

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

	*	
EDWARD HUYER, et al.,	*	
	*	4:08-cv-00507
Plaintiffs,	*	
	*	
v.	*	
	*	
WELLS FARGO & COMPANY and	*	ORDER
WELLS FARGO BANK, N.A.,	*	
	*	
Defendant.	*	
	*	

**Order Approving Distribution of
Net Settlement Fund**

WHEREAS this Court, by its February 17, 2016 Order granting final judgment and dismissing the case with prejudice, Clerk’s No. 294, approved the terms of the settlement set forth in the August 21, 2015 Stipulation and Agreement of Settlement (the “Settlement” or “Stipulation”), Clerk’s No. 243-3, and the proposed plan for allocating the net settlement proceeds to eligible Settlement Class Members (the “Plan of Allocation”), respectively, and by its September 6, 2017 Order granting Plaintiff’s Motion to Modify the Plan of Allocation, Clerk’s No. 369, modified the Plan of Allocation;

WHEREAS this Court directed the parties to consummate the terms of the Settlement and Plan of Allocation;

WHEREAS the Settlement provided for the payment of \$25,750,000 on behalf of Defendants Wells Fargo & Co. and Wells Fargo Bank, N.A. (the “Settlement Fund”) and pursuant to the terms of the Stipulation, the Settlement Amount was deposited into an escrow

account established by Plaintiffs' Counsel through Garden City Group, LLC ("GCG") for the benefit of the Settlement Class;

WHEREAS, as set forth in the Notice of Pendency and Proposed Settlement of Class Action (the "Notice"), the deadline for Settlement Class Members to submit Proof of Claim and Release forms ("Claim Forms" or "Claims") to the Court-appointed Claims Administrator for the Settlement, GCG, in order to be potentially eligible to participate in the distribution of the Net Settlement Fund, has passed;

WHEREAS, in satisfaction of due process requirements, all Settlement Class Members who submitted Claims that were in any way ineligible or deficient were: (1) informed that their Claims were ineligible or deficient; and (2) given opportunities to correct any curable deficiencies prior to their Claims being finally rejected, or to contest the determination as to such deficiencies;

WHEREAS the process of reviewing Claims has been completed;

WHEREAS Plaintiffs, through Plaintiffs' Counsel, now seek authorization to distribute to Eligible Recipients the proceeds of the Settlement Fund after deduction of any taxes, fees, and expenses previously approved by the Court or approved by this Order (the "Net Settlement Fund"); and

WHEREAS this Court reserved jurisdiction of the Action for purposes of, *inter alia*, implementing the Settlement, including any distribution or disposition of the Settlement Fund or Net Settlement Fund, including interest earned thereon;

NOW, THEREFORE, upon consideration of (1) the Declaration of Jennifer M. Bareither in Support of Motion for Approval of Distribution Plan (the "Bareither Declaration"), Clerk's No. 371-5; (2) the Memorandum in Support of Plaintiffs' Motion for Distribution of Net

Settlement Fund, Clerk's No. 371-2; and (3) the other submissions and papers on file with the Court; and upon all prior proceedings heretofore and herein; and after due deliberation;

IT IS HEREBY ORDERED that all capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation and the Bareither Declaration;

IT IS FURTHER ORDERED that the administrative determinations of GCG regarding Eligible Recipients calculated pursuant to the Court-approved Plan of Allocation as modified are hereby approved, and said Claims are hereby accepted;

IT IS FURTHER ORDERED that the administrative determinations of GCG rejecting the Claims as described in the Bareither Declaration and listed in Exhibit C-3 thereto are hereby approved, and said Claims are hereby rejected;

IT IS FURTHER ORDERED that payment be made from the Settlement Fund to the Internal Revenue Service for the proper amount of taxes due and owing on the interest earned on the Settlement Fund while in escrow, if any;

IT IS FURTHER ORDERED that the Net Settlement Fund shall be distributed to the Eligible Recipients listed in Exhibits C-1 and C-2 to the Bareither Declaration pursuant to the Court-approved Plan of Allocation, as modified, in proportion to each Eligible Recipient's Recognized Claim as compared to the total Recognized Claims of all Eligible Recipients as shown on such Exhibits;

IT IS FURTHER ORDERED that the checks for distribution to the Eligible Recipients shall bear the notation "CASH PROMPTLY, VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED 90 DAYS AFTER ISSUE DATE." GCG is authorized to take appropriate actions to locate and/or contact any Eligible Recipient who has not cashed his, her, or its check within said time;

IT IS FURTHER ORDERED that Eligible Recipients who do not cash their checks within the time allotted will irrevocably forfeit all recovery from the Settlement Fund;

IT IS FURTHER ORDERED that to the extent any proceeds remain in the Net Settlement Fund after GCG has made reasonable and diligent efforts to have Eligible Recipients cash their distributions, any balance remaining in the Net Settlement Fund six months from the date of the Initial Distribution of the Net Settlement Fund shall be redistributed to Eligible Recipients with a *pro rata* share of at least \$25.00 from such redistribution who negotiated the checks sent to them in the Initial Distribution, after payment of any unpaid costs or fees in administering the Net Settlement Fund for such redistributions;

IT IS FURTHER ORDERED that if any funds remain in the Net Settlement Fund six months after such redistribution, Plaintiffs will either file a motion with the Court requesting that GCG be reimbursed for actual costs incurred in excess of the \$3,250,000 cap or will contribute such balance to the United Way with the funds earmarked for financial education classes;

IT IS FURTHER ORDERED that pursuant to the release terms of the Settlement, all Settlement Class Members, whether or not they are to receive payment from the Net Settlement Fund, are barred from making any further claims against the Net Settlement Fund beyond the amount allocated to them pursuant to this Order;¹

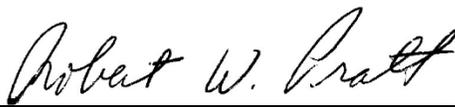
¹ The Court declines to order that “all persons involved in the review, verification, calculation, tabulation, or an other aspect of the processing of the Claims . . . are released and discharged from any and all claims arising out of such involvement.” Clerk’s No. 371-1 at 5; *see* Clerk’s No. 371-2 at 9. Though Plaintiffs’ requested release appears to be form language used in various other distribution orders, *see, e.g., In re Medicis Pharm. Corp. Sec. Litig.*, No. CV-08-1821, 2013 WL 12149720, at *2 (D. Ariz. Mar. 8, 2013); *In re Nuvelo, Inc. Sec. Litig.*, No. 07-CV-04056, 2012 WL 12920613, at *2 (N.D. Cal. July 16, 2012), this Court is not the first to question the propriety of the clause. *See Slone v. Fifth Third Bancorp*, No. 1:03-CV-211, 2008 WL 824299, at *1 (S.D. Ohio Mar. 26, 2008) (noting the lack of legal support for the requested release). Remedies for claims against individual persons as contemplated in the release language would not be derived from the Net Settlement Fund, so the releases are not necessary.

IT IS FURTHER ORDERED that GCG is hereby authorized to destroy the paper copies and all supporting documentation of the Claim Forms one year after the Second Distribution and all electronic copies of the same one year after all funds in the Net Settlement Fund have been distributed; and

IT IS FURTHER ORDERED that this Court shall retain jurisdiction over any further application or matter that may arise in connection with this Action.

IT IS SO ORDERED.

Dated this 7th day of December, 2017.



ROBERT W. PRATT, Judge
U.S. DISTRICT COURT