

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

Case No. 1:10-cv-23235/HOEVELER

DAVID KARDONICK, individually and on behalf
of all others similarly situated and the general public,

Plaintiff,

v.

JPMORGAN CHASE & CO. and CHASE BANK
USA, N.A.

Defendants.

**DECLARATION OF RONALD A. BERTINO, C.P.A. IN SUPPORT
OF MOTION FOR DISTRIBUTION OF CLASS SETTLEMENT FUNDS**

I, Ronald A. Bertino, C.P.A., hereby declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am a partner of the Certified Public Accounting firm of Heffler, Radetich & Saitta L.L.P. (“HR&S” or the “Claims Administrator”), the offices of which are at Suite 1700, 1515 Market Street, Philadelphia, Pennsylvania 19102. Lead Counsel for the Class retained HR&S to act as the claims administrator herein, and among other duties: (a) to mail settlement notices (and proof of claim forms, if requested) to Class Members; (b) to cause the publication of summary notice; (c) to process all claims submitted by claimants in this action; and (d) to distribute the Net Settlement Fund to authorized claimants. I make this declaration in support of

Lead Counsel for the Class' application for an Order: (a) approving the administrative actions taken by HR&S in accepting and rejecting the claims submitted by claimants herein; (b) requesting approval of payment to HR&S of its fees and expenses in connection with the services performed and to be performed in giving notice to the Class, in the processing the proofs of claim, and the administration and distribution of the Settlement Fund; and (c) directing distribution of the Net Settlement Fund to eligible claimants whose claims have been deemed payable.

PROCEDURES FOLLOWED IN ACCEