

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

IN RE: SYNCHRONY FINANCIAL
SECURITIES LITIGATION

No. 3:18-cv-1818-VAB

**PLAINTIFFS' UNOPPOSED MOTION FOR
APPROVAL OF DISTRIBUTION PLAN**

TO: All Counsel of Record

PLEASE TAKE NOTICE that in accordance with Federal Rule of Civil Procedure 23(e) and this Court's Ruling and Order Approving Class Action Settlement, Approving Plan of Allocation, and Approving Application for Attorneys' Fees and Costs (ECF No. 244) and Judgment (ECF No. 245), Lead Plaintiff Stichting Depository APG Developed Markets Equity Pool and Plaintiff Stichting Depository APG Fixed Income Credits Pool (collectively, "Plaintiffs") will and hereby do move this Court for entry of the accompanying [Proposed] Order Approving Distribution Plan ("Class Distribution Order"). In further support of this motion, Plaintiffs submit (i) the Declaration of Alexander P. Villanova in Support of Plaintiffs' Unopposed Motion for Approval of Distribution Plan ("Villanova Declaration") submitted on behalf of the Court-approved Claims Administrator, Epiq Class Action & Claims Solutions, Inc. ("Epiq"); (ii) the Memorandum of Law in Support of Plaintiffs' Unopposed Motion for Approval of Distribution Plan; and (iii) all other papers and proceedings herein.

Among other things, the Class Distribution Order would: (i) approve the administrative determinations of Epiq accepting and rejecting Claims submitted in connection with the Settlement reached in the above-captioned Action; (ii) direct the distribution of the Net Settlement Fund to Claimants whose Claims are accepted by Epiq as valid and approved by the

Court (“Authorized Claimants”), while maintaining a Reserve for any tax liability or claims administration-related contingencies that may arise; (iii) direct that distribution checks state that the check must be cashed within ninety (90) days after the issue date; (iv) direct that Authorized Claimants will forfeit all recovery from the Settlement if they fail to cash their distribution checks in a timely manner; (v) approve the recommended plan for any funds remaining after the distribution; (vi) approve Epiq’s fees and expenses incurred and estimated to be incurred in the administration of the Settlement; (vii) release claims related to the administration process; and (viii) authorize the destruction of Claim Forms and supporting documents at an appropriate time.

There are no disputed Claims by any Class Member requiring Court review. Pursuant to the terms of the Stipulation, Defendants have no interest in the relief sought by the motion. Further, Defendants’ Counsel have reviewed the motion and informed us that Defendants do not oppose it. Accordingly, Lead Counsel respectfully submits that the motion is ripe for consideration by the Court and may be decided on the papers.

Dated: June 24, 2024

Respectfully submitted,

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

/s/ Adam H. Wierzbowski

Salvatore J. Graziano (admitted *pro hac vice*)
Adam H. Wierzbowski (admitted *pro hac vice*)
Jesse L. Jensen (admitted *pro hac vice*)
1251 Avenue of the Americas
New York, NY 10020
Telephone: (212) 554-1400
Facsimile: (212) 554-1444
salvatore@blbglaw.com
adam@blbglaw.com
jesse.jensen@blbglaw.com

*Counsel for Lead Plaintiff Stichting Depository
APG Developed Markets Equity Pool and Plaintiff
Stichting Depository APG Fixed Income Credits
Pool and Lead Counsel for the Class*

MOTLEY RICE LLC

William H. Narwold (ct 00133)

Mathew P. Jasinski (ct 27520)

20 Church Street, 17th Floor

Hartford, CT 06103

Telephone: (860) 882-1681

Facsimile: (860) 882-168

bnarwold@motleyrice.com

mjasinski@motleyrice.com

*Liaison Counsel for Lead Plaintiff Stichting
Depositary APG Developed Markets Equity Pool
and Plaintiff Stichting Depositary APG Fixed
Income Credits Pool and the Class*

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

IN RE: SYNCHRONY FINANCIAL
SECURITIES LITIGATION

No. 3:18-cv-1818-VAB

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS'
UNOPPOSED MOTION FOR APPROVAL OF DISTRIBUTION PLAN**

Dated: June 24, 2024

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	ii
I. BACKGROUND	2
II. CLAIMS ADMINISTRATION	3
A. No Disputed Claims	4
B. Late Claims and Final Cut-Off Date	4
III. FEES AND EXPENSES OF CLAIMS ADMINISTRATOR	5
IV. DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUND	6
A. Initial Distribution of the Net Settlement Fund	6
B. Additional Distribution(s) of the Net Settlement Fund	7
V. RELEASE OF CLAIMS	9
VI. CONCLUSION	11

TABLE OF AUTHORITIES

CASES	PAGE(S)
<i>In re Cnova N.V. Sec. Litig.</i> , 2021 WL 100548 (S.D.N.Y. Jan. 12, 2021)	10
<i>In re Eletrobras Sec. Litig.</i> , 467 F. Supp. 3d 149 (S.D.N.Y. 2020).....	10
<i>In re Frontier Commc’ns Corp. Stockholders Litig.</i> , No. 3:17-cv-01617-VAB, slip op. (D. Conn. Nov. 13, 2023), ECF No. 221	9, 10
<i>In re Signet Jewelers Ltd. Sec. Litig.</i> , 2021 WL 5357468 (S.D.N.Y. Nov. 16, 2021).....	9, 10
<i>In re Vale S.A. Sec. Litig.</i> , 2021 WL 3287343 (S.D.N.Y. July 30, 2021).....	9
<i>Zimmerman v. Portfolio Recovery Assocs., LLC</i> , 2013 WL 1245552 (S.D.N.Y. Mar. 27, 2013)	9

Lead Plaintiff Stichting Depository APG Developed Markets Equity Pool and Plaintiff Stichting Depository APG Fixed Income Credits Pool (collectively, “Plaintiffs”), respectfully move for entry of the proposed Order Approving Distribution Plan (“Class Distribution Order”) for the proceeds of the Settlement in the above-captioned securities class action (“Action”). The Distribution Plan is included in the accompanying Declaration of Alexander P. Villanova (“Villanova Declaration” or “Villanova Decl.”), submitted on behalf of the Court-approved Claims Administrator, Epiq Class Action & Claims Solutions, Inc. (“Epiq”).¹

The Class Distribution Order will, upon being entered by the Court, permit Epiq to make an Initial Distribution of the Settlement proceeds to eligible Claimants. Among other things, the Class Distribution Order will: (i) approve Epiq’s administrative determinations accepting and rejecting Claims submitted in connection with the Settlement; (ii) direct the Initial Distribution of the Net Settlement Fund to Claimants whose Claims are accepted by Epiq as valid and approved by the Court (“Authorized Claimants”), while maintaining a Reserve for any tax liability and claims administration-related contingencies that may arise; and (iii) approve Epiq’s fees and expenses incurred and estimated to be incurred in the administration of the Settlement and the Initial Distribution.

