

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

ADAM S. LEVY on behalf of himself and all others
similarly situated,

Plaintiff,

v.

THOMAS GUTIERREZ, RICHARD J. GAYNOR, RAJA
BAL, J. MICHAL CONAWAY, KATHLEEN A. COTE,
ERNEST L. GODSHALK, MATTHEW E.
MASSENGILL, MARY PETROVICH, ROBERT E.
SWITZ, NOEL G. WATSON, THOMAS WROE, JR.,
MORGAN STANLEY & CO. LLC, GOLDMAN,
SACHS & CO., CANACCORD GENUITY INC., AND
APPLE, INC.

Defendants.

No. 1:14-cv-00443-JL

ECF CASE

**DECLARATION OF STEPHANIE AMIN-GIWNER IN SUPPORT OF
LEAD PLAINTIFF'S UNOPPOSED MOTION FOR APPROVAL OF
SECOND DISTRIBUTION OF EARLIER SETTLEMENTS
AND APPLE SETTLEMENT DISTRIBUTION PLAN**

I, STEPHANIE AMIN-GIWNER, hereby declare and state as follows:

1. I am a Senior Manager of Client Services for Epiq Class Action and Claims Solutions, Inc. ("Epiq").¹ I am over 21 years of age and am not a party to this Action. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, could and

¹ The Court approved the retention of Garden City Group, LLC ("GCG"), as the Claims Administrator in connection with the settlements in the Action. GCG was acquired by Epiq on June 15, 2018, and now is continuing operations as part of Epiq. "Epiq [] is the successor to Garden City Group, LLC, which the Court previously authorized Class Counsel to retain to supervise and administer the notice procedure in connection with the Earlier Settlements and any other settlement or recovery achieved in this Action and to process Claims received in the action." Order Preliminarily Approving Settlement with Defendant Apple Inc. and Providing for Notice (ECF No. 254) ¶ 5.

would testify competently thereto. Epiq, as Court-approved Claims Administrator in the above-captioned Action, presents this declaration in support of Lead Plaintiff's Unopposed Motion for Approval of Second Distribution of Earlier Settlements and Apple Settlement Distribution Plan.²

2. By the Order Approving Distribution Plan entered January 13, 2020 (ECF No. 253) (the "Distribution Order"), the Court directed Epiq to conduct an initial distribution of the Individual Defendant Net Settlement Fund and the Underwriter Defendant Net Settlement Fund (together, the "Earlier Settlements Net Settlement Funds") to Authorized Claimants (the "Earlier Settlements Initial Distribution").³ *See* Distribution Order ¶ 3(c). Pursuant to the Distribution Order, checks and wire transfers from the Earlier Settlements Net Settlement Funds were issued to Authorized Claimants beginning on February 20, 2020, and the Earlier Settlements Initial Distribution was completed on February 27, 2020. The Court ordered that any Claims received or adjusted after November 6, 2019, be processed and presented to the Court in connection with Lead Counsel's motion for a second distribution of the Earlier Settlements Net Settlement Funds. *See* Distribution Order ¶ 3(g). Epiq has completed processing all Claims received through January 22, 2021, in accordance with the terms of the Court-approved Plan of Allocation,⁴ and hereby submits its administrative determinations accepting, adjusting, and rejecting the Claims received or adjusted after November 6, 2019, in preparation for a second distribution of the Earlier Settlements

² Unless otherwise defined in this Declaration, all capitalized terms have the meanings defined in the Stipulation and Agreement of Settlement with Defendant Apple Inc. dated as of January 10, 2020 (ECF No. 252-1) (the "Apple Stipulation").

³ "Earlier Settlements" means the Individual Defendant Settlement and Underwriter Defendant Settlement, which were approved by the Court by judgments entered on July 27, 2018 (ECF Nos. 192, 193) (and together with the Apple Settlement, the "Settlements").

⁴ *See* Appendix A to the Notice, Proposed Plan of Allocation (ECF No. 188-6), as approved in the Court's Order Approving Plan of Allocation of Net Settlement Funds dated July 27, 2018 (ECF No. 191).

Net Settlement Funds to Authorized Claimants (the “Earlier Settlements Second Distribution”) and an initial distribution of the Apple Net Settlement Fund (the “Apple Initial Distribution”).

