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7 SUPERIOR COURT OF CALIFORNIA  
8 COUNTY OF ORANGE  
9 CIVIL COMPLEX CENTER

10 **IN RE STEC, INC. SHAREHOLDERS**  
11 **LITIGATION**

Lead Case No. 30-2013-00659340-CU-SL-CXC  
CLASS ACTION

**DECLARATION OF DAVID E. BOWER IN  
SUPPORT OF MOTION FOR  
PRELIMINARY APPROVAL OF  
SETTLEMENT**

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14 This Document Relates To:  
ALL ACTIONS.

Judge: Honorable Gail A. Andler  
Dept: CX101  
Date: May 19, 2014  
Time: 1:30 p.m.

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18 I, David E. Bower, declare,

19 1. I am an attorney licensed to practice in the state of California and am a partner at  
20 the law firm of Faruqi & Faruqi, LLP, one of the counsel of record and Plaintiffs' Counsel. I  
21 have personal knowledge of the facts set forth herein and if called as a witness could and would  
22 testify competently to these facts under oath.

23 2. The parties to the above captioned action, after extensive arm's-length  
24 negotiations between all counsel, who are experienced and qualified in this type of complex  
25 litigation and the issues covered by the instant litigation, have reached a proposed settlement of  
26 this action which is memorialized in the Stipulation of Settlement ("Stipulation"), attached  
27 hereto as **Exhibit 1**, which, in turn, has the following attached exhibits:

1           **Exhibit A:** [Proposed] Order Preliminarily Approving Settlement and Providing for  
2 Notice;

3           **Exhibit A-1:** Notice of Settlement Of Class Action;

4           **Exhibit B:** [Proposed] Final Judgment;

5           **Exhibit C:** Form 8-K, filed with the Securities and Exchange Commission on  
6 September 4, 2013 (“Supplemental Disclosures”).

7           3.       Plaintiffs make this motion seeking an Order Preliminarily Approving Settlement  
8 and Providing Notice, in accordance with the terms of the Stipulation between and among the  
9 parties of this action (“Action”). The Stipulation calls for, among other things, dismissal of the  
10 Action, with prejudice.

11          4.       Plaintiffs’ Counsel, prior to reaching a proposed settlement with defense counsel,  
12 extensively investigated Plaintiffs’ claims, including: (i) researching, drafting, and amending  
13 complaints against the Defendants for conduct related to the Merger; (ii) monitoring and  
14 reviewing public filings, news, and analyst reports; (iii) reviewing confidential, non-public  
15 documents produced by sTec, Inc. (“sTec” or “Company”) to Plaintiffs’ counsel in the Action in  
16 response to Plaintiffs’ requests; (iv) drafting a Demand Letter; (v) taking the depositions Kevin  
17 C. Daly, Ph.D. (the Chairman of sTec’s Board and of the independent Special Committee formed  
18 to evaluate sTec’s strategic alternatives); Mark Long (Executive Vice President, Strategy and  
19 Corporate Development of Western Digital Corporation); and David King (Managing Director,  
20 Mergers and Acquisitions of BofA Merrill Lynch); and (vi) retaining and working with a  
21 financial expert to analyze Plaintiffs’ claims and the documents produced by sTec to help  
22 formulate Plaintiffs’ disclosure demands to be made to shareholders in the proxy. Plaintiffs,  
23 through their counsel, have completed a thorough investigation of the claims and allegations  
24 asserted in the Actions, as well as the underlying events and transactions relevant to those claims  
25 and allegations. Plaintiffs’ Counsel believes that the claims asserted have merit based on  
26 proceedings to date, but recognize that Defendants would continue to vigorously assert legal and  
27 factual defenses to the claims. Plaintiffs’ Counsel have concluded that the proposed Settlement  
28

1 is fair, reasonable and adequate to the Class and that it is reasonable to pursue the Settlement of  
2 the Actions based upon the procedures outlined herein and the substantial benefits provided to  
3 the proposed class. Plaintiffs' entry into the Settlement is not an admission as to the lack of  
4 merit of their claims.

5 **Background of the Litigation**

6 5. On June 23, 2013, defendant sTec, Inc. announced that it had entered into an  
7 Agreement and Plan of Merger with Western Digital Corporation and Lodi Ventures, Inc., a  
8 wholly-owned subsidiary of Western Digital Corporation (collectively, "WDC"), under which  
9 holders of sTec's common stock would receive \$6.85 per share in cash ("Merger").

10 6. Thereafter, between June 26, 2013 and July 11, 2013, seven shareholders  
11 ("Plaintiffs") filed the Shareholder Actions as purported class action lawsuits, on behalf of  
12 themselves and all similarly situated sTec shareholders, in the Superior Court of the State of  
13 California, County of Orange, against sTec, the members of sTec's Board of Directors  
14 ("Individual Defendants") and WDC (sTec, the Individual Defendants and WDC together,  
15 "Defendants").<sup>1</sup> The Shareholder Actions generally allege that the Individual Defendants  
16 breached their fiduciary duties in connection with the Merger and that WDC aided and abetted  
17 the alleged breaches of fiduciary duty.

18 7. On July 11, 2013, Defendants and the plaintiffs in the *Pilly, Mathewson,*  
19 *Poehlmann, Foreman-Sommers* and *Wilkinson* actions entered into a Stipulation and [Proposed]  
20 Order Relating and Consolidating Actions, consolidating for all purposes the *Pilly, Mathewson,*  
21 *Poehlmann, Foreman-Sommers* and *Wilkinson* actions, and appointing Faruqi & Faruqi, LLP as

22 \_\_\_\_\_  
23 <sup>1</sup> The Shareholder Actions are: *Vijaya Pilly v. sTec, Inc., et al.*, Case No. 30-2013-00659340-  
24 CU-SL-CXC; *Tyler Mathewson v. sTec, Inc., et al.*, Case No. 30-2013-00659718-CU-SL-CXC;  
25 *Karl F. Poehlmann v. sTec, Inc., et al.*, Case No. 30-2013-00659742-CU-SL-CXC; *Beverly*  
26 *Wilkinson v. sTec, Inc., et al.*, Case No. 30-2013-00660427-CU-SL-CXC; *Faithette Foreman-*  
27 *Sommers v. sTec, Inc., et al.*, Case No. 30-2013-00660506-CU-SL-CXC; *Robert Walpole v.*  
28 *sTec, Inc., et al.*, Case No. 30-2013-00662447-CU-SL-CXC; and *Anthony Palmero v. Kevin C.*  
*Daly, et al.*, Case No. 30-2013-00662459-CU-SL-CXC. The Shareholder Actions were  
consolidated for all purposes, with the *Pilly* Action designated the lead case, by this Court's  
order dated September 10, 2013.

1 lead counsel for plaintiffs and the putative Class (“Consolidation Stipulation”). On July 29,  
2 2013, the Settling Parties amended the Consolidation Stipulation to include the later-filed  
3 *Walpole* and *Palmero* actions.

4 8. On July 25, 2013, the Company filed with the United States Securities and  
5 Exchange Commission (“SEC”) a Preliminary Proxy Statement on Schedule 14A (“Preliminary  
6 Proxy”) with respect to the Merger.

7 9. On August 1, 2013, the plaintiffs in the *Poehlman* and *Mathewson* actions filed  
8 amended complaints to add allegations that sTec’s Preliminary Proxy failed to adequately  
9 disclose certain information regarding the Merger.

10 10. On August 8, 2013, the Company filed with the SEC a Definitive Proxy  
11 Statement on Schedule 14A (“Definitive Proxy”) with respect to the Merger.

12 11. After filing their complaints, Plaintiffs requested certain discovery and  
13 depositions from Defendants and from the Company’s financial advisor in connection with the  
14 Merger, Bank of America Merrill Lynch (“BofA Merrill Lynch”).

15 12. Between August 13, 2013 and August 29, 2013, the Company produced  
16 confidential documents to counsel for Plaintiffs, including minutes of meetings of sTec’s Board  
17 of Directors (“Board”) and the independent Special Committee; non-disclosure agreements  
18 entered into between sTec and potential acquirers; presentations to sTec’s Board and Special  
19 Committee by BofA Merrill Lynch; projections prepared by sTec’s management provided to  
20 BofA Merrill Lynch; the engagement letter between sTec and BofA Merrill Lynch; and  
21 correspondence, email communications and other documents related to the Merger.