There are no disputed Claims by any Class Member requiring Court review. Further, pursuant to the Stipulation, Defendants have no role in or responsibility for the administration of the Settlement Fund or processing of Claims, including determinations as to the validity of Claims or the distribution of the Net Settlement Fund. *See* Stipulation ¶¶ 17, 21, 23; *see also* Notice ¶ 55. Further, Defendants’ Counsel have reviewed the motion and have informed us that Defendants do

¹ Unless otherwise indicated in this memorandum, all terms with initial capitalization shall have the meanings ascribed to them in the Villanova Declaration or the Stipulation and Agreement of Settlement dated as of April 3, 2023 (ECF No. 232-2) (“Stipulation”).

not oppose the motion. As such, the motion is ripe for determination and Lead Counsel respectfully submits that a hearing on the motion is not required.

I. BACKGROUND

On August 4, 2023, the Court entered a Ruling and Order Approving Class Action Settlement, Approving Plan of Allocation, and Approving Application for Attorneys' Fees and Costs (ECF No. 244) approving the \$34 million all-cash Settlement of this Action and the Plan of Allocation for the Net Settlement Fund. Subsequently, on August 7, 2023, the Court entered a Judgment (ECF No. 245) in accordance with the August 4, 2023 ruling and order. The Settlement's "Effective Date" under paragraph 31 of the Stipulation has occurred, and accordingly the Net Settlement Fund may now be distributed to Authorized Claimants. In accordance with paragraph 26 of the Stipulation, Plaintiffs respectfully request that the Court enter the Class Distribution Order and approve the Distribution Plan.

As provided in the Court's Order Preliminarily Approving Settlement and Authorizing Dissemination of Notice of Settlement (ECF No. 233) ("Preliminary Approval Order"), Epiq mailed the Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Hearing; and (III) Motion for Attorneys' Fees and Litigation Expenses ("Notice") and the Proof of Claim and Release Form ("Claim Form" and, collectively with the Notice, the "Notice Packet") to potential Class Members, brokers, and other nominees. Villanova Decl. ¶ 2. Epiq has mailed a total of 165,163 Notice Packets to potential Class Members, brokers, and nominees. *Id.* ¶ 4. The Notice informed Class Members that if they wished to be eligible to participate in the distribution of the Net Settlement Fund, they were required to submit a properly executed Claim Form postmarked no later than September 7, 2023. *Id.* ¶ 7.

II. CLAIMS ADMINISTRATION

As set forth in the Villanova Declaration, through June 16, 2024, Epiq received and processed 98,509 Claims. Villanova Decl. ¶ 7. All Claims received through June 16, 2024, have been fully processed in accordance with the Stipulation and the Court-approved Plan of Allocation included in the Notice (*see id.*), and Epiq has worked with Claimants to help them perfect their Claims. *See id.* ¶¶ 19-32. Many of the Claims were initially deficient or ineligible for one or more reasons, including being incomplete, not signed, not properly documented, or otherwise deficient, which required substantial follow-up work by Epiq. *Id.* ¶¶ 19, 22.

If Epiq determined a Claim to be defective or ineligible, Epiq sent a letter (if the Claimant or filer filed a paper Claim) or an email (if the Claimant or filer filed an electronic Claim) to the Claimant or filer, as applicable, describing the defect(s) or condition(s) of ineligibility in the Claim and the steps necessary to cure any curable defect(s) in the Claim (“Deficiency Notices”). *Id.* ¶¶ 20, 22. The Deficiency Notices advised the Claimant or filer that the appropriate information or documentary evidence to complete the Claim had to be sent within twenty (20) days from the date of the Deficiency Notice or Epiq would recommend the Claim for rejection to the extent the deficiency or condition of ineligibility was not cured. *Id.* ¶¶ 20, 23. Examples of the Deficiency Notices are attached as Exhibits A, B, and C to the Villanova Declaration.

Of the 98,509 Claims that are the subject of this motion, Epiq has determined that 41,152 Claims are acceptable in whole or in part, and that 57,357 Claims should be rejected because they are ineligible for payment from the Net Settlement Fund. Villanova Decl. ¶¶ 33-37. Plaintiffs respectfully request that the Court approve Epiq’s administrative determinations accepting and rejecting Claims as set forth in the Villanova Declaration.

A. No Disputed Claims

Epiq carefully reviewed Claimants' and filers' responses to the Deficiency Notices and worked with them to resolve deficiencies where possible. *Id.* ¶¶ 21, 26. Consistent with paragraph 24(e) of the Stipulation, the Deficiency Notices specifically advised the Claimant or filer of the right, within twenty (20) days after the mailing or emailing of the Deficiency Notice, to contest the rejection of the Claim and request Court review of Epiq's administrative determination of the Claim. *Id.* ¶¶ 20, 23, and Exhibits A and B.

With respect to the fully processed Claims, Epiq received four (4) requests for Court review of its administrative determinations. To resolve these disputes without necessitating the Court's intervention, Epiq contacted the Claimants requesting Court review and attempted to answer all questions, to explain Epiq's administrative determination of the Claim's status, and to facilitate the submission of missing information or documentation where applicable. *Id.* ¶ 28. As a result of these efforts, all four Claimants resolved their deficiencies and their Claims are recommended for approval. There are, therefore, no disputed Claims requiring Court review. *Id.*

B. Late Claims and Final Cut-Off Date

The 98,509 Claims received through June 16, 2024, include 8,173 Claims that were postmarked or received after September 7, 2023, the Court-approved Claim submission deadline. *Id.* ¶¶ 29, 35. Those late Claims have been fully processed, and 2,371 of them are, but for their late submission, otherwise eligible to participate in the Settlement. *Id.* Although these 2,371 Claims were late, they were received while the processing of timely Claims was ongoing. *Id.* Due to the amount of time needed to process the timely Claims received, the processing of these late Claims did not delay the completion of the Claims administration process or the distribution of the Net Settlement Fund. *Id.* ¶ 29. The Court has discretion to accept Claims received after the Claim submission deadline. *See* Preliminary Approval Order ¶ 8; Notice ¶ 57. Plaintiffs respectfully

submit that, when the equities are balanced, it would be unfair to prevent an otherwise eligible Claim from participating in the distribution of the Net Settlement Fund solely because it was received after the Court-approved Claim submission deadline if it were submitted while timely Claims were still being processed.

To facilitate the efficient distribution of the Net Settlement Fund, however, there must be a final cut-off date after which no other Claims may be accepted. Accordingly, Plaintiffs respectfully request that the Court order that any *new* late Claims (and any requested adjustments to previously filed Claims that would result in an increased Recognized Claim Amount) received after June 16, 2024, shall be barred (*see also* Villanova Decl. ¶ 39 (f)) – subject to the proviso that if Lead Counsel later determines that an additional distribution is not cost-effective (*see* Villanova Decl. ¶ 39 (e)), then any post-June 16, 2024 Claimants may, at the discretion of Lead Counsel (and to the extent possible after paying remaining administrative fees and expenses owed), be paid on their new (or adjusted) Claims on a *pro rata* basis so as to bring them into parity with other Authorized Claimants who have cashed their distribution checks.

