

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 11-61797-CIV-ALTONAGA/O'Sullivan

BLAISE PICCHI, et al.,

Plaintiffs,

v.

**WORLD FINANCIAL
NETWORK BANK, et al.,**

Defendants.

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FINAL APPROVAL ORDER AND JUDGMENT

WHEREAS, on May 14, 2015, a Preliminary Approval Order was entered by the Court preliminarily approving the proposed Settlement pursuant to the terms of the Parties' Settlement Agreement¹ and directing that notice be given to the Settlement Class (*see* [ECF No. 151]);

WHEREAS, pursuant to the notice requirements set forth in the Settlement Agreement, as amended, and in the Preliminary Approval Order, the Settlement Class was notified of the terms of the proposed Settlement, of the right of members of the Settlement Class to opt-out, and of the right of members of the Settlement Class to be heard at a Final Approval Hearing to determine, *inter alia*: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable and adequate for the release of the claims contemplated by the Settlement Agreement; and (2) whether judgment should be entered dismissing this Action with prejudice;

WHEREAS, a Final Approval Hearing was held on December 18, 2015 [ECF No. 160]. Prior to the Final Approval Hearing, the declaration of the Settlement Administrator, ILYM

¹ The parties submitted a copy of the Settlement Agreement on January 28, 2015. (*See* [ECF No. 129-1]). However, modifications have been made since then. (*See, e.g.*, Stipulation . . . [ECF No. 150]). As a result, there is no complete, updated copy of the Settlement Agreement in the record. The parties are directed to file a final Settlement Agreement by **December 31, 2015**.

Group, Inc. ("Settlement Administrator"), was filed with the Court as prescribed in the Preliminary Approval Order. Class Members were therefore notified of their right to appear at the Final Approval Hearing in support of or in opposition to the proposed Settlement, the request for attorney's fees and costs to Class Counsel, and the payment of the Incentive Awards to the Class Representatives.

NOW, THEREFORE, the Court having heard the presentation of Class Counsel and counsel for Defendants, having reviewed all of the submissions presented with respect to the proposed Settlement, having determined that the Settlement is fair, adequate and reasonable, having considered the attorney's fees and costs application made by Class Counsel and the application for Incentive Awards to the Class Representatives, and having reviewed the materials in support thereof, and good cause appearing:

THE COURT FINDS AND ORDERS AS FOLLOWS:

1. The Court has jurisdiction over the subject matter of this Action and over all claims raised therein and all Parties thereto, including the Settlement Class.
2. There are no objections to the Settlement.
3. The Court hereby approves the Settlement, including the plans for implementation and distribution of the settlement relief, and finds that the Settlement is, in all respects, fair, reasonable and adequate to the Class Members, within the authority of the parties and the result of extensive arms'-length negotiations. The Parties shall effectuate the Settlement Agreement in accordance with its terms. The Settlement Agreement and every term and provision thereof shall be deemed incorporated herein as if explicitly set forth and shall have the full force of an Order of this Court.
4. The Settlement Class, which will be bound by this Final Approval Order and

Judgment, shall include all members of the Settlement Class who did not submit timely and valid requests to be excluded from the Settlement Class.

5. For purposes of the Settlement and this Final Approval Order and Judgment, the Court hereby certifies the following Settlement Class:

- i. All persons to whom Defendants placed phone calls through an automatic telephone dialing system equipment; and
- ii. Where those calls occurred after March 1, 2010 and up through July 30, 2014, as reflected in Defendants' records of call activity; and
- iii. Whose phone number was associated with a cellular phone at the time of the call; and
- iv. Whose phone number appears in the records of Defendants in association with an account issued through Defendants and serviced by ADS Alliance Data Systems, Inc. ("ADSI") or another Released Party; and
- v. Whose phone number appears in the records of Defendants in association with a "wrong number" code; and
- vi. Who is not the named account holder whose address as established by reverse phone lookup was a person ADSI or another Released Party was attempting to communicate with.

6. The Court finds that the plan for Notice, set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order, was the best notice practicable under the circumstances, provided due and sufficient notice to the Settlement Class of the pendency of the Action, certification of the Settlement Class for settlement purposes only, the existence and terms of the Settlement Agreement, and the Final Approval Hearing, and satisfied

the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and other applicable law.

7. The Settlement Agreement is, in all respects, fair, reasonable and adequate, is in the best interests of the Settlement Class, and is therefore approved.

8. All persons who have not made their objections to the Settlement in the manner provided in the Settlement Agreement are deemed to have waived any objections by appeal, collateral attack, or otherwise.

9. Within the time period set forth in the Settlement Agreement, the cash distributions provided for in the Settlement Agreement shall be paid to the various Settlement Class members submitting Valid Claim Forms, pursuant to the terms and conditions of the Settlement Agreement.

10. Upon the Effective Date, members of the Settlement Class who did not validly and timely opt-out shall, by operation of this Final Approval Order and Judgment, have fully, finally, and forever released, relinquished, and discharged Defendants from the Released Claims as set forth in the Settlement Agreement.

11. All members of the Settlement Class who did not validly and timely opt-out are hereby permanently barred and enjoined from filing, commencing, prosecuting, maintaining, intervening in, participating in, conducting or continuing, either directly or in any other capacity, any action or proceeding in any court, agency, arbitration, tribunal or jurisdiction, asserting any claims released pursuant to the Settlement Agreement, or seeking an award of fees and costs of any kind or nature whatsoever and pursuant to any authority or theory whatsoever, relating to or arising from the Action and/or as a result of or in addition to those provided by the Settlement Agreement.

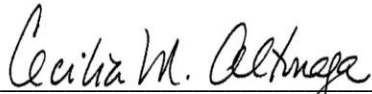
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12. The Final Approval Order and Judgment, the Settlement Agreement, the Settlement which it reflects and all acts, statements, documents or proceedings relating to the Settlement are not, and shall not be construed as, or used as an admission by or against Defendant of any fault, wrongdoing, or liability on the part of Defendant.

13. The Court hereby **GRANTS** Class Counsel's request for an award of reasonable attorney's fees of **\$2,172,500.00** and litigation expenses in the amount of **\$24,217.33**. The Court further grants Class Counsel's application for Incentive Awards for Blaise Picchi and Blaise Picchi, P.A. each in the amount of **\$12,500.00**. These amounts are to be paid out of the Settlement Fund, in accordance with the Settlement Agreement.

14. This case is **DISMISSED with prejudice**. Except as otherwise provided in this Final Approval Order and Judgment, the parties shall bear their own costs and attorney's fees. Without affecting the finality of the Judgment hereby entered, the Court reserves jurisdiction over the implementation of the Settlement, including enforcement and administration of the Settlement Agreement.

DONE AND ORDERED in Miami, Florida, this 18th day of December, 2015.



CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

cc: counsel of record