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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JUAN M. REYES, et al.,

Plaintiffs,

v.

BAKERY AND CONFECTIONERY
UNION AND INDUSTRY
INTERNATIONAL PENSION FUND, et al.,

Defendants.

Case No. 14-cv-05596-JST

**ORDER GRANTING PRELIMINARY
APPROVAL**

Re: ECF Nos. 126, 128

Before the Court is Plaintiffs' unopposed Motion for Preliminary Approval of Class Action Settlement. ECF Nos. 126, 128. The Court will grant the motion.

I. BACKGROUND

This is Plaintiffs' second motion for preliminary approval. Plaintiffs filed their original motion on December 22, 2016. ECF No. 118. The Court denied that motion on January 11, 2017. ECF No. 122. The Court's January 11 Order contains a description of the parties and claims, as well as the details of the proposed settlement and the Court will not repeat them here. *Id.* Most importantly, the Order noted one defect in the settlement agreement: a reversion clause. *Id.* at 10. The Order also listed several necessary changes to the proposed notice procedure. *Id.* at 11-12. On February 24, 2017, the parties filed a joint motion containing a summary of changes to the terms of the settlement. ECF No. 126. The Court construed that motion as a renewed motion for preliminary approval.

II. PRELIMINARY APPROVAL

The Court is satisfied that the parties have addressed the deficiencies the Court identified in the original settlement agreement. The parties removed the reversion clause, ECF No. 126 at 2,

1 and made changes to their notice procedure consistent with the Court’s Order, id. at 2-4. For the
2 reasons stated in the Court’s January 11 Order, the settlement is otherwise fair and reasonable.

3 **CONCLUSION**

4 1. The Motion for Preliminary Approval is granted.
5 2. A hearing (the “Fairness Hearing”) shall be held before this Court on September
6 28, 2017, at 2:00 p.m., at the United States District Court for the Northern District of California,
7 San Francisco Courthouse, Courtroom 9 - 19th Floor, 450 Golden Gate Avenue, San Francisco,
8 CA 94102, to determine: (a) whether the proposed Settlement of the Class Action on the terms and
9 conditions provided for in the Stipulation is fair, reasonable and adequate as to the Class and
10 should be approved by the Court; (b) whether an Order and Judgment as provided for in the
11 Stipulation should be entered herein, (c) the amount of fees and expenses, if any, that should be
12 awarded to Class Counsel and the amount, if any, of compensation for Class Plaintiffs; (d)
13 whether the Claims Procedure provided in Section 6 of the Stipulation should be approved by the
14 Court; and (e) whether the Action should be dismissed with prejudice as set forth in the
15 Stipulation.

16 3. The Court approves the form and content of the Notice of Proposed Class Action
17 Settlement and Fairness Hearing (the “Class Notice”), the Application Form, and the Publication
18 Notice of Proposed Settlement of Class Action (“Publication Notice”), and the Letter of
19 Exemption, which are annexed as Exhibits A-1, A-2, A-3, and A-4 hereto, and finds that the
20 mailing and distribution of the Notice and publishing of the Publication Notice substantially in the
21 manner and form set forth in paragraphs 4 and 5 of this Order meet the requirements of Rule 23 of
22 the Federal Rules of Civil Procedure and due process, are the best notice practicable under the
23 circumstances, and shall constitute due and sufficient notice to all Persons entitled thereto.

24 4. Class Counsel are hereby authorized to retain the firm of Strategic Claims Services
25 (“Settlement Administrator”) to supervise and administer the notice procedure, file tax reports, and
26 process claims as more fully set forth in Section 6 of the Stipulation below:

27 (a) Within twenty-one (21) business days after the date of this Order, the Settlement
28 Administrator shall launch the settlement website available to the public with the Stipulation, the
Class Notice (and, as soon as practicable, a translation of the Class Notice in Spanish), the

1 Application Form, and any other publicly filed documents Class Counsel and Defendants shall
2 deem appropriate and shall provide for and staff the toll free number for Class Members to call
3 with questions about the settlement;

4 (b) Within twenty-one (21) business days after the date of this Order, the Settlement
5 Administrator shall cause a copy of the Notice substantially in the form annexed as Exhibit A-1
6 hereto, to be mailed by first class mail to all Class Members identified by the Pension Fund and
7 shall make reasonable attempts to find new addresses for Class Members whose Notice packages
8 are returned as undeliverable;

9 (c) Within thirty (30) business days after the date of this Order, the Settlement
10 Administrator shall cause the Publication Notice annexed as Exhibit A-3 hereto to be published
11 once in USA Today; and

12 (d) At least seven (7) calendar days before the Fairness Hearing, Class Counsel shall serve
13 on Defendants' counsel and file with the Court proof, by affidavit or declaration, of the mailing
14 and publishing of the notices required herein.

15 5. Each Class Member who wishes to participate in the payments provided by the
16 Settlement shall complete and submit the Application Form in accordance with the instructions
17 contained therein, except for Class Members In Pay Status who will be automatically eligible to
18 receive a Settlement Award provided that they have Payment Period Benefits greater than zero and
19 that they comply with the legal conditions applicable to lump-sum distributions from a qualified
20 pension plan. Unless the Court orders otherwise, all Application Forms must be postmarked or e-
21 mailed to the Settlement Administrator no later than ninety (90) days after the mailing of Class
22 Notice.

23 6. Any Class Member may enter an appearance in the Action, at his or her own
24 expense, individually or through counsel of his or her own choice. In the absence of such an
25 appearance, Class Members will be represented by Class Counsel.

26 7. All proceedings in this Action are stayed until further order of the Court, except as
27 may be necessary to implement the Settlement or comply with the terms of the Stipulation.
28 Pending final determination of whether the Settlement should be approved, neither the Plaintiffs,
nor any Class Member, either directly, representatively or in any other capacity, shall commence

1 or prosecute against any of the Released Persons, any action or proceeding in any court or tribunal
2 asserting any of the Released Claims.

3 8. Any Class Member may appear and show cause, if he, she or it has any reason why
4 the Stipulation and Settlement (and the releases contained therein) should or should not be
5 approved or a judgment entered thereon; why the proposed Claims Procedure should or should not
6 be adopted or why attorney's fees and the reimbursement of expenses should or should not be
7 awarded to Class Counsel. Written objections, papers and briefs must be sent to the Office of the
8 Clerk of this Court postmarked by no later than twenty-eight (28) days prior to the Fairness
9 Hearing.

10 9. At or after the Fairness Hearing, the Court shall determine whether any application
11 for attorneys' fees or reimbursement of expenses shall be approved.

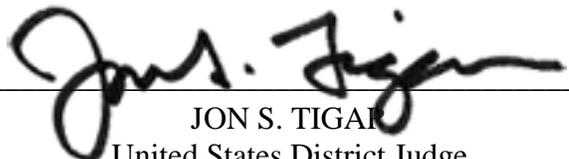
12 10. All reasonable costs incurred in identifying and notifying class members, as well as
13 in administering the Settlement, shall be paid as set forth in the Stipulation. In the event the
14 Settlement is not approved by the Court or otherwise fails to become effective, neither Class
15 Plaintiffs nor any of their counsel shall have any obligation to repay to Defendants the reasonable
16 and actual costs of class notice and of administration

17 11. The Court retains jurisdiction to consider all further applications arising out of or
18 connected with the proposed Settlement. The Court may approve the Settlement, with such
19 modifications as may be agreed to by the Settling Parties, if appropriate, without further notice to
20 the Class.

21 12. Papers in support of the Settlement and Class Counsel's application, if any, for
22 attorneys' fees, payment of expenses, and compensation for Class Plaintiffs shall be submitted at
23 least fifty-six (56) days before the Fairness Hearing.

24 IT IS SO ORDERED.

25 Dated: April 12, 2017

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27 _____
28 JON S. TIGAI
United States District Judge