder Class may complete and submit Proof of Claim and Release forms (which forms shall be substantially in the form annexed as Exhibit 3) in accordance with the instructions contained therein and in the Notice. However, E&Y Bondholder Class Members and UBS Bondholder Class Members who have already submitted Proof of Claim and Release forms in connection with the previously announced partial settlement with HealthSouth and related defendants (the “HealthSouth Settlement”), are not required to submit another Proof of Claim and Release form. Unless the court orders otherwise, all Proof of Claim and Release forms, if required, must be postmarked no later than one hundred-twenty days from the Notice Date. Any E&Y Bondholder Class Member and any UBS Bondholder Class Member who does not submit a Proof of Claim and Release form, and has not previously submitted such a form in connection with the HealthSouth Settlement, within the time provided for shall be barred from sharing in the distribution of the proceeds of the respective Settlement Funds, unless otherwise ordered by the court. Notwithstanding the foregoing, Bondholder Plaintiffs’ Lead Counsel shall have discretion to accept late-submitted claims for processing by the Claims Administrator so long as the distribution of the Net Settlement Fund is not materially delayed. All claims for payment from the Net Settlement Funds created by these Settlements, if approved, shall be processed in accordance with the provisions of the Plan of Allocation approved by the court in connection with the HealthSouth Settlement subject to adjustment for the start of the E&Y and UBS Class

Periods.

10. Any member of the E&Y Bondholder Class and the UBS Bondholder Class may enter an appearance in the Bondholder Action, at his, her or its own expense, individually or through counsel of his, her or its own choice, in which case such counsel must file with the Clerk of the court and deliver to Bondholder Plaintiffs' Lead Counsel and the relevant Settling Defendants' counsel a notice of such appearance. If they do not enter an appearance, they will be represented by Bondholder Plaintiffs' Lead Counsel.

11. All papers in support of the Settlements and the request for attorneys' fees and reimbursement of expenses shall be filed and served no later than twenty-one calendar days prior to the Settlement Hearing. Any reply papers in further support of the above-noted motions shall be served and filed no later than seven calendar days prior to the Settlement Hearing.

12. Any person or entity falling within the definition of the Bondholder Class may, upon request, be excluded from the class. Any such person or entity must submit to the Claims Administrator a request for exclusion ("Request for Exclusion"), received no later than July 7, 2010. A Request for Exclusion must state: (a) the name, address, and telephone number of the person or entity requesting exclusion; (b) each of the person's or entity's purchases or other acquisitions and sales, exchanges, or other disposition of HealthSouth bonds, notes or other debt instruments made during the period beginning July 30, 1999 through and including March 18, 2003, including the dates of purchase or other acquisition or sale, exchange, or other disposition, the number and type of securities purchased or otherwise acquired and/or sold, exchanged, or otherwise disposed of, and the price paid or received or consideration given or received for each such purchase or other acquisition or sale, exchange or other disposition; and (c) that the person

or entity wishes to be excluded from the Bondholder Class. Only those persons and entities who or which are found by this court to have submitted timely and valid Requests for Exclusion shall be excluded from the Bondholder Class. All persons and entities found by this court to have validly and timely excluded themselves from the Bondholder Class shall have no rights under the Stipulations, shall not share in the distribution of the Net Settlement Funds, and shall not be bound by the Stipulations or the respective Judgments entered with respect thereto, nor shall they have any right to share in any recovery that may be obtained from any Non-Settling Defendant nor will they be bound by any stipulation of settlement or judgment that may be entered in the Bondholder Action with respect to any Non-Settling Defendant.

13. Any member of the E&Y Bondholder Class may appear and show cause, if he, she or it has any, why the proposed Settlement with E&Y should not be approved as fair, reasonable and adequate, or why a judgment should not be entered thereon; and any member of the UBS Bondholder Class may appear and show cause, if he, she or it has any, why the proposed Settlement with the UBS Defendants should not be approved as fair, reasonable and adequate, or why a judgment should not be entered thereon; provided, however, that no class member shall be heard or entitled to contest such matters, unless that class member has delivered by hand or sent by first-class mail written objections and copies of any papers and briefs such that they are **received on or before July 7, 2010** by:

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP
SALVATORE J. GRAZIANO
1285 Avenue of the Americas
New York, NY 10019

CUNNINGHAM BOUNDS, LLC
ROBERT T. CUNNINGHAM

1601 Dauphin Street
Mobile, AL 36604

**Lead Counsel for Bondholder Lead Plaintiff and
Bondholder Class**

with respect to both proposed Settlements;

WINSTON & STRAWN LLP
BRUCE R. BRAUN
35 West Wacker Drive
Chicago, IL 60601-9703

Counsel to Ernst & Young LLP

with respect to the proposed Settlement with E&Y; and

SULLIVAN & CROMWELL LLP
ROBERT GIUFFRA, JR.
125 Broad Street
New York, NY 10004

Counsel to the UBS Defendants

with respect to the proposed Settlement with the UBS Defendants; and filed said objections, papers and briefs with the Clerk of the United States District Court for the Northern District of Alabama, Southern Division, Hugo L. Black United States Courthouse, 1729 Fifth Avenue North, Birmingham, AL 35203, **on or before July 7, 2010**. Any person who or entity that does not make his, her or its objection in the manner provided herein and in the Notice shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlements as set forth in the Stipulations, unless otherwise ordered by the court.

14. All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the court, and shall remain subject to the jurisdiction of the court, until such

time as such funds shall be distributed pursuant to the Stipulations and/or further order(s) of the court.

15. Neither the Settling Defendants nor their Related Parties nor the Settling Defendants' counsel shall have any responsibility for the Plan of Allocation, which shall be applied to the proposed Settlements if approved (with the required adjustment for the start of the E&Y and UBS Class Periods as certified by the court), or any application for attorneys' fees or reimbursement of expenses submitted by Bondholder Plaintiffs' Lead Counsel or the Bondholder Lead Plaintiff, and such matters will be considered separately from the fairness, reasonableness and adequacy of the Settlements.

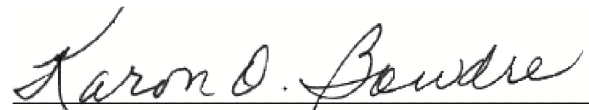
16. All reasonable expenses incurred in identifying and notifying class members, as well as administering the Settlement Funds, shall be paid as set forth in the respective Stipulations. In the event that either or both of the Settlements are not approved by the court, or otherwise fail to become effective, neither the Bondholder Plaintiffs nor any of their counsel shall have any obligation to repay any amounts incurred or properly disbursed pursuant to ¶¶2.3-2.4, or 2.6-2.7 of the Stipulations.

17. Neither the Stipulations, nor any of their terms or provisions, nor any of the negotiations or proceedings connected with them, shall be construed as an admission or concession by the Settling Defendants of the truth of any of the allegations in the Bondholder Action, or of any liability, fault, or wrongdoing of any kind.

18. The court reserves the right to adjourn the date of the Settlement Hearing without further notice to the members of the E&Y Bondholder Class and the UBS Bondholder Class, and retains jurisdiction to consider all further applications arising out of or connected with the

proposed Settlements. The court may approve the Settlements, with such modifications as may be agreed to by the relevant settling parties, if appropriate, without further notice to the E&Y Bondholder Class or to the UBS Bondholder Class.

DONE and ORDERED this 12th day of May 2010.


KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE