

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

<p>OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>U.S. BANK NATIONAL ASSOCIATION (as Trustee Under Various Pooling and Servicing Agreements),</p> <p style="text-align: center;">Defendant.</p>
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CASE NO. 1:11-CV-08066-JGK

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~~PROPOSED~~ ORDER APPROVING DISTRIBUTION OF
NET SETTLEMENT FUND

WHEREAS, by its Final Judgment and Order of Dismissal with Prejudice dated July 24, 2015 (ECF No. 130) and its Order Approving Plan of Allocation for the Net Settlement Fund dated July 24, 2015 (ECF No. 129), this Court approved the terms of the settlement set forth in the Stipulation of Settlement dated as of December 17, 2014 (ECF No. 108-1) (the "Settlement" or "Stipulation") and the proposed plan for allocating the net settlement proceeds to eligible Settlement Class Members (the "Plan of Allocation"), respectively;

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

WHEREAS, the Settlement provided for the payment of \$6,000,000 on behalf of Defendant U.S. Bank National Association (the "Settlement Fund") and, pursuant to the terms of the Stipulation, the Settlement Amount was deposited into an escrow account established by

Plaintiff's Counsel through Kurtzman Carson Consultants, LLC ("KCC") for the benefit of the Settlement Class;

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

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, Plaintiff, through Plaintiff's Counsel, now seeks authorization to distribute the proceeds of the Settlement Fund to Authorized Claimants, 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 this Action for purposes of, among other things, implementing the Settlement, including any distribution or disposition of the Settlement Fund or Net Settlement Fund, including interest earned thereon.

NOW, THEREFORE, upon reading: (1) the Affidavit of Daniel J. Marotto Regarding (A) Administration of Settlement; (B) Processing of Claim Forms; and (C) Proposed Distribution of Net Settlement Fund (the "Marotto Affidavit") submitted on behalf of KCC; (2) the

Memorandum in Support of Plaintiff's Motion for Distribution of Net Settlement Fund; 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 Marotto Affidavit submitted herewith; and it is further

ORDERED, that the administrative determinations of KCC accepting the Claims as described in the Marotto Affidavit and listed on Exhibits C-1 and C-2 thereto, calculated pursuant to the Court-approved Plan of Allocation set forth in the Notice, are hereby approved, and said Claims are hereby accepted; and it is further

ORDERED, that the administrative determinations of KCC rejecting the Claims as described in the Marotto Affidavit and listed on Exhibit C-3 thereto, are hereby approved, and said Claims are hereby rejected; and 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; and it is further

ORDERED, that KCC be paid the sum of \$199,088.30 out of the Net Settlement Fund to KCC for its fees and expenses incurred to date and estimated to be incurred in connection with the administration and initial distribution of the Settlement from the Net Settlement Fund as payment for its fees and expenses incurred in connection with the administration of the Settlement and estimated to be incurred in connection with the initial distribution of the Net Settlement Fund; and it is further

ORDERED, that the Net Settlement Fund shall be distributed to the Authorized Claimants listed on Exhibits C-1 and C-2 to the Marotto Affidavit pursuant to the Court-approved Plan of Allocation in proportion to each Authorized Claimant's Recognized Claim as compared to the total Recognized Claims of all Authorized Claimants as shown on such Exhibits; and it is further

ORDERED, that the checks for distribution to the Authorized Claimants shall bear the notation "CASH PROMPTLY, VOID AND SUBJECT TO RE-DISTRIBUTION IF NOT CASHED BY 90 DAYS AFTER ORIGINAL CHECK ISSUE DATE." KCC is authorized to take appropriate actions to locate and/or contact any Authorized Claimant who has not cashed his, her or its check within said time; and it is further

ORDERED, that Authorized Claimants who do not cash their checks within the time allotted will irrevocably forfeit all recovery from the Settlement Fund; and it is further

ORDERED, that, to the extent any proceeds remain in the Net Settlement Fund after KCC has made reasonable and diligent efforts to have Authorized Claimants cash their distributions, any balance remaining in the Net Settlement Fund one year from the date of the initial distribution of the Net Settlement Fund shall, if economically feasible, be re-distributed to Authorized Claimants 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 re-distributions; and it is further

ORDERED, that re-distributions to Authorized Claimants be repeated until the balance remaining in the Net Settlement Fund is *de minimis* and then at that time, such remaining balance shall be donated to appropriate non-profit organization(s) designated by Plaintiff's Counsel and approved by the Court; and it is further

ORDERED, that 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 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 in connection with the Settlement of this Action, or who are 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, 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 or the parties released pursuant to the Settlement beyond the amount allocated to them pursuant to this Order; and it is further

ORDERED, that KCC is hereby authorized to destroy the paper copies and all supporting documentation of the Claim Forms one year from the final distribution date of the Net Settlement Fund and all electronic copies of the same three years after the final distribution date of the Net Settlement Fund; and it is further

ORDERED, that this Court retain jurisdiction over any further application or matter which may arise in connection with this Action; and it is further

ORDERED, that any Claim received after July 7, 2017 and any responses to Deficiency/Ineligibility Letters and EFC Deficiency/Ineligibility Emails received after July 7, 2017 be rejected as untimely and not considered for inclusion in the initial distribution of the Net Settlement Fund.

SIGNED this 4 day of September, 2017.



THE HONORABLE JOHN G. KOELTL
UNITED STATES DISTRICT JUDGE