3. In addition to serving as Claims Administrator in the Earlier Settlements, the Court approved the retention of Epiq as the Claims Administrator in connection with the subsequent Apple Settlement in the Action. *See* Order Preliminarily Approving Settlement with Defendant Apple Inc. and Providing for Notice (ECF No. 254) (the “Apple Preliminary Approval Order”)

¶ 5. As Claims Administrator for the Apple Settlement, Epiq has, among other things: (i) mailed the Notice of (I) Certification of Class; (II) Proposed Settlement with Apple Inc.; (III) Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses; and (IV) Settlement Fairness Hearing (the “Apple Settlement Notice”) and the Proof of Claim and Release Form (the “Claim Form”, and together with the Apple Settlement Notice, the “Notice Packet”) to potential Apple Class Members and brokers and other nominees; (ii) updated and continues to maintain a toll-free telephone helpline for inquiries during the course of the administration; (iii) updated and continues to maintain a website for the Settlements (the “Settlements Website”); (iv) caused the Apple Summary Settlement Notice to be published; (v) provided, upon request, additional copies of the Notice Packet to potential Apple Class Members, brokers, and other nominees; and (vi) received and processed Claims.

4. On August 27, 2020, the Court issued its Memorandum Order Granting Final Approval of Apple Settlement and Class Counsel’s Motion for Attorneys’ Fees (ECF No. 266) (the “Apple Final Approval Order”), which approved the Apple Settlement (consisting of the terms and conditions of the Apple Stipulation) and the Plan of Allocation. Epiq has completed processing all Claims received through January 22, 2021, in accordance with the terms of the Apple

Stipulation and the Court-approved Plan of Allocation,⁵ and hereby submits its administrative determinations accepting and rejecting Claims in preparation for the Apple Initial Distribution and the Earlier Settlements Second Distribution.

5. Epiq respectfully requests that the Court enter an Order approving Epiq's recommendations herein for all Claims presented on this motion and approving Epiq's proposed plan for distribution of the Apple Net Settlement Fund and the remaining balance of the Earlier Settlements Net Settlement Fund.

INITIAL DISTRIBUTION OF EARLIER SETTLEMENTS

6. The Court directed Epiq to conduct the Earlier Settlements Initial Distribution of both Earlier Settlements Net Settlement Funds to Authorized Claimants. *See* Distribution Order ¶ 3(c). Pursuant to the Distribution Order, checks and wire transfers from the Earlier Settlements Net Settlement Funds were issued to Authorized Claimants beginning on February 20, 2020, in an amount totaling \$27,042,316.94.

7. Since the Earlier Settlements Initial Distribution on February 20, 2020, Epiq has been monitoring returned checks, whether undeliverable or otherwise; processing and responding to inquiries received from Claimants through correspondence; and processing requests for the reissuance of checks.

⁵ “The Plan of Allocation approved by the Court in its Order Approving Plan of Allocation of Net Settlement Funds dated July 27, 2018 (ECF No. 191) shall be utilized for determining the allocation of the Apple Net Settlement Fund to Class Members. The Claims of Apple Class Members will be calculated under the Court-approved Plan of Allocation in the same manner that the Claims of members of the Individual Defendant Settlement Class are calculated under the Plan of Allocation.” Apple Preliminary Approval Order ¶ 9(a). *See also* Apple Final Approval Order at 17 (“Under the terms of the Apple Settlement, eligible members of the Apple Class that previously submitted or now submit claims approved for payment will receive a pro rata share of the Apple Settlement based on their transactions in GTAT Securities during the Class Period. Claims of the Apple Class will be calculated in the same manner as under the allocation plan approved by the court for members of the Individual Defendant Settlement Class.”).

8. As of April 1, 2021, \$26,969,843.71 has been negotiated by recipients and \$298,974.67 remains in the account.⁶

DISSEMINATION OF APPLE NOTICE

9. As more fully described in the Declaration of Jaime Firenze regarding: (A) Mailing of the Apple Settlement Notice; and (B) Publication of the Apple Summary Settlement Notice; and (C) Report on Requests for Exclusion Received to Date (ECF No. 258-3) (the “Mailing Decl.”), as of May 8, 2020, Epiq had mailed 211,148 Notice Packets to potential Apple Class Members and their nominees. Mailing Decl. ¶ 7. Since that date, 1,716 additional Notice Packets have been disseminated. In total, Epiq has disseminated 212,864 Notice Packets to potential Apple Class Members, brokers, and other nominees.