22 13. On August 21, 2013, counsel for Plaintiffs took the deposition of Kevin C. Daly,  
23 Ph.D., the Chairman of sTec’s Board and of the independent Special Committee formed to  
24 evaluate sTec’s strategic alternatives.

25 14. On August 23, 2013, counsel for Plaintiffs took the deposition of Mark Long,  
26 Executive Vice President, Strategy and Corporate Development of Western Digital Corporation.

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1 (e) additional information regarding BofA Merrill Lynch's Selected Precedent  
2 Transactions Analysis; and

3 (f) additional information regarding litigation related to the Merger and  
4 pending shareholder derivative actions purportedly filed on behalf of the Company.

5 20. On September 11, 2013, the Settling Parties executed a Memorandum of  
6 Understanding ("MOU").

7 21. On September 12, 2013, sTec held a special meeting of its shareholders at which  
8 the Company's shareholders voted to approve the Merger. The Merger was consummated on the  
9 same date.

10 22. In the Stipulation, Defendants acknowledge that the filing and prosecution of the  
11 Action by, and negotiations and discussions with, Plaintiffs' Counsel were a significant factor in  
12 sTec's decision to make the additional disclosures in a Form 8-K filed by sTec with the SEC on  
13 or about September 4, 2013. *See* Stipulation, Section 2.1.

14 23. Pursuant to the Stipulation, the parties have agreed to a form and manner of  
15 mailing notice to the Class. The agreed form of notice is attached as Exhibit A-1 to the  
16 Stipulation and the manner of notice is by direct mailing to all record holders or beneficial  
17 owners of sTec common stock at any time during the period beginning on and including June 23,  
18 2013 through and including September 12, 2013, the date of the closing of the Merger, including  
19 all of their respective successors-in-interest, predecessors, representatives, trustees, executors,  
20 administrators, heirs, assigns or transferees, immediate and remote, and any person acting for on  
21 behalf of, or claiming under, any of them, and each of them (excluded from the Settlement Class  
22 are Defendants). Both the form and manner of notice are typical of the form and manner of  
23 notice sent in other similar class actions. Defendants have agreed to pay for and be responsible  
24 for providing notice to the Class.

25 24. As explained in the moving papers, Plaintiffs litigated this class action  
26 shareholder litigation aggressively, and after sTec produced confidential, nonpublic documents  
27 to Plaintiffs' Counsel in the Action, engaged in vigorous, arm's-length negotiations. Ultimately,  
28

1 the Parties reached an agreement regarding the settlement of the Actions, set forth initially in a  
2 September 11, 2013 Memorandum of Understanding (“MOU”).

3 25. Plaintiffs’ Counsel is experienced in complex litigation such as this and upon  
4 completion of confirmatory discovery, believes that the Settlement is fair, reasonable, and  
5 adequate, and in the Class’ best interest.

6 26. For all of these reasons, Plaintiffs’ Counsel submit that the proposed Settlement is  
7 fair, reasonable, and adequate to the Class and Plaintiffs’ Counsel respectfully request that the  
8 Court enter the proposed Preliminary Approval Order.

9 **Plaintiffs’ Counsel’s Fee Request**

10 27. My law firm has served as Counsel for Plaintiffs and the Class in this litigation,  
11 has actively engaged in the prosecution of this litigation on behalf of plaintiffs and the class, and  
12 has performed, *inter alia*, the following tasks: pre-suit investigation of the facts and analysis of  
13 the proposed transaction; consultation with the financial expert; drafting of a complaint and  
14 amended complaint; conducting discovery; conducting legal research concerning the principal  
15 issues in the case; reviewing and analyzing thousands of pages of documents; taking depositions;  
16 and negotiating, drafting, and revising the MOU and Settlement. All of the work described was  
17 necessary to fulfill my firm’s obligation to represent Plaintiffs and the class zealously and  
18 competently.

