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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LINCOLN ADVENTURES, LLC, a
Delaware Limited Liability Company,
and MICHIGAN MULTI-KING, INC.,
a Michigan Corporation, on Behalf of
Themselves and All Those Similarly
Situated,

Plaintiffs,

vs.

THOSE CERTAIN UNDERWRITERS
AT LLOYD’S, LONDON MEMBERS
OF SYNDICATES, et al.

Defendants.

No. 2:08-cv-00235-CCC-ESK

CLASS ACTION

MEMORANDUM IN SUPPORT OF
PLAINTIFFS’ MOTION FOR ENTRY
OF AN ORDER APPROVING
DISTRIBUTION OF NET
SETTLEMENT FUNDS

Plaintiffs, by and through Settlement Class Counsel, Robbins Geller Rudman & Dowd LLP, and Zwerling, Schachter & Zwerling, LLP (“Settlement Class Counsel”), respectfully submit this Memorandum in Support of their Motion for Entry of an Order Approving Distribution of Net Settlement Funds (the “Distribution Order”).¹

I. INTRODUCTION

On October 3, 2019, the Court granted final approval of a settlement between Plaintiffs and thirteen Lloyd’s Syndicates: 0033, 0102, 0382, 0435, 0570, 0609, 0623, 0958, 1183, 1886, 2001, 2623, and 2987 (collectively referred to herein as “Settling Defendants”). ECF 124. The settlement resolved Plaintiffs’ claims against the Settling Defendants in exchange for: (1) a monetary relief fund of \$21,950,000; and (2) the implementation of business reforms in the Lloyd’s Market for five years. *Id.* at 5.

Pursuant to the Court’s Order authorizing class notice, and in compliance with Rule 23 of the Federal Rules of Civil Procedure, the Court-appointed Claims Administrator, A.B. Data, Ltd., implemented the Notice Plan (filed as Exhibit A to ECF 89-4), which included direct notice to all known Settlement Class Members and a robust print publication and online media campaign. *See* Miller Decl., ¶3.² The

¹ All capitalized terms used in this memorandum that are not otherwise defined herein have the same meaning as set forth in the Stipulation of Partial Class Action Settlement (ECF 89-2, Exhibit A).

² Declaration of Eric J. Miller in Support of Plaintiffs’ Motion for Entry of an Order Authorizing Distribution of the Net Settlement Fund, dated October 28, 2022 (“Miller

Claims Administrator also published the Summary Notice in the nationwide print versions of the following publications: *Wall Street Journal*, *The New York Times*, *USA Today*, *Business Insurance*, *Risk Management*, and *Risk & Insurance*. In addition, the Claims Administrator launched a digital media campaign through which 20 million advertisements were served, reaching an estimated 71.6% of U.S. adults who are involved in the purchase of insurance. The Claims Administrator also launched a website (www.SyndicateSettlement.com), a toll-free hotline, and email address to provide the information that Settlement Class Members need to know about the Partial Settlement, including downloadable copies of the Summary Notice, Long-Form Notice, Claim Form, and the Agreement.

The notices informed Settlement Class Members that if they wanted to participate in the settlement, they were required to submit a claim form. The Effective Date set forth in the settlement has passed, and A.B. Data has completed the processing of all claims. A.B. Data has received 1,144 valid claims with premium amounts totaling \$5,006,978,808.56 that Plaintiffs propose be included in the Distribution Order (the “Distribution Claims”). Accordingly, the Net Settlement Funds may now be distributed to Authorized Claimants. Plaintiffs respectfully request

Decl.” or “Miller Declaration”), attached as Exhibit A to the Declaration of Rachel L. Jensen in Support of Plaintiffs’ Motion for Entry of an Order Authorizing Distribution of Net Settlement Funds.

the Court to enter the proposed Distribution Order, which will authorize A.B. Data to implement the distribution plan set forth in the accompanying Miller Declaration.

II. CLAIMS ADMINISTRATION

The Settlement Agreement required the Claims Administrator to: (a) print, mail, and/or publish a summary notice, the long-form notice, the digital notice; (b) establish, staff, and maintain a toll-free helpline for inquiries during the course of the administration; (c) calculate the *pro rata* share for each Settlement Class Member who filed a valid Claim Form; (d) create and maintain a Settlement Website and post case-specific documents on it; and (e) establish protocols and procedures to process, evaluate, and audit completed Claim Forms (“claims”) submitted to A.B. Data.