10. Epiq established, updated, and continues to maintain the Settlements Website (www.GTATSecuritiesLitigation.com) and toll-free telephone helpline (1-866-562-8790) for both the Earlier Settlements and Apple Settlement to assist potential Class Members. The Settlements Website (which provides access to important documents relevant to the Settlements) and the telephone helpline enable Apple Class Members to obtain information about the Settlements.

11. In accordance with Paragraph 5(c) of the Apple Preliminary Approval Order, on April 13, 2020, Epiq caused the Apple Summary Settlement Notice to be published in *Investor’s Business Daily* and transmitted over the *PR Newswire*. Mailing Decl. ¶ 8.

PROCEDURES FOLLOWED IN PROCESSING CLAIMS TO APPLE SETTLEMENT

12. Under the terms of the Apple Preliminary Approval Order and as set forth in the Apple Settlement Notice, in order to be eligible to receive a distribution from the Apple Net

⁶ This amount includes all funds from uncashed checks, undeliverable checks, and unclaimed wires that were forfeited by Authorized Claimants in the Earlier Settlements Initial Distribution as well as returned funds pursuant to ¶ 3(e) of the Distribution Order.

Settlement Fund, an Apple Class Member must have either (i) submitted a valid Claim prior to November 6, 2019, that was approved by the Court for payment from the Earlier Settlements or (ii) submitted a properly executed Claim Form postmarked no later than June 29, 2020, together with adequate supporting documentation for the transactions and holdings reported in the Claim. From November 6, 2019, through and including January 22, 2021, Epiq received and fully processed 2,399 Claims to the Apple Settlement (“Apple Claims”)⁷ and adjusted 3,468 Claims submitted in connection with Earlier Settlements that were revised after November 6, 2019.

13. In preparation for receiving and processing Apple Claims, Epiq followed the same process utilized for the Earlier Settlements and (i) conferred with Lead Counsel to define the guidelines for processing Claims; (ii) stored Claim details, images of Claims, and supporting documentation in the unique database created for the Earlier Settlements (the “Settlements Database”); (iii) trained staff in the specifics of the Settlements so that Claims would be properly processed; and (iv) formulated a system so that telephone and email inquiries would be properly responded to. In addition, Epiq utilized the computer programs and screens for entry of Apple Class Members’ identifying and transactional information and the proprietary “calculation module” to calculate Apple Class Members’ Recognized Claims pursuant to the Court-approved Plan of Allocation that was developed and utilized for processing Claims in the Earlier Settlements.⁸

⁷ The 2,399 Apple Claims include 9 Claims that were received after November 6, 2019, but before the initial mailing of the Apple Settlement Notice on March 31, 2020.

⁸ See Plan of Allocation ¶¶ 37-38 (“*Calculation of Claimant’s ‘Exchange Act Recognized Claim’*: A Claimant’s ‘Exchange Act Recognized Claim’ will be the sum of his, her or its Exchange Act Recognized Loss Amounts as calculated above with respect to all GTAT Securities” and “*Calculation of Claimant’s ‘Securities Act Recognized Claim’*: A Claimant’s ‘Securities Act Recognized Claim’ will be the sum of his, her or its Securities Act Recognized Loss Amounts as

14. Apple Class Members who had not submitted a valid Claim in connection with the Earlier Settlements but were seeking to share in the Apple Net Settlement Fund were directed in the Apple Settlement Notice to submit their Claims to a post office box address specifically designated for the Settlements. 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 Settlements 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.

A. Paper Claims

15. Of the 2,399 Apple Claims, 1,013 are paper Claims. Once received, the 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 Settlements Database together with all submitted documentation. Subsequently, each Claim was assigned a unique Claim number. Once scanned, the information from each Claim (including the Claimant's name, address, account number/information from the supporting documentation, and the Claimant's purchase/acquisition transactions, sale transactions, and holdings listed on the Claim) was entered into the Settlements Database. Once entered into the Settlements 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

calculated above with respect to all GTAT Common Stock Offering Shares and GTAT Senior Notes.”).

identity and the purchase/acquisition transactions, sale transactions, and holdings listed on the Claim.