III. FEES AND EXPENSES OF CLAIMS ADMINISTRATOR

The Court-approved Claims Administrator for the Settlement, Epiq, was responsible for, among other things, disseminating notice of the Settlement to the Class, creating and maintaining a website and toll-free telephone helpline, processing Claims, and allocating and distributing the Net Settlement Fund to Authorized Claimants. Villanova Decl. ¶ 2. Epiq's fees and expenses for its work performed through May 31, 2024, are \$593,006.79, and its estimated fees and expenses for work to be performed in connection with the Initial Distribution are \$25,056.00, which together total \$618,062.79. *Id.* ¶ 38. Should the estimate of fees and expenses to conduct the Initial Distribution of the Net Settlement Fund exceed the actual cost, the excess will be returned to the Net Settlement Fund and will be available for subsequent distribution to Authorized Claimants. *Id.*

To date, Epiq has received no payment for its fees and expenses. *Id.* Accordingly, there is an outstanding balance of \$618,062.79 payable to Epiq, which amount includes the estimated fees and expenses to be incurred by Epiq in connection with the Initial Distribution. *Id.* Lead Counsel has reviewed Epiq's invoices and respectfully requests on behalf of Plaintiffs that the Court approve all of Epiq's fees and expenses.

IV. DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUND

A. Initial Distribution of the Net Settlement Fund

Under the proposed Distribution Plan, Epiq will distribute 95% of the Net Settlement Fund after deducting (i) all payments previously allowed, (ii) payments approved by the Court on this motion, and (iii) any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees (i.e., the Initial Distribution). *See Villanova Decl.* ¶ 39(a). In the Initial Distribution, Epiq will calculate award amounts for all Authorized Claimants as if the entire Net Settlement Fund were to be distributed now. *Id.* ¶ 39(a)(1). Epiq will first determine each Authorized Claimant's *pro rata* share of the total Net Settlement Fund based on the Claimant's Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants. *Id.* Epiq will eliminate from the Initial Distribution any Authorized Claimant whose *pro rata* share calculates to less than \$10.00, as these Claimants will not receive any payment from the Net Settlement Fund and will be so notified by Epiq. *Id.* ¶ 39(a)(2). Epiq will then recalculate the *pro rata* share of the Net Settlement Fund for Authorized Claimants who would have received \$10.00 or more based on the amount of the Authorized Claimant's Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants who would have received \$10.00 or more. *Id.* ¶ 39(a)(3). This *pro rata* share is the Authorized Claimant's Distribution Amount. *Id.* Authorized Claimants whose Distribution Amount calculates to less than \$200.00 will be paid their full Distribution Amount in the Initial Distribution ("Claims Paid in Full"). *Id.* ¶ 39(a)(4). These Authorized Claimants will

receive no additional funds in subsequent distributions. *Id.* After deducting the payments to the Claims Paid in Full, 95% of the remaining balance of the Net Settlement Fund will be distributed *pro rata* to Authorized Claimants whose Distribution Amount calculates to \$200.00 or more. *Id.* ¶ 39(a)(5). The remaining 5% of the Net Settlement Fund will be held in reserve (the “Reserve”) to address any tax liability and claims administration-related contingencies that may arise. *Id.* To the extent the Reserve is not depleted, the remainder will be distributed in the Second Distribution. *Id.*

To encourage Authorized Claimants to cash their checks promptly, Plaintiffs propose that all distribution checks bear the notation, “CASH PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED BY [DATE 90 DAYS AFTER ISSUE DATE].” *Id.* ¶ 39(b). Authorized Claimants who do not cash their checks within the time allotted or on the conditions stated in paragraph 39(b) of the Villanova Declaration will irrevocably forfeit all recovery from the Settlement, and the funds allocated to these stale-dated checks will be available to be redistributed to other Authorized Claimants in a subsequent distribution, as described below. *Id.* ¶ 39(c).

B. Additional Distribution(s) of the Net Settlement Fund

After Epiq has made reasonable and diligent efforts to have Authorized Claimants cash their Initial Distribution checks, but not earlier than seven (7) months after the Initial Distribution, Epiq will, after consulting with Lead Counsel, conduct the Second Distribution of the Net Settlement Fund. *Id.* ¶ 39(d). In the Second Distribution, any amount remaining in the Net Settlement Fund, after deducting any unpaid fees and expenses incurred, will be distributed to all Authorized Claimants (other than Claims Paid in Full) who cashed their Initial Distribution checks and would receive at least \$10.00 from the Second Distribution based on their *pro rata* share of the remaining funds. *Id.* If any funds remain in the Net Settlement Fund after the Second Distribution, and if cost-effective, subsequent distributions will take place at six-month intervals.

Id. When Lead Counsel, in consultation with Epiq, determines that a further distribution is not cost-effective, if sufficient funds remain to warrant the processing of Claims received after June 16, 2024, Epiq will process those Claims. *Id.* ¶ 39(e). Any of these Claims that are otherwise valid, as well as any earlier received Claims for which an upward adjustment was received after June 16, 2024, may be paid in accordance with paragraph 39(f) of the Villanova Declaration. *Id.* If any funds remain in the Net Settlement Fund after payment of these Claims and any unpaid fees or expenses, Lead Counsel proposes that such remaining funds (if there are any) be contributed to the National Consumer Law Center (“NCLC”). Lead Counsel proposes that the NCLC be designated as the “non-sectarian, not-for-profit 501(c)(3) organization to be recommended by Lead Counsel” referenced in the Court-approved Plan of Allocation. *See* Notice ¶ 99.

NCLC is a private, non-sectarian, non-profit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. *Financials*, National Consumer Law Center, <https://nclc.org/about-us/financials/> (last visited June 20, 2024). For over 50 years, NCLC has worked to build and strengthen a legal network to provide legal services addressed to two main goals: improving access to the legal system for all people and enabling advocates to seek remedies for low-income people where needed. *See History*, National Consumer Law Center, <https://nclc.org/about-us/history/> (last visited June 20, 2024). NCLC’s lawyers provide policy analysis, advocacy, litigation, expert-witness services, and training for consumer advocates throughout the United States. *See Mission*, National Consumer Law Center, <https://nclc.org/about-us/mission/> (last visited June 20, 2024). “NCLC uses its unmatched expertise in consumer law to protect consumers from exploitation and expand access to fair credit by advocating for laws, rules, and regulations that benefit real people: those with low incomes, older people, students, people of color, and others who have been abused, deceived, discriminated against, or left behind in our

economy.” *About Us*, National Consumer Law Center, nclc.org/about-us/ (last visited June 20, 2024). NCLC has received “the highest ratings from charity watchdogs” and “welcomes *cy pres* designations of unclaimed settlement funds from class action lawsuits, which are used to support our consumer rights work advancing the core interests of underlying class members.” *History*, National Consumer Law Center, <https://nclc.org/about-us/history/> (last visited June 20, 2024), & *Cy Pres*, National Consumer Law Center, <https://nclc.org/get-involved/ways-to-give/cy-pres/> (last visited June 20, 2024). This Court and numerous other federal courts have approved NCLC as a *cy pres* recipient of residual balances of net settlement funds in other settlements. *See, e.g., In re Frontier Commc’ns Corp. Stockholders Litig.*, No. 3:17-cv-01617-VAB, slip op. at 5 (D. Conn. Nov. 13, 2023), ECF No. 221; *In re Signet Jewelers Ltd. Sec. Litig.*, 2021 WL 5357468, at *2 (S.D.N.Y. Nov. 16, 2021); *In re Vale S.A. Sec. Litig.*, 2021 WL 3287343, at *2 (S.D.N.Y. July 30, 2021); *Zimmerman v. Portfolio Recovery Assocs., LLC*, 2013 WL 1245552, at *8 (S.D.N.Y. Mar. 27, 2013).