As detailed in the accompanying Miller Declaration, the Claims Administrator received 4,591 claim forms. Miller Decl., ¶6. A.B. Data processed each of those claim forms and determined that 1,144 claims are acceptable in whole or in part, and that the remaining claims were rejected as ineligible or too small to exceed the \$10 claim threshold. *Id.*, ¶¶6-16.³ A.B. Data sent letters to those claimants who submitted rejected claims, notifying them that their claims were deficient, explaining the reason for the deficiency, and giving them an opportunity to resolve the deficiency. *Id.*,

³ The determination to reject a claim was done in consultation with Settlement Class Counsel. A large number of the “ineligible” claim forms were simply duplicative forms filed by claimants who had already submitted a claim. In this instance, the administrator consolidated the duplicative claim(s) into the claimant’s initial claim and, if valid, have proposed that the claim be approved for distribution.

¶¶11-12. A.B. Data carefully reviewed the responses to deficiency notices and worked with claimants to resolve deficiencies where possible. *Id.*, ¶12. To Settlement Class Counsel's knowledge, all claim deficiencies have been resolved or the claimant has accepted that its Claim, in whole or in part, was properly rejected.

III. APPROVAL OF THE ALLOCATION OF THE NET SETTLEMENT FUND

Settlement Class Counsel requests that this Court approve the allocation of the Net Settlement Fund, consistent with the Plan of Allocation approved by this Court (ECF 125, ¶7) and as set forth in the Miller Declaration. Under that plan, the Net Settlement Fund will be allocated as follows:

- (a) a reserve of 5% of the Net Settlement Fund will be established to allow for any necessary adjustments in payments upon sufficient proof and/or to pay additional taxes, costs, and administration fees.⁴ Any funds remaining from the reserve after the initial distribution will be included as part of the residual distribution to Authorized Claimants who received an initial distribution check and cashed it;
- (b) the remaining Net Settlement Fund will be allocated on a pro rata basis to Authorized Claimants in accordance with the Plan of Allocation approved by the Court;
- (c) A.B. Data will promptly mail Authorized Claimants their appropriate share of the Net Settlement Fund. These checks will have a stale date of 90 days to encourage Authorized Claimants to

⁴ A.B. Data has incurred fees and expenses in the amount of \$833,554.09 through October 28, 2022. To date, A.B. Data has been paid a total of \$832,494.57 from the Net Settlement Fund, in accordance with the Settlement Agreement. A.B. Data estimates that it will incur, an additional \$18,297.16 to finalize the distribution of the Net Settlement Fund.

promptly cash their distribution checks and to avoid or reduce future expenses related to unpaid distributions. For any checks returned as undeliverable or not cashed, A.B. Data will make reasonable and diligent efforts to have Authorized Claimants cash their checks. At such time that Co-Lead Counsel and A.B. Data have determined that reasonable and diligent efforts have been exhausted, but no earlier than 120 days from the issue of the checks, the payments to Authorized Claimants that have not been cashed will revert back to the Net Settlement Fund;

- (d) if there is a balance remaining in the Net Settlement Fund after reasonable and diligent efforts have been made, have Authorized Claimants negotiate their initial payment, at least 120 days from the date of the initial distribution, and after any necessary adjustments in payments upon sufficient proof and/or to pay additional taxes, costs, and administration fees, A.B. Data will consult with Settlement Class Counsel and conduct a second distribution if feasible and economical. A.B. Data will redistribute the remaining funds, along with any remaining balance of the reserve, on a *pro rata* basis after reserving any additional taxes, costs, and administration fees to the Eligible Claimants who cashed their initial distribution checks and who would receive at least \$25.00 from such redistribution; and
- (e) at such time as Settlement Class Counsel, in consultation with A.B. Data, determines that any further redistribution of the funds remaining in the Net Settlement Fund is not cost-effective, the remaining funds will be available for donation to one or more 501(c)(3) non-profit organization(s) proposed by Settlement Class Counsel and approved by the Court.

IV. RELEASE OF CLAIMS

Finally, to allow the full and fair distribution of the Net Settlement Fund, Settlement Class Counsel requests an order which bars any further claims against the Net Settlement Fund and provides that all persons involved in the processing of claims will be released and discharged from any and all claims arising out of such

involvement. Settlement Class Counsel request the Court bar all Settlement Class Members, whether or not they are to receive payment from the Net Settlement Fund, from making any further claim against the Net Settlement Fund or any 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 of the Net Settlement Fund beyond the amount allocated to them under the Plan of Allocation.

V. CONCLUSION

The Claims Administrator has faithfully complied with the procedures set forth by this Court. As such, this Court should grant Plaintiffs' motion and authorize distribution of the Net Settlement Fund in accordance with the Miller Declaration.

DATED: November 1, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on November 1, 2022, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses on the attached Electronic Mail Notice List, and I hereby certify that I caused the mailing of the foregoing via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

s/ Rachel L. Jensen

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