16. 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 GTAT Securities during the Apple Class Period (e.g., the Claimant purchased GTAT Common Stock only before or after the Apple 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 Apple 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 Apple Class Period
- No Signature
- No Recognized Claim

17. 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 according to the Court-approved Plan of Allocation. Thus, even if the deficiency was 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 (i.e., shares transferred into or out of an account)
- No Proof of Unsold Holdings

B. Electronic Claims

18. Of the 2,399 Apple Claims, 1,386 were filed electronically (“Electronic Claims”). Electronic Claims are typically submitted by institutional investors (“Electronic Claim Filers” or “E-Claim Filers”) who may have hundreds or thousands of transactions during the Apple Class Period. 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 Settlements Database.

19. Epiq maintains an electronic filing operations team (the “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 E-Claim Filer. If the electronic file was deemed to be in an acceptable format, it was then loaded to the Settlements Database.

20. 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 Apple Class Period, etc.). The output was thoroughly verified and confirmed as accurate.

21. 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 for payment from the Apple Net Settlement Fund.

22. 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 number 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

23. 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 Apple Stipulation and the Apple Settlement 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 Settlement Classes pursuant to request.

THE DEFICIENCY PROCESS

A. Paper Claims

24. Approximately half of the paper Claims, i.e., 494 of the 1,013 paper Claims, 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 GTAT Securities during the Apple 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 Apple Settlement.

25. If paper Claims were determined to be defective, a Notice of Rejection of Your Entire Claim or a Notice of Rejection of Part of Your Claim (“Deficiency Notice”) was sent to the Claimants describing the defect(s) in the Claims and what, if anything, was necessary to cure the defect(s) in these Claims. The Deficiency Notice 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 Notice or the Claim would be recommended for rejection to the extent that the deficiency or condition of ineligibility was not cured. The Deficiency Notice also advised Claimants that to contest these administrative determinations, they 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 494 Deficiency Notices to Claimants who filed paper Claims that Epiq determined to be defective. Attached hereto as Exhibit A is an example of a Deficiency Notice.

26. Claimants' responses to Deficiency Notices were scanned into the Settlements 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), Epiq manually updated the Settlements Database to reflect the changes in the status of the Claim.

B. Electronic Claims

27. For Electronic Claims, Epiq used the following process to contact the banks, brokers, nominees, and other E-Claim Filers, who submitted their data electronically, to confirm receipt of their submissions and to notify the E-Claim Filers of any deficiencies or Electronic Claims that were ineligible. These E-Claim Filers were sent an email to the email address included with their Claim Forms ("Status Email") with an attached report containing detailed information associated with the Claims and indicating which of those Claims within the filing were deficient and/or rejected ("Status Spreadsheet"). Notification was also provided online through Epiq's web-based filing platform, Epiq ICETM, to those E-Claim Filers that submitted files via this method.

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

- (a) Notified the E-Claim 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 E-Claim 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 instructions for how to submit corrections.

29. The Status Spreadsheet attached to the Status Email identified each of the

individual Claims that were found to be deficient or ineligible and the basis for that deficiency or condition of ineligibility.

30. Epiq has sent a Status Email and Status Spreadsheet to 63 E-Claim Filers. Samples of a Status Email and Status Spreadsheet are attached hereto as Exhibits B and C, respectively.

31. The E-Claim Filers' responses were reviewed by the Electronic Filing Team, scanned and/or loaded into the Settlements 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 Settlements Database to reflect such change in status of the Electronic Claim.

NO DISPUTED CLAIMS TO THE APPLE SETTLEMENT

32. 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 the Deficiency Notice or Status Email and that they could request that the dispute be submitted to the Court for review. More specifically, Claimants were advised in the Deficiency Notice and 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.

33. A total of five (5) Claimants contested Epiq's administrative determinations and requested review by the Court. To resolve the disputes without necessitating the Court's intervention, Epiq contacted all persons requesting Court review, and with respect to those Claimants who were reached, Epiq answered all their questions, fully explained Epiq's determination of the Claim's status, and facilitated the submission of missing information or

documentation where applicable. As a result of these efforts, all requests for Court review have either been cured or the request for Court review has been retracted. There are no disputed Claims to the Apple Settlement requiring Court review.