V. RELEASE OF CLAIMS

In order to allow the full and final distribution of the Net Settlement Fund, it is necessary to (i) bar any further claims against the Net Settlement Fund beyond the amounts allocated to Authorized Claimants, and (ii) provide that all persons involved in any aspect of Claims processing, or who are involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund, be released and discharged from all claims arising out of that involvement. *See* Stipulation ¶ 28. Accordingly, Plaintiffs respectfully request that the Court release and discharge all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Claims submitted in connection with the Settlement, or who are otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund from all claims arising out of that involvement, and bar all Class Members and other Claimants, whether

or not they receive payment from the Net Settlement Fund, from making any further claims against the Net Settlement Fund, Plaintiffs, Lead Counsel, the Claims Administrator, the Escrow Agent or any other agent retained by Plaintiffs or Lead Counsel in connection with the administration or taxation of the Settlement Fund or the Net Settlement Fund, or any other person released under the Settlement beyond the amounts allocated to Authorized Claimants.

Courts have repeatedly approved similar releases in connection with the distribution of settlement proceeds. *See, e.g., Frontier*, No. 3:17-cv-01617-VAB, slip op. at 5-6 (“The Court finds that the administration of the Settlement and the proposed distribution of the Net Settlement Fund comply with the terms of the Stipulation and Plan of Allocation approved by this Court and that all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Claims submitted, or who are otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund, are hereby released and discharged from any and all claims arising out of that involvement, and all Class Members and other Claimants, whether or not they receive payment from the Net Settlement Fund, are hereby barred from making any further claims against the Net Settlement Fund, Lead Plaintiffs, Lead Counsel, the Claims Administrator, the Escrow Agent or any other agent retained by Lead Plaintiff or Lead Counsel in connection with the administration or taxation of the Settlement Fund or the Net Settlement Fund, or any other person released under the Settlement beyond the amounts allocated to Authorized Claimants.”); *Signet*, 2021 WL 5357468, at *3 (approving same language in order authorizing distribution of settlement proceeds); *In re Cnova N.V. Sec. Litig.*, 2021 WL 100548, at *2 (S.D.N.Y. Jan. 12, 2021) (approving substantially similar language in order authorizing distribution of settlement proceeds); *In re Eletrobras Sec. Litig.*, 467 F. Supp. 3d 149, 151

(S.D.N.Y. 2020) (approving substantially similar language in order authorizing distribution of settlement proceeds).

VI. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant their Unopposed Motion for Approval of Distribution Plan and enter the [Proposed] Order Approving Distribution Plan.

Dated: June 24, 2024

Respectfully submitted,

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

/s/ Adam H. Wierzbowski

Salvatore J. Graziano (admitted *pro hac vice*)
Adam H. Wierzbowski (admitted *pro hac vice*)
Jesse L. Jensen (admitted *pro hac vice*)
1251 Avenue of the Americas
New York, NY 10020
Telephone: (212) 554-1400
Facsimile: (212) 554-1444
salvatore@blbglaw.com
adam@blbglaw.com
jesse.jensen@blbglaw.com

*Counsel for Lead Plaintiff Stichting Depository
APG Developed Markets Equity Pool and Plaintiff
Stichting Depository APG Fixed Income Credits
Pool and Lead Counsel for the Class*

MOTLEY RICE LLC

William H. Narwold (ct 00133)
Mathew P. Jasinski (ct 27520)
20 Church Street, 17th Floor
Hartford, CT 06103
Telephone: (860) 882-1681
Facsimile: (860) 882-168
bnarwold@motleyrice.com
mjasinski@motleyrice.com

*Liaison Counsel for Lead Plaintiff Stichting
Depository APG Developed Markets Equity Pool*

*and Plaintiff Stichting Depositary APG Fixed
Income Credits Pool and the Class*

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

IN RE: SYNCHRONY FINANCIAL
SECURITIES LITIGATION

No. 3:18-cv-1818-VAB

**DECLARATION OF ALEXANDER P. VILLANOVA IN SUPPORT OF PLAINTIFFS'
UNOPPOSED MOTION FOR APPROVAL OF DISTRIBUTION PLAN**

I, Alexander P. Villanova, hereby declare under penalty of perjury as follows:

1. I am a Senior Project Manager for Epiq Class Action and Claims Solutions, Inc. (“Epiq”). I am over 21 years of age and am not a party to the above-captioned action (“Action”).¹ I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently thereto.

2. Pursuant to the Court’s April 12, 2023 Order Preliminarily Approving Settlement and Authorizing Dissemination of Notice of Settlement (ECF No. 233) (“Preliminary Approval Order”), Epiq was retained by Lead Counsel to serve as the Claims Administrator in connection with the Settlement of the Action. As Claims Administrator, Epiq has, among other things: (i) mailed the Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Hearing; and (III) Motion for Attorneys’ Fees and Litigation Expenses (“Notice”) and the Proof of Claim and Release Form (“Claim Form” and together with the Notice the “Notice Packet”) to potential Class Members, brokers, and other nominees; (ii) created and continues to maintain a

¹ All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated as of April 3, 2023 (ECF No. 232-2) (“Stipulation”).

toll-free helpline for inquiries during the course of the administration; (iii) created and continues to maintain a website for the Settlement (“Settlement Website”) and posted case-specific documents on it; (iv) caused the Summary Notice to be published; (v) provided, upon request, additional copies of the Notice Packet to potential Class Members, brokers, and other nominees; and (vi) received and processed each Claim Form received by the Claims Administrator (a “Claim”).

3. On August 4, 2023, the Court entered its Ruling and Order Approving Class Action Settlement, Approving Plan of Allocation, and Approving Application for Attorneys’ Fees and Costs (ECF No. 244). On August 7, 2023 the Court entered the Judgment (ECF No. 245). Epiq has completed processing all Claims received through June 16, 2024, in accordance with the terms of the Stipulation and the Court-approved Plan of Allocation set forth in the Notice, and hereby submits its administrative determinations accepting and rejecting the Claims in preparation for a distribution of the Net Settlement Fund to Authorized Claimants. Epiq also presents this Declaration in support of Plaintiffs’ Unopposed Motion for Approval of Distribution Plan.

DISSEMINATION OF NOTICE

4. As more fully described in the Declaration of Alexander P. Villanova Regarding: (A) Mailing of the Notice and Claim Form; (B) Publication of the Summary Notice; and (C) Report on Requests for Exclusion Received to Date (ECF No. 240-2) (“Mailing Decl.”) and the Supplemental Declaration of Alexander P. Villanova Regarding (A) Mailing of the Notice and Claim Form and (B) Report on Requests for Exclusion Received (the “Suppl. Villanova Decl.”), (ECF No. 241-1) (“Supp. Mailing Decl.”), as of July 24, 2023, Epiq had mailed 160,672 Notice Packets to potential Class Members and nominees. Supp. Mailing Decl. ¶ 2. Since that date, 4,491

additional Notice Packets have been disseminated. In total, Epiq has disseminated 165,163 Notice Packets to potential Class Members, brokers, and other nominees.

