

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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BRIAN PEREZ, Individually and On :
Behalf of All Others Similarly  :
Situating,                       :
                                   :
           Plaintiffs,           :
                                   :
v.                                  :   Civil No. 3:14-cv-755(AWT)
                                   :
HIGHER ONE HOLDINGS, INC.; MARK  :   Class Action
VOLCHEK; MILES LASATER;         :
CHRISTOPHER WOLF; JEFFREY      :
WALLACE; DEAN HATTON; and      :
PATTRICK MCFADDEN,             :
                                   :
           Defendants.          :
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ORDER OF FINAL DISTRIBUTION OF NET SETTLEMENT FUND

Pursuant to the Order and Final Judgment filed on July 10, 2018 (Dkt. No. 160, "Final Approval Order"), this Court approved, inter alia, (i) the terms of the Stipulation of Settlement, dated February 6, 2018 (Dkt. No. 140-1) ("Stipulation"), whereby \$7,500,000.00 in cash was deposited into escrow for the Settlement Class's benefit, and (ii) a Plan of Allocation for distribution of the Net Settlement Fund.¹

The court-approved settlement administrator, JND Legal Administration ("JND"), has determined that 2,426 properly documented, valid claims representing Recognized Losses (as

¹ Unless otherwise stated, all capitalized terms herein have the same definitions as assigned in the Stipulation. All "Dkt." references are to the docket of the above-captioned action ("Action").

defined in the Notice) totaling \$59,822,193.70 were filed on the Settlement Fund with recognized claims under the Plan of Allocation.²

As of January 17, 2019, the Net Settlement Fund, originally a settlement fund consisting of \$7,500,000.00 in cash, contained \$5,119,758.38 in cash. This amount reflects changes in the settlement fund, due to the (i) addition of interest earned of \$88,696.92 (additional interest will accrue between January 17, 2019, and the actual distribution, which will be added to this figure before the distribution), (ii) subtraction of attorneys' fees in the amount of \$2,250,000.00, (iii) subtraction of reimbursed expenses in the amount of \$55,713.50, (iv) subtraction of reasonable costs, expenses, and compensatory awards to Plaintiffs totaling \$3,000.00, and (v) reduction of notice and administration costs, expenses, and fees of \$160,225.04.

Pursuant to the Stipulation, ¶¶ II. C. d. 2.6-2.7, up to \$275,000.00 from the Settlement Fund has been permitted to be used without prior Court approval for notice and administration costs, expenses, and fees. The total notice and administration costs, expenses, and fees to date that have been paid to JND with Lead Counsel's approval is \$160,225.04. JND anticipates

² This amount includes Recognized Losses for 825 timely filed valid claims of \$52,267,239.18 and Recognized Losses for 1,601 late but otherwise valid claims of \$7,554,954.52.

that an additional \$8,332.56 will be expended on notice and administration costs, expenses, and tax preparation and fees through the initial distribution of the Net Settlement Fund.

This Court has authorized and directed the parties to implement all of the terms and provisions of the Stipulation.

This Court has retained jurisdiction over this Action for the purpose of considering any further application or matter that may arise in connection with the administration and execution of the Settlement, the processing of Proof of Claim Forms, and the distribution of the Net Settlement Fund.

NOW, THEREFORE, upon consideration of Plaintiffs' Unopposed Motion for Final Distribution of the Net Settlement Fund ("Motion"), the Memorandum of Law in Support of the Motion, the Declaration of Robert Cormio Concerning the Results of the Claims Administration Process ("Cormio Declaration"), and all prior proceedings herein, and after due deliberation;

IT IS HEREBY ORDERED THAT:

1. Plaintiffs' Motion is granted.
2. JND's administrative determinations, accepting and rejecting submitted claims as presented in the Cormio Declaration and the exhibits attached thereto, are approved.
3. The Net Settlement Fund resulting from the approval of the Settlement in this Action between Plaintiffs and the

Settlement Class, on the one hand, and Settling Defendants, on the other hand, less the (i) anticipated \$8,332.56 to be expended on notice and administrative costs, expenses, and fees through the initial distribution and (ii) payment of potential tax liabilities in 2018 and 2019 (which will be determined before initial distribution from an opinion of a tax preparer, see Cormio Declaration, ¶ 25, Ex. G (anticipated invoice)), will be distributed on a *pro rata* basis to the Authorized Claimants identified in Exhibits B-1 and B-2 to the Cormio Declaration, at the direction of Lead Counsel, pursuant to the Stipulation, the Court's Order Preliminarily Approving Settlement and Providing for Notice, which was filed on March 6, 2018 (Dkt. No. 141), and the Final Approval Order.

4. The checks for distribution to Authorized Claimants will bear the notation "CASH PROMPTLY, VOID AND SUBJECT TO RE-DISTRIBUTION 120 DAYS AFTER ISSUE DATE." Lead Counsel and JND are authorized to locate and/or contact any Authorized Claimant who has not cashed his, her, or its check within said time.
5. If any funds remain in the Net Settlement Fund by reason of uncashed distribution checks or otherwise, then after JND has made reasonable and diligent efforts to have Settlement Class Members who are entitled to participate in the

distribution of the Net Settlement Fund cash their distributions, any balance remaining in the Net Settlement Fund after at least six (6) months after the initial distribution of such funds will be used in the following fashion: (a) first, to pay any amounts mistakenly omitted from the initial distribution; (b) second, to pay any additional Settlement notice and administration costs, expenses, and fees; and (c) finally, only if such second distribution is economically feasible, to make a second distribution to claimants who cashed their checks from the initial distribution and who would receive at least \$10.00, after payment of the estimated costs, expenses, or fees to be incurred in administering the Net Settlement Fund and in making this second distribution.

6. If six (6) months after such second distribution, if undertaken, or if such second distribution is not undertaken, and if any funds remain in the Net Settlement Fund after JND has made reasonable and diligent efforts to have Authorized Claimants cash their checks, then, in accordance with Local Rule 23, which permits "distribution of residual funds to charitable institutions for uses consistent with the legitimate objectives underlying the lawsuit," and per the terms of Stipulation (¶ 6.6), as approved by the Preliminary Approval Order (¶ 1) and the

Final Approval Order (¶ 5), any funds remaining in the Net Settlement Fund will be donated, *cy pres*, to Statewide Legal Services of Connecticut.

7. Following distribution of the Net Settlement Fund, JND is hereby ordered to maintain the completed Proof of Claim Forms on file for one year and electronically for three years after the Effective Date as defined in the Stipulation.
8. Any person asserting any rejected or subsequently filed claims is finally and forever barred from the date of this Order, and no claims and no responses to deficiency and/or rejection notices received after January 10, 2019 may be accepted for any reason whatsoever.
9. The Court finds that the administration of the Settlement and proposed distribution of the Net Settlement Fund complies with the terms of the Stipulation and the Plan of Allocation and that all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the claims submitted herein, or otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund are released and discharged from any and all claims arising out of such involvement, and all Class Members are barred from making any further claims against the Net Settlement Fund and the

Released Parties beyond the amount, if any, allocated to them pursuant to this Order.

10. This Court retains jurisdiction over any further application or matter that may arise in connection with this Action.

It is so ordered.

Signed this 15th day of February 2019, at Hartford, Connecticut.

/s/ AWT _____
Alvin W. Thompson
United States District Judge