LATE BUT OTHERWISE ELIGIBLE CLAIMS TO THE APPLE SETTLEMENT

34. Of the 2,399 Apple Claims, 171 were received or postmarked after the June 29, 2020 Claim submission deadline established by the Court. Epiq processed all late Claims received through January 22, 2021, and 45 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 January 22, 2021, solely based on its late submission. Although these 45 Claims were late, they were received while the processing of timely Claims was ongoing, 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.

LATE ADJUSTED CLAIMS

35. In addition to the Apple Claims, Epiq has adjusted 3,468 Claims submitted in connection with the Earlier Settlements that were revised after November 6, 2019. Of these 3,468 Claims with adjustments, 2,134 are eligible to receive an additional payment (“Late Adjusted Claims”). Epiq believes no delay has resulted from the provisional acceptance of these Late Adjusted Claims. To the extent they are eligible but for the fact that they were late, they are recommended for payment.

36. However, there must be a final cut-off date to conduct the Apple Initial Distribution so that there may be a proportional allocation of the Apple Net Settlement Fund and the Apple Initial Distribution may be accomplished. Acceptance of additional Claims or responses to Deficiency Notices and Status Emails received during the finalization of the administration and

the preparation of this application would necessarily require a delay in the distribution. Accordingly, Epiq also respectfully requests that this Court order that no Claim received after January 22, 2021, and no Claim adjusted after May 4, 2021, be eligible for payment from the Apple Initial Distribution for any reason whatsoever subject only to the provision of paragraph 47(e) 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, and if sufficient funds remain to warrant the processing of Claims received after January 22, 2021, these Claims will be processed, and if any would have been eligible if timely received, these Claimants may be paid the 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 to the extent permitted by the amount of remaining funds. See ¶ 47(e) below. With respect to previously filed Claims that are cured or adjusted after May 4, 2021, 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 January 22, 2021. However, should an adjustment be received that results in a lower Recognized Claim amount, that adjustment will be made, and the Recognized Claim amount will be reduced accordingly prior to a distribution to that Claimant.

QUALITY ASSURANCE

37. 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 Settlements Database, deficiency and/or rejection message codes were assigned accurately, and deficiency and/or rejection notification was appropriately sent. After all Claims were

processed, deficiency and/or rejection notification was sent, and Claimants' responses to the deficiency and/or rejection notification 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 Apple 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 Apple 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 all Claimants requiring deficiency and/or rejection notification 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.

38. As part of its due diligence in processing the Claims, Epiq reviewed and compared the entire Settlements Database against the “watch list” of known questionable filers that Epiq has developed throughout its years of experience as a claims administrator. Epiq has worked closely with the FBI to update that watch list with the latest information available. 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 message code any Claims that match to a record on the “watch list” and escalate them to management for review. No Claims were identified as having been submitted by someone on the “watch list.”

**RECOMMENDATIONS FOR APPROVAL, REJECTION, AND ADJUSTMENT
OF PRESENTED CLAIMS**

- 39. The number of Claims presented on this motion (“Presented Claims”) is 4,533.

A. Timely Submitted and Valid Claims

40. A total of 2,228 Claims were received or postmarked on or before June 29, 2020, the Court-approved Claim submission deadline for the Apple Settlement, of which 988 Claims were determined by Epiq to be eligible and are recommended for approval (“Timely Eligible Claims”). The total Securities Act Recognized Claim amount for these Timely Eligible Claims is \$156,477.19 and the total Exchange Act Recognized Claim amount for these Timely Eligible Claims is \$38,351,607.70.

B. Late But Otherwise Eligible Claims

- 41. A total of 171 Claims were received or postmarked after June 29, 2020, the Court-

approved Claim submission deadline for the Apple Settlement, but received on or before January 22, 2021. Of those 171 Claims, 45 were determined by Epiq to be otherwise eligible and are recommended for approval (“Late But Otherwise Eligible Claims”). The total Securities Act Recognized Claim amount for these Late But Otherwise Eligible Claims is \$62.40 and the total Exchange Act Recognized Claim amount for these Timely Eligible Claims is \$5,817,599.48.