5. Epiq established and continues to maintain the Settlement Website (www.SynchronySecuritiesLitigation.com) and a toll-free telephone helpline (877-252-5795) to assist potential Class Members. The Settlement Website, which provides access to important documents relevant to the Settlement, and the telephone helpline enable Class Members to obtain information about the Settlement. In connection with establishing and maintaining the Settlement Website and toll-free telephone helpline, Epiq, among other things, formulated a system to ensure that proper responses were provided to all telephone and electronic inquiries. That work included training telephone agents to respond to inquiries specific to the Settlement; developing a series of common questions and the answers thereto known as Frequently Asked Questions or “FAQs”; loading key documents onto the Settlement Website; and programming the Settlement Website to permit the viewing and downloading of those documents.

6. In accordance with paragraph 4(d) of the Preliminary Approval Order, on May 22, 2023, Epiq caused the Summary Notice to be published in *The Wall Street Journal* and *Investor’s Business Daily*. Mailing Decl. ¶ 8.

PROCEDURES FOLLOWED IN PROCESSING CLAIMS

7. Under the terms of the Preliminary Approval Order and as set forth in the Notice, each Class Member who wished to be eligible to receive a distribution from the Net Settlement Fund was required to complete and submit to Epiq a properly executed Claim Form postmarked (if mailed) or online no later than September 7, 2023, together with adequate supporting documentation for the transactions and holdings reported in the Claim Form. Through June 16, 2024, Epiq has received and fully processed 98,509 Claims (“Presented Claims”).

8. In preparation for receiving and processing Claims, Epiq: (i) conferred with Lead Counsel to define the guidelines for processing Claims; (ii) created a unique database to store Claim details, images of Claims, and supporting documentation (“Settlement Database”); (iii) trained staff in the specifics of the Settlement so that Claims would be properly processed; (iv) formulated a system so that telephone and email inquiries would be properly responded to; (v) developed various computer programs and screens for entry of Class Members’ identifying information and their transactional information; and (vi) developed a proprietary “calculation module” that would calculate Recognized Claims pursuant to the Court-approved Plan of Allocation for the Net Settlement Fund set forth in the Notice.

9. Class Members seeking to share in the Net Settlement Fund were directed in the Notice to submit their Claims to a post office box address specifically designated for the Settlement or to submit their Claims online through the Settlement Website. Notice Packets returned by the United States Postal Service as undeliverable were reviewed for updated addresses and, where available, updated addresses were entered into the database and Notice Packets were mailed to the updated addresses. Any correspondence received at the post office box was reviewed and, when necessary, appropriate responses were provided to the senders.

PROCESSING CLAIMS

A. Paper Claims and Claim Forms Submitted Via the Settlement Website

10. Of the 98,509 Presented Claims, 2,315 are Claims that were submitted on paper (1,605) or via the online filing component of the Settlement Website provided for individual investors (710). Once received, paper Claims were opened and prepared for scanning. This process included unfolding documents, removing staples, copying nonconforming-sized documents, and sorting documents. This manual task of preparing the paper Claims is very laborious and time intensive. Once prepared, paper Claims were scanned into the Settlement Database together with

all submitted documentation. Subsequently, each Claim was assigned a unique Claim number. Once scanned, the information from each Claim Form, including the Claimant's name, address, and account number/information from the supporting documentation, and the Claimant's purchase/acquisition transactions, sale transactions, and holdings listed on the Claim Form, was entered into the Settlement Database. Once entered into the Settlement Database, each Claim was reviewed to verify that all required information had been provided. The documentation provided by the Claimant in support of the Claim was reviewed for authenticity and compared to the information provided in the Claim to verify the Claimant's identity and the purchase/acquisition transactions, sale transactions, and holdings listed on the Claim Form.

11. To process the transactions detailed in the Claims, Epiq utilized internal codes ("message codes") to identify and classify deficiency or ineligibility conditions existing within those Claims. Appropriate message codes were assigned to the Claims as they were processed. For example, where a Claim was submitted by a Claimant who did not have any eligible transactions in Synchrony Financial common stock during the Class Period (e.g., the Claimant purchased Synchrony Financial common stock only before or after the Class Period), that Claim would receive a message code that denoted ineligibility. Similar defect message codes were used to denote other ineligible conditions, such as duplicate Claims. These message codes would indicate to Epiq that the Claimant was not eligible to receive any payment from the Net Settlement Fund with respect to that Claim unless the deficiency was cured in its entirety. Examples of conditions of ineligibility are as follows:

- No Documentation Submitted for the Entire Claim
- Duplicate Claim Submitted
- No Eligible Purchase During the Class Period

- No Signature
- No Recognized Claim

12. Because a Claim may be deficient only in part, but otherwise acceptable, Epiq utilized message codes that were applied only to specific transactions within a Claim. For example, if a Claimant submitted a Claim with supporting documentation for all but one purchase transaction, that one transaction would receive a defect message code. The message code indicated that although the transaction was deficient, the Claim was otherwise eligible for payment if other transactions in the Claim calculated to a Recognized Claim pursuant to the Court-approved Plan of Allocation. Thus, even if the deficiency were never cured, the Claim could still be partially accepted. Examples of transaction-specific message codes are as follows:

- Claim did not Balance/Trade Discrepancy
- Inadequate Documentation for Transaction
- Received Shares or Delivered Shares (i.e., shares transferred into or out of an account)
- No Proof of Unsold Holdings

B. Electronic Claims

13. Of the 98,509 Presented Claims, 96,194 were submitted electronically (“Electronic Claims”). Electronic Claims are typically submitted by institutional investors who may have hundreds or thousands of transactions during the Class Period or by filers submitting Claims on behalf of multiple beneficial owners (“Electronic Claim Filers” or “E-Claim Filers”). Rather than provide reams of paper requiring data entry, the E-Claim Filers either mail a computer disc or electronically submit a file to Epiq so that Epiq can upload all transactions to the Settlement Database.

14. Epiq maintains an electronic filing operations team (“Electronic Filing Team”) to coordinate and supervise the receipt and handling of all Electronic Claims. In this case, the Electronic Filing Team reviewed and analyzed each electronic file to ensure that it was formatted in accordance with Epiq’s required format and to identify any potential data issues or inconsistencies within the file. If any issues or inconsistencies arose, Epiq notified the filer. If the electronic file was deemed to be in an acceptable format, it was then loaded into the Settlement Database.

15. Once each electronic file was loaded, the Electronic Claims were coded to denote any deficient or ineligible conditions that existed within them. These message codes are similar to those applied to paper Claims. In lieu of manually applying message codes, the Electronic Filing Team performed programmatic reviews on Electronic Claims to identify deficient and ineligible conditions (such as, but not limited to, price out-of-range issues, out-of-balance conditions, transactions outside the Class Period, etc.). The output was thoroughly verified and confirmed as accurate.

16. The review process also included message coding any Electronic Claims that were not accompanied by a signed Claim Form, which serves as a “Master Proof of Claim Form” for all Claims referenced on the electronic file submitted. This process was reviewed by Epiq’s Electronic Filing Team and, when appropriate, Epiq contacted the E-Claim Filers whose submissions were missing information. This ensured that only fully completed Claims, submitted by properly authorized representatives of the Claimants, were considered eligible to participate in the Settlement.

