

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3
4 RACHEL HOCHSTETLER, et al.,

5 Plaintiffs,

6 v.

7 PACIFIC GATEWAY CONCESSIONS
8 LLC,

9 Defendant.

Case No. 14-cv-04748-TEH

**ORDER RE: CY PRES RECIPIENT
LETTER DATED MAY 4, 2017**

10 In June 2016, the Court granted the Parties' Motions for Final Approval of Class
11 Action Settlement ("Settlement"). ECF No. 57. This Settlement required Defendant
12 Pacific Gateway Concessions ("PGC") to distribute any residual funds from the Settlement
13 Fund to the cy pres recipient, Consumers Union, in the form of PGC Gift Cards. Id. ¶18.
14 The Court explicitly "retain[ed] continuing jurisdiction to interpret, implement and enforce
15 the Settlement, and all orders and judgment entered in connection therewith. Id ¶20.

16 Pursuant to the Settlement, Consumers Union received a cy pres distribution of
17 \$793,000 in the form of 7,993 gift cards worth \$100 each. On March 17, 2017, the Court
18 received a letter from Consumers Union alleging that upon calling the twenty-nine stores
19 listed in the class action settlement ("Included Stores"), several of them stated they would
20 not accept the gift cards. Consequently, the Court issued an Order on April 5, 2017
21 directing Defendant to submit a declaration attesting to PGC's efforts in ensuring the
22 "full[] and complete[]" resolution of this problem. ECF No. 60. In response, Defendant
23 filed three declarations, including one from PGC's Information Technology Manager and
24 one from PGC's President and Chief Executive officer, affirming that PGC had taken
25 several steps to resolve the problem including, holding a conference call with general
26 managers, posting PGC's written policy regarding the use of Gift Cards at Included Stores,
27 and establishing a toll-free number that PGC employees can call to address questions or
28 concerns regarding Gift Cards. ECF Nos. 61–63.

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Despite the recent declarations from PGC, the Court is now in receipt of another letter from Consumers Union dated May 4, 2017 stating that it recently called all of the Included Stores only to be told by several of them that they do not accept the gift cards or that the gift cards are only good for one transaction. ECF No. 65. The Court is deeply troubled and agitated to discover that the problem has not been “fully and completely resolved,” as represented by PGC in its most recent declarations. Accordingly, Defendant is hereby ORDERED to file with the Court a full and complete explanation as to what actions it will take to finalize the resolution of this matter. The declaration shall be submitted no later than **10 calendar days** from date of this Order. Failure to submit the declaration or to address the problem may result in the setting aside of the Class Action Settlement.

IT IS SO ORDERED.

Dated: 5/16/17



THELTON E. HENDERSON
United States District Judge