C. Late Adjusted Claims

42. A total of 3,468 Claims submitted in connection with the Earlier Settlements were adjusted after November 6, 2019. Of those 3,468 Claims, 2,134 were determined by Epiq to be eligible to receive an additional payment (“Late Adjusted Claims”).

D. Rejected Claims

43. After the responses to Deficiency Notices and Status Emails were processed, a total of 1,366 Claims remain recommended for rejection by the Court (“Rejected Claims”) for the following reasons:

- (a) 283 Claims Did Not Fit Class Definition;
- (b) 657 Claims did not result in a Recognized Claim;
- (c) 9 Claims were duplicates; and
- (d) 417 Claims had uncured conditions of ineligibility.

E. Lists of All Presented Claims

44. Attached hereto as Exhibits D through G are listings of all the Presented Claims:

- (e) Exhibit D lists the Timely Eligible Claims and shows each Claimant’s Exchange Act Recognized Claim and Securities Act Recognized Claim, if any;

- (f) Exhibit E lists the Late But Otherwise Eligible Claims and shows each Claimant's Exchange Act Recognized Claim and Securities Act Recognized Claim, if any;
- (g) Exhibit F lists the Late Adjusted Claims and shows each Claimant's Exchange Act Recognized Claim and Securities Act Recognized Claim, if any; and
- (h) Exhibit G lists the Rejected Claims and the reasons for rejection.

FEES AND DISBURSEMENTS

45. 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 Settlements. Attached hereto as Exhibit H are copies of Epiq's invoices from November 1, 2019, through January 31, 2021, as well as Epiq's estimate to complete the Earlier Settlements Second Distribution and the Apple Settlement Initial Distribution.⁹ As set forth in Exhibit H, Epiq's fees and expenses incurred through February 29, 2020, in connection with the Earlier Settlements Initial Distribution are \$39,710.73. From March 1, 2020, through January 31, 2021, Epiq incurred fees and expenses of \$430,272.98 for its work on the Apple Settlement as well as for additional work in connection to the Earlier Settlements, including reissuing checks and responding to class member inquiries about their payments. In total, since November 1, 2019, Epiq has incurred fees and expenses of

⁹ Should the estimate of fees and expenses to conduct the Apple Initial Distribution exceed the actual cost, the excess will be returned to the Apple Net Settlement Fund and will be available for subsequent distribution to Authorized Claimants. Likewise, should the estimate of fees and expenses to conduct the Earlier Settlements Second Distribution exceed the actual cost, the excess will be returned to the net settlement funds of the Earlier Settlements and will be available for subsequent distribution to Authorized Claimants.

\$469,983.71. Pursuant to the Court's Distribution Order for the Earlier Settlements, Epiq was paid \$94,421.17 for its fees and expenses. Accordingly, there is an outstanding balance of \$375,562.54 payable to Epiq for its unpaid fees and expenses. In addition, Epiq estimates that its fees and expenses to conduct the Earlier Settlements Second Distribution and the Apple Settlement Initial Distribution will be \$160,064.52.

DISTRIBUTION PLAN FOR THE NET SETTLEMENT FUNDS

46. Pursuant to the Distribution Order, after Epiq has made reasonable and diligent efforts to have Authorized Claimants cash their distribution checks from the Earlier Settlements Initial Distribution, but not earlier than nine (9) months after the Earlier Settlements Initial Distribution, Lead Counsel shall seek Court approval to conduct the Earlier Settlements Second Distribution of the Earlier Settlements Net Settlement Funds in which any amount remaining in the Earlier Settlements Net Settlement Funds after the Earlier Settlements Initial Distribution, including from the reserve and the funds from all void stale-dated checks, after deducting Epiq's fees and expenses incurred in administering the Settlements for which it has not yet been paid, including Epiq's estimated costs of the Earlier Settlements Second Distribution, and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be distributed to all Authorized Claimants who cashed their distribution check in the Earlier Settlements Initial Distribution. *See* Distribution Order ¶ 3(f); *see also* Plan of Allocation ¶ 53.