19 28. Defendants in the Action have also agreed, to pay, or cause to be paid to  
20 Plaintiffs’ Counsel, attorneys’ fees and expenses in an amount approved by the Court and not to  
21 exceed \$580,000.00 in connection with the Action based upon the benefits that the Settlement  
22 has provided and will provide to sTec’s public stockholders. After all other matters had been  
23 agreed upon, the Settling Parties negotiated the amount of attorneys’ fees and expenses that,  
24 subject to Court approval, would be paid to Plaintiffs’ Counsel. As a result of those negotiations,  
25 the Parties agreed and the Stipulation provides that Plaintiffs’ Counsel may apply to the Court  
26 for an award for attorneys’ fees and expenses in the aggregate amount of \$580,000.00 (“Agreed  
27 Amount”). Stipulation ¶ 2.1. Plaintiffs will not seek fees and expenses in excess of this amount.

1 The Settling Parties have agreed that the attorneys' fees and expenses approved by the Court  
 2 shall be paid by Defendants and/or their insurers within 15 business days after (i) entry of the  
 3 Court's order providing final approval of the Settlement (including final approval of any fees and  
 4 expenses to Plaintiffs' Counsel) and entering the Judgment; and (ii) receipt by Defendants'  
 5 Counsel of all information necessary for the payment of attorneys' fees to Plaintiffs' Counsel,  
 6 including wire transfer instructions and tax identification information. Stipulation ¶5.2.

7 29. The total number of hours spent in this litigation by the firms representing  
 8 Plaintiffs is 1022.25. The total lodestar amount for attorney time based on the respective firm's  
 9 current rates is \$652,132.00. The hourly rates reflected in the attached exhibit are the usual and  
 10 customary rates. The lodestar breakdown is as follows:

<b>FIRM</b>	<b>HOURS</b>	<b>LODESTAR</b>
FARUQI & FARUQI LLP	390.50	\$201,480.00
KIRBY MCINERNEY LLP	279.25	\$118,536.25
BRODSKY & SMITH LLC	54.75	\$38,454.50
WEISSLAW LLP	178.25	\$124,746.25
POWERS TAYLOR LLP	26.50	\$15,487.50
THE BRISCOE LAW FIRM PLLC	11.00	\$7,012.50
ADEMI & O'REILLY LLP	82.00	\$146,415.00
LEVI & KORSINSKY LLP	55.50	\$37,840.00
FINKELSTEIN THOMPSON LLP	9.70	\$4,592.50
<b>TOTALS</b>	1077.75	\$689,972.00

18 30. The firms representing Plaintiffs incurred a total of \$35,167.09 in expenses in  
 19 connection with the prosecution of the litigation. These expenses are broken down as follows:  
 20  
 21  
 22  
 23  
 24  
 25  
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<b>FIRM</b>	<b>AMOUNT</b>
FARUQI & FARUQI LLP	\$17,254.41
KIRBY MCINERNEY LLP	\$5,111.01
BRODSKY & SMITH LLC	\$2,990.00
WEISSLAW LLP	\$6,434.64
POWERS TAYLOR LLP	\$140.00
ADEMI & O'REILLY LLP	\$978.94
LEVI & KORSINSKY LLP	\$2,238.39
FINKELSTEIN & THOMPSON LLP	\$19.70
<b>TOTAL:</b>	<b>\$35,167.09</b>

31. The expenses pertaining to this case are reflected in the books and records of the respective firms. These books and records are prepared from expense vouchers, check records and other documents and are an accurate record of the expenses.

32. Counsel for Plaintiffs agree to share any attorney fees as set forth below, in the event the Court approves the \$580,000.00 request for fees and expenses after reimbursing expenses outlined above as follows:

<b>FEES FOR COUNSEL FOR PLAINTIFF</b>	<b>AMOUNT</b>
TYLER MATTHEWSON	\$127,114.97
KARL F. POEHLMANN	\$127,114.97
VIJAYA PILLY	\$63,576.55
FAITHETTE FOREMAN-SOMMERS	\$63,576.55
BEVERLY WILKINSON	\$54,483.29
ANTHONY PALMERO	\$54,483.29
ROBERT WALPOLE	\$54,483.29
<b>TOTAL FEE AFTER EXPENSES:</b>	<b>\$544,832.91</b>

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed this 25th day of April 2014, in Los Angeles, CA.

  
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 David E. Bower