17. Finally, at the end of the process, Epiq performed various targeted reviews of Electronic Claims. Specifically, Epiq used criteria such as the calculated Recognized Claims and

other identified criteria to message code and reach out to a selection of E-Claim Filers and request that various sample purchases, sales, and holdings selected by Epiq be documented by providing confirmation slips or other transaction-specific supporting documentation. These targeted reviews help to ensure that electronic data supplied by Claimants does not contain inaccurate information.

EXCLUDED PERSONS

18. Epiq also reviewed all Claims to ensure that they were not submitted by or on behalf of “Excluded Persons” to the extent that the identities of such persons or entities were known to Epiq through the list of Defendants and other excluded persons and entities set forth in the Stipulation and the Notice and from the Claimants’ certifications on the Claim Forms. Epiq also reviewed all Claims against the list of persons who were excluded from the Class pursuant to request.

THE DEFICIENCY PROCESS

A. Paper Claims and Online Claims

19. Approximately 49% of the paper and online Claims, i.e., 1,136 of the 2,315 Claim Forms submitted either as paper Claims or via the Settlement Website, were incomplete or had one or more defects or conditions of ineligibility, such as the Claim not being signed, not being properly documented, or indicating no eligible transactions in Synchrony Financial common stock during the Class Period. The “Deficiency Process,” which primarily involved mailing letters to Claimants and responding to communications from Claimants by email and/or telephone, was intended to assist Claimants in properly completing their otherwise deficient submissions so that they could be eligible to participate in the Settlement.

20. If paper and online Claims were determined to be defective, a Notice of Deficient Proof of Claim Submission (“Deficiency Letter”) was sent to the Claimants describing the defect(s) in the Claims and what steps, if any, were necessary to cure the defect(s) in these Claims.

The Deficiency Letter advised Claimants that submission of appropriate information and/or documentary evidence to complete the Claim had to be sent within twenty (20) days from the date of the Deficiency Letter or the Claim would be recommended for rejection to the extent that the deficiency or condition of ineligibility was not cured. The Deficiency Letter also advised Claimants of their right to contest these administrative determinations, and that Claimants were required to submit written statements to Epiq requesting Court review of their Claims and setting forth the basis for such requests. Epiq sent a total of 1,147 Deficiency Letters to Claimants who submitted paper or online Claims that Epiq determined to be defective. It is possible for a Claimant to be sent more than one Deficiency Letter for a Claim and thus the number of Deficiency Letters sent would exceed the number of deficient Claims discussed above in paragraph 19. Attached hereto as Exhibit A is an example of a Deficiency Letter.

21. Claimants' responses to Deficiency Letters were scanned into the Settlement Database and associated with the corresponding Claims. The responses were then carefully reviewed and evaluated by Epiq's team of processors. If a Claimant's response corrected the defect(s) in a Claim, Epiq manually updated the Settlement Database to reflect the changes in the status of the Claim.

B. Electronic Claims

22. For Electronic Claims, Epiq used the following process to contact the banks, brokers, nominees, and other E-Claim Filers to confirm receipt of their submissions and to notify the Electronic Claim Filers of any deficiencies or Electronic Claims that were ineligible. Each E-Claim Filer was sent an email to the email address included with the Claim Form(s) ("Status Email") with an attached report containing detailed information associated with the Claim(s) and indicating which Claim(s) within the filing were deficient and/or rejected ("Transaction Report").

23. The Status Email sent to the email address of record provided with the Claim Form:

- (a) Notified the filer that any Claims with deficiencies not corrected within twenty (20) days from the date of the Status Email may be rejected;
- (b) Advised the filer of the right to contest the rejection of the Claim(s) and request this Court's review of Epiq's administrative determination within twenty (20) days from the date of the Status Email; and
- (c) Provided the filer with instructions for how to submit corrections.

24. The Transaction Report attached to the Status Email contained the following information:

- (a) A listing of all Electronic Claims associated with the filing and their unique identification numbers;
- (b) Identification of individual Electronic Claims that were found to be deficient or ineligible;
- (c) Each Electronic Claim's current status in the Settlement Database; and
- (d) The current Recognized Claim calculation associated with each Electronic Claim.

25. Epiq emailed a Status Email and Transaction Report(s) to 215 E-Claim Filers. Examples of a Status Email and Transaction Report are attached hereto as Exhibits B and C, respectively.

26. The E-Claim Filers' responses were reviewed by the Electronic Filing Team, scanned and/or loaded into the Settlement Database, and associated with the corresponding Electronic Claims. If a response corrected the defect(s) or affected an Electronic Claim's status, Epiq manually and/or programmatically updated the database to reflect such change in status of the Electronic Claim.

NO DISPUTED CLAIMS

27. As noted above, Claimants were advised that they had the right to contest Epiq’s administrative determination of deficiencies or ineligibility within twenty (20) days from the date of notification and that they could request that the dispute be submitted to the Court for review. More specifically, Claimants were advised in the Deficiency Letter or Status Email that, if they disputed Epiq’s determination, they had to provide a statement of reasons indicating the grounds for contesting the determination, along with supporting documentation, and if the dispute concerning the Claim could not otherwise be resolved, Lead Counsel would thereafter present the request for review to the Court for a final determination.

28. Epiq received four (4) requests for Court review. To resolve these disputes without necessitating the Court’s intervention, Epiq reached out to each Claimant requesting Court review and attempted to answer all questions, fully explain Epiq’s administrative determination of the Claim’s status, and facilitate the submission of missing information or documentation where applicable. As a result of these efforts, all four Claimants resolved their deficiencies and their Claims are recommended for approval. There are, therefore, no disputed Claims requiring Court review.

LATE BUT OTHERWISE ELIGIBLE CLAIMS

29. Of the 98,509 Presented Claims, 8,173 Claims were received or postmarked after September 7, 2023, the Claim submission deadline established by the Court. Epiq processed all late Claims received through June 16, 2024, and 2,371 late Claims have been found to be otherwise eligible in whole or in part (“Late But Otherwise Eligible Claims”). Epiq has not rejected any Claim received through June 16, 2024, solely based on its late submission, and Epiq believes no delay has resulted from the provisional acceptance of these Late But Otherwise Eligible Claims.

To the extent they are eligible but for the fact that they were late, they are recommended for payment.

30. However, there must be a final cut-off date after which no more Claims will be accepted so that there may be a proportional allocation of the Net Settlement Fund and the distribution may be accomplished. Acceptance of additional Claims or responses received during the finalization of the administration and the preparation of this declaration would necessarily require a delay in the distribution. Accordingly, Epiq also respectfully requests that this Court order that no Claim received after June 16, 2024, or Claim cured or adjusted after June 16, 2024, be eligible for payment for any reason whatsoever subject only to the provision of paragraph 39(f) of the proposed distribution plan discussed below. If the Court adopts the proposed distribution plan, then, after Lead Counsel has determined that further distributions are not cost-effective and before any contribution of the residual funds to charity, if sufficient funds remain to warrant the processing of Claims received after June 16, 2024, these Claims will be processed and, if any would have been eligible if timely received, these Claimants may be paid their distribution amounts, to the extent permitted by the amount of remaining funds, on a *pro rata* basis that would bring them into parity with other Authorized Claimants who have cashed all their prior distribution checks. *See* ¶ 39(f) below. With respect to previously submitted Claims that are cured or adjusted after June 16, 2024, such Claims will be reevaluated upon receipt of the adjustment and, to the extent that they are found eligible for a distribution or additional distribution, they will be treated in the same manner as Claims received after June 16, 2024. However, should an adjustment result in a lower Recognized Claim amount, the Recognized Claim amount will be reduced accordingly prior to a distribution to that Claimant.