47. Should the Court concur with Epiq's determinations concerning the provisionally accepted and rejected Claims, including the Late Adjusted Claims to the Earlier Settlements and Late But Otherwise Eligible Claims to the Apple Settlement, Epiq recommends the following distribution plan (the "Distribution Plan"):

(a) Epiq will conduct the Earlier Settlements Second Distribution together with the initial distribution of the Apple Net Settlement Fund (the “Apple Initial Distribution,” and together with the Earlier Settlements Second Distribution, the “Settlements Distribution”), 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 from the Apple Net Settlement Fund to address any tax liability and claims administration-related contingencies that may arise in the Apple Initial Distribution, as follows:

(1) Epiq will calculate award amounts for all Authorized Claimants as if the entire Apple Net Settlement Fund and Earlier Settlements Net Settlement Funds were to be distributed now. In accordance with the Court-approved Plan of Allocation, Epiq will calculate each Authorized Claimant’s: (a) *pro rata* share of the Individual Defendant Net Settlement Fund based on the amount of the Authorized Claimant’s Exchange Act Recognized Claim in comparison to the total Exchange Act Recognized Claims of all Authorized Claimants; (b) *pro rata* share of the Underwriter Defendant Net Settlement Fund based on the amount of the Authorized Claimant’s Securities Act Recognized Claim in comparison to the total Securities Act Recognized Claims of all Authorized Claimants; and (c) *pro rata* share of the Apple Net Settlement Fund based on the amount of the Authorized Claimant’s Exchange Act Recognized Claim in comparison to the total Exchange Act Recognized Claims of all Authorized Claimants.¹⁰

¹⁰ See Appendix A to the Notice ¶¶ 50-51, *Allocation of the Individual Defendant Net Settlement Fund and Allocation of the Underwriter Defendant Net Settlement Fund*.

(2) Epiq will, pursuant to the terms of the Plan of Allocation, eliminate from the Settlements Distribution any Authorized Claimant whose combined *pro rata* share of the Individual Defendant Net Settlement Fund, Underwriter Defendant Net Settlement Fund, and Apple Net Settlement Fund (collectively, the “Net Settlement Funds”) calculates to less than \$10.00.¹¹ These Claimants will not receive any payment from the Net Settlement Funds, and Epiq will send notifications to those Authorized Claimants advising them of that fact.

(3) After eliminating Claimants who would have received less than \$10.00 from the Net Settlement Funds, Epiq will recalculate the *pro rata* share of the Individual Defendant Net Settlement Fund, the Underwriter Defendant Net Settlement Fund, and the Apple Net Settlement Fund for all Authorized Claimants who would have received \$10.00 or more pursuant to the calculations described in subparagraph (a)(1) above. The sum of these *pro rata* shares is the Authorized Claimant’s “Distribution Amount.”¹²

(4) Authorized Claimants whose Distribution Amount calculates to less than \$100.00 will be paid their full Distribution Amount (“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 Apple Net Settlement Fund and 100% of the remaining balance of each Earlier Settlements Net Settlement Fund will be distributed to

¹¹ *See Id.* ¶ 52, *Distribution Amount.*

¹² *See Id.*

Authorized Claimants whose Distribution Amount calculates to \$100.00 or more, pursuant to subparagraph (a)(3) above, on a *pro rata* basis based on their Distribution Amounts. The remaining 5% of the Apple Net Settlement Fund will be held in reserve (the “Reserve”) to address any tax liability and claims administration-related contingencies that may arise in the Apple Initial Distribution. To the extent the Reserve is not depleted, the remainder will be distributed in a subsequent distribution described in subparagraph (d) below.

(b) In order 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].”¹³

(c) Authorized Claimants who do not cash their distribution checks within the time allotted or on the conditions set forth in footnote 13 will irrevocably forfeit all

¹³ For Authorized Claimants whose checks are returned as undeliverable, Epiq will endeavor to locate new addresses by running the undeliverable addresses through address-lookup services. Where a new address is located, Epiq will update the Settlements Database accordingly and reissue a distribution check to the Authorized Claimant at the new address. In the event a distribution check is lost, 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, described in the preceding sentences, shall end 30 days after the initial void date. Authorized Claimants will be informed that, if they do not cash their distribution checks within 90 days of the mail date or they do not cash check reissues within 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 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.

recovery from the Settlements. The funds allocated to all such stale-dated checks will be available to be redistributed to other Authorized Claimants in a subsequent distribution.

(d) Consistent with the Court-approved Plan of Allocation, after Epiq has made reasonable and diligent efforts to have Authorized Claimants cash their distribution checks, which efforts shall consist of the follow-up efforts described in footnote 13, but not earlier than nine (9) months after the Settlements Distribution, Epiq will, after consulting with Lead Counsel, conduct an additional distribution of the Net Settlement Funds (the “Second Settlements Distribution”). Any amounts remaining in the Net Settlement Funds, including from the Reserve and the funds from all void stale-dated checks, after deducting Epiq’s fees and expenses incurred in connection with administering the Settlement for which it has not yet been paid, including Epiq’s estimated costs of the Second Settlements Distribution, and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be distributed to all Authorized Claimants in the Settlements Distribution who cashed their distribution check and who would receive at least \$10.00 from such distribution based on their *pro rata* share of the remaining funds.¹⁴

(e) No new Claims may be accepted after January 22, 2021, and no further adjustments to Claims received on or before January 22, 2021, that would result in an increased Recognized Claim amount may be made for any reason after May 4, 2021, subject to the following exception: At such time as Lead Counsel, in consultation with Epiq, determines that further distribution of the funds remaining in the Net Settlement Funds is not cost-effective, and after payment of any unpaid fees or expenses incurred in

¹⁴ See Plan of Allocation ¶ 53.

connection with administering the Net Settlement Funds and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, if sufficient funds remain to warrant the processing of Claims received after January 22, 2021, such Claims will be processed, and any such Claims that are otherwise valid as well as any earlier received Claims for which an adjustment was received after May 4, 2021, which resulted in an increased Recognized Claim, at the discretion of Lead Counsel, 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 to the extent possible.

SUBSEQUENT DISTRIBUTIONS

48. Pursuant to the Court-approved Plan of Allocation, if Lead Counsel, in consultation with Epiq, determines that a further distribution of the Net Settlement Funds is cost-effective, Epiq will conduct an additional distribution of remaining funds from the Net Settlement Funds (the “Third Settlements Distribution”). *See* Plan of Allocation ¶ 53. Additional re-distributions from the Net Settlement Funds to Authorized Claimants who have cashed their prior checks and who would receive at least \$10.00 from such additional re-distributions may occur thereafter in six-month intervals if Lead Counsel, in consultation with the Claims Administrator, determines that additional re-distributions, after the deduction of any additional fees and expenses incurred in administering the Settlements, including for such re-distributions, would be cost-effective. *See Id.*

49. When Lead Counsel, in consultation with the Claims Administrator, determines that additional re-distributions are not cost-effective, if any funds remain in the Net Settlement Funds after payment of the late or late-adjusted Claims, the remaining balance of the Net Settlement Funds, after payment of any unpaid fees or expenses incurred in connection with

administering the Net Settlement Funds and after the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be contributed to non-sectarian, not-for-profit organization(s), to be recommended by Lead Counsel and approved by the Court.¹⁵

50. Unless otherwise ordered by the Court, Epiq may destroy the paper copies of the Claims submitted for the Apple Settlement and all supporting documentation one year after the Settlements Distribution and may destroy electronic copies of the same one year after all funds have been distributed.¹⁶

CONCLUSION

51. Epiq respectfully requests that the Court enter an Order approving its administrative determinations accepting, adjusting, and rejecting the Claims presented on this motion and approving the proposed Settlements Distribution Plan for the second distribution of the Earlier Settlements Net Settlement Funds and the Initial Distribution of the Apple Net Settlement Fund. Epiq further respectfully submits that its fees and expenses, as reflected on the invoices attached hereto as Exhibit H, should be approved for payment from the Apple Settlement Fund for the Apple Claims Administration process and Apple Initial Distribution and from the Earlier Settlements Settlement Funds for the Earlier Settlements Second Distribution.

¹⁵ See Plan of Allocation ¶ 53.

¹⁶ The Court has previously utilized the same timeframe for the destruction of documentation for the Earlier Settlements. See Distribution Order ¶ 3(j) (“Unless otherwise ordered by the Court, Epiq may destroy the paper copies of the Claims and all supporting documentation one year after the Second Distribution, and one year after all funds have been distributed may destroy electronic copies of the same.”)

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

Executed this 4th day of May 2021.



Stephanie Amin-Giwner