QUALITY ASSURANCE

31. An integral part of the claims administration process is the Quality Assurance review. Throughout the administration process, Epiq's Quality Assurance personnel worked to verify that Claims were processed properly by ensuring that information was entered correctly into the database, deficiency and/or rejection message codes were assigned accurately, and deficiency and/or rejection notifications were sent appropriately. After all Claims were processed, deficiency and/or rejection notifications were sent, and Claimants' responses to the deficiency and/or rejection notifications were reviewed and processed, Epiq's Quality Assurance personnel performed additional Quality Assurance reviews. These final Quality Assurance reviews further ensured the correctness and completeness of all Claims processed prior to preparing this Declaration and all Epiq's final documents in support of distribution of the Net Settlement Fund.

As part of the Quality Assurance reviews, Epiq:

- (a) Verified that all Claim Forms had signatures of authorized individuals;
- (b) Verified that true duplicate Claims were identified, verified, and rejected;
- (c) Verified that persons and entities excluded from the Class did not file Claims or their Claims were rejected upon review;
- (d) Performed a final Quality Assurance audit of Claims and all supporting documentation to ensure completeness of Claims;
- (e) Determined that Claimants requiring deficiency and/or rejection notifications were sent such notification;
- (f) Performed an audit of deficient Claims;
- (g) Performed additional review of Claims with high Recognized Claim amounts;
- (h) Audited Claims that were designated invalid;

- (i) Audited Claims with a Recognized Claim amount equal to zero;
- (j) Performed other auditing based on Claims completion requirements and the approved calculation specifications based on the Court-approved Plan of Allocation; and
- (k) Re-tested the accuracy of the Recognized Claim amount calculation program.

32. As part of its due diligence in processing the Claims, Epiq reviewed and compared the entire database for the Settlement against the “watch list” of known questionable filers that Epiq has developed throughout its years of experience as a claims administrator. Epiq performs searches based on names, aliases, addresses, and city/zip codes. In addition, Epiq’s claim processors are trained to identify any potentially inauthentic documentation when processing claims, including claims submitted by Claimants not previously captured in the “watch list.” Processors are instructed to apply internal message codes to any claim that matches to a record on the “watch list” and escalate them to management for review. One (1) potentially fraudulent Claim was identified as having been submitted by someone on the “watch list.” The Claim was then reviewed by management to consider the documentation submitted with the Claim in conjunction with other factors, including a review of the Claimant’s website registration, address, and registration with the SEC or asset management organizations, and determined to be potentially fraudulent. Epiq sent the Claimant Deficiency Notices and/or Status Emails notifying the Claimant that additional documentation was required for the Claim to be eligible to participate in the Settlement. No additional documentation has been received supporting the potentially fraudulent Claim and the one potentially fraudulent Claim is recommended for rejection for failure to cure its conditions of ineligibility.

RECOMMENDATIONS FOR APPROVAL AND REJECTION

33. As noted above, the number of Presented Claims in this motion is 98,509.

A. Timely Submitted and Valid Claims

34. A total of 90,336 Claims were received or postmarked on or before September 7, 2023, the Court-approved Claim submission deadline, of which 38,781 Claims were determined by Epiq to be eligible to participate in the Settlement and are recommended for approval (“Timely Eligible Claims”). The total Recognized Claim amount for these Timely Eligible Claims is \$182,424,909.83.

B. Late But Otherwise Eligible Claims

35. A total of 8,173 Claims were received or postmarked after September 7, 2023, the Court-approved Claim submission deadline, but received on or before June 16, 2024. Of those 8,173 late Claims, 2,371 were determined by Epiq to be otherwise eligible and are recommended for approval (“Late But Otherwise Eligible Claims”). The total Recognized Claim amount for these Late But Otherwise Eligible Claims is \$18,512,830.18.

C. Rejected Claims

36. After the responses to Deficiency Letters and Status Emails were processed, a total of 57,357 Claims remain recommended for rejection by the Court (“Rejected Claims”) for the following reasons:

- (a) 10,264 Claims Did Not Result in a Recognized Claim;
- (b) 46,259 Claims Had No Purchase(s) of Synchrony Financial Common Stock During the Class Period;
- (c) 113 Deficient Claims Never Cured;
- (d) 96 Duplicate Claims; and
- (e) 625 Claims Withdrawn.

D. Lists of All Presented Claims

37. Attached hereto as Exhibits D through F are listings of all the Presented Claims:
- (a) Exhibit D lists the Timely Eligible Claims and shows each Claimant's Recognized Claim;
 - (b) Exhibit E lists the Late But Otherwise Eligible Claims and shows each Claimant's Recognized Claim; and
 - (c) Exhibit F lists the Rejected Claims and the reasons for rejection.

FEES AND DISBURSEMENTS

38. Epiq agreed to be the Claims Administrator in exchange for payment of its fees and out-of-pocket expenses. Lead Counsel received reports on and invoices for the work Epiq performed with respect to the provision of notice and administration of the Settlement. Attached hereto as Exhibit G are copies of Epiq's invoices for its work performed on behalf of the Class as well as an estimate for the work that will be performed and the costs that will be incurred in connection with the initial distribution of the Net Settlement Fund. Should the estimate of fees and expenses to conduct the initial distribution of the Net Settlement Fund exceed the actual cost, the excess will be returned to the Net Settlement Fund and will be available for subsequent distribution to Authorized Claimants. As set forth in these invoices, Epiq's total fees and expenses for this matter through May 31, 2024, are \$593,006.79. Epiq anticipates that its fees and expenses for the work performed in conjunction with the initial distribution of the Net Settlement Fund will be \$25,056.00. To date Epiq has not received any payment for its fees and expenses. Accordingly,

there is an outstanding balance of \$618,062.79 payable to Epiq from the Settlement Fund, which includes the estimate for completing the initial distribution.

DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUND

39. Should the Court concur with Epiq’s determinations concerning the provisionally accepted and rejected Claims, including the Late But Otherwise Eligible Claims, Epiq recommends the following distribution plan (“Distribution Plan”):

(a) Epiq will conduct an initial distribution (“Initial Distribution”) of the Net Settlement Fund, after deducting all payments approved by the Court, and after payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, while maintaining a 5% reserve to address any tax liability and claims administration-related contingencies that may arise, as follows:

(1) Epiq will calculate award amounts for all Authorized Claimants as if the entire Net Settlement Fund were to be distributed now. In accordance with the Court-approved Plan of Allocation, Epiq will calculate each Authorized Claimant’s *pro rata* share of the Net Settlement Fund based on the amount of the Authorized Claimant’s Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants. *See* Notice ¶ 96.

(2) Epiq will, pursuant to the terms of the Plan of Allocation, eliminate from the Initial Distribution any Authorized Claimant whose *pro rata* share calculates to less than \$10.00. *See id.* ¶ 98. These Claimants will not receive any payment from the Net Settlement Fund and will be so notified by Epiq.

- (3) After eliminating Claimants who would have received less than \$10.00, Epiq will recalculate the *pro rata* share of the Net Settlement Fund for Authorized Claimants who would have received \$10.00 or more. A “Distribution Amount” will be calculated for each of these Authorized Claimants, which shall be the Authorized Claimant’s Recognized Claim divided by the total Recognized Claims of all Authorized Claimants who would have received \$10.00 or more, multiplied by the total amount in the Net Settlement Fund. *See id.* ¶¶ 96-98.
- (4) Authorized Claimants whose Distribution Amount calculates to less than \$200.00 will be paid their full Distribution Amount in the Initial Distribution (“Claims Paid in Full”). These Authorized Claimants will receive no additional funds in subsequent distributions.
- (5) After deducting the payments to the Claims Paid in Full, 95% of the remaining balance of the Net Settlement Fund will be distributed *pro rata* to Authorized Claimants whose Distribution Amount calculates to \$200.00 or more. The remaining 5% of the Net Settlement Fund will be held in reserve (the “Reserve”) to address any tax liability and claims administration-related contingencies that may arise following the Initial Distribution. To the extent the Reserve is not depleted, the remainder will be distributed in the “Second Distribution” described in subparagraph (d) below.

(b) To encourage Authorized Claimants to deposit their payments promptly, all distribution checks will bear a notation: “CASH PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED BY [DATE 90 DAYS AFTER ISSUE DATE].” For Authorized Claimants whose checks are returned as undeliverable, Epiq will endeavor to locate new addresses through reasonable methods. Where a new address is located, Epiq will update the Settlement Database accordingly and reissue a distribution check to the Authorized Claimant at the new address. In the event a distribution check is lost or damaged or otherwise requires reissuance, Epiq will issue replacements. Distribution reissues will be undertaken only upon written instructions from the Authorized Claimant, provided that the Authorized Claimant returns the previous check where appropriate. For all checks, Epiq will void the initial payment prior to reissuing a payment. In order not to delay further distributions to Authorized Claimants who have timely cashed their checks, Epiq’s outreach program shall end thirty (30) days after the initial void date. Authorized Claimants will be informed that, if they do not cash their Initial Distribution checks within ninety (90) days of the mail date, or they do not cash check reissues within thirty (30) days of the mailing of such reissued check, their check will lapse, their entitlement to recovery will be irrevocably forfeited, and the funds will be reallocated to other Authorized Claimants. Reissue requests for lost or damaged checks will be granted after the void date on the checks as long as the request for the reissue is received no later than forty-five (45) days prior to the next planned

distribution. Requests for reissued checks in connection with any subsequent distributions (should such distributions occur) will be handled in the same manner.

- (c) Authorized Claimants who do not cash their Initial Distribution checks within the time allotted or on the conditions set forth above will irrevocably forfeit all recovery from the Settlement. The funds allocated to all such stale-dated checks will be available for distribution to other Authorized Claimants in the Second Distribution. Similarly, Authorized Claimants who do not cash their second or subsequent distribution checks, should such distributions occur, within the time allotted or on the conditions set forth above will irrevocably forfeit any further recovery from the Net Settlement Fund.
- (d) Consistent with the Court-approved Plan of Allocation, after Epiq has made reasonable and diligent efforts to have Authorized Claimants cash their Initial Distribution checks, which efforts shall consist of the follow-up efforts described above, but not earlier than seven (7) months after the Initial Distribution, Epiq will, after consulting with Lead Counsel, conduct a second distribution of the Net Settlement Fund (“Second Distribution”). *See* Notice ¶ 99. Any amounts remaining in the Net Settlement Fund after the Initial Distribution, including from the Reserve and the funds allocated for all void stale-dated checks, after deducting Epiq’s unpaid fees and expenses incurred in connection with administering the Settlement, including Epiq’s estimated costs of the Second Distribution, and after deducting the payment

of any estimated taxes, the costs of preparing appropriate tax returns, any escrow fees, and appropriate reserves, will be distributed to all Authorized Claimants in the Initial Distribution (other than Claims Paid in Full) who cashed their distribution checks and who would receive at least \$10.00 in the Second Distribution based on their *pro rata* share of the remaining funds. *See id.* Additional distributions, after deduction of costs and expenses as described above and subject to the same conditions, may occur thereafter at six-month intervals until Lead Counsel, in consultation with Epiq, determines that further distribution is not cost-effective. *See id.*

- (e) At such time as Lead Counsel, in consultation with Epiq, determines that further distribution of the funds remaining in the Net Settlement Fund is not cost-effective, if sufficient funds remain to warrant the processing of Claims received after June 16, 2024, those Claims will be processed, and any otherwise valid Claims received after June 16, 2024, as well as any earlier-received Claims for which an adjustment was received after June 16, 2024, that resulted in an increased Recognized Claim, will be paid in accordance with subparagraph (f) below. If any funds remain in the Net Settlement Fund after payment of these late or late-adjusted Claims, the remaining balance of the Net Settlement Fund, after payment of any unpaid fees or expenses incurred in connection with administering the Net Settlement Fund and after the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be contributed to the National Consumer

Law Center (“NCLC”), a non-sectarian, not-for-profit 501(c)(3) organization. *See id.*

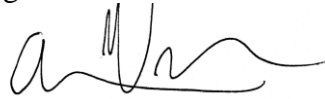
- (f) No new Claims may be accepted after June 16, 2024, and no further adjustments to Claims received on or before June 16, 2024, that would result in an increased Recognized Claim may be made for any reason after June 16, 2024, subject to the following exception. If Claims are received or modified after June 16, 2024, that would have been eligible for payment or additional payment under the Plan of Allocation if timely received, then at the time that Lead Counsel, in consultation with Epiq, determines that an additional distribution is not cost-effective as provided in subparagraph (e) above, and after payment of any unpaid fees or expenses incurred in connection with administering the Net Settlement Fund and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, such Claimants, at the discretion of Lead Counsel and to the extent possible, may be paid the distribution amounts or additional distribution amounts on a *pro rata* basis that would bring them into parity with other Authorized Claimants who have cashed all their prior distribution checks.
- (g) Unless otherwise ordered by the Court, Epiq may destroy the paper copies of the Claims and all supporting documentation one (1) year after the Initial Distribution, and one (1) year after all funds have been distributed may destroy the electronic copies of the same.

CONCLUSION

40. Epiq respectfully requests that the Court enter the Distribution Order approving its administrative determinations accepting and rejecting the Claims submitted herein and approving the proposed Distribution Plan. Epiq further respectfully submits that its unpaid fees and expenses and its fees and expenses expected to be incurred in connection with the Initial Distribution, as reflected on the invoices attached hereto as Exhibit G, should be approved for payment from the Settlement Fund.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed on June 24, 2024



Alexander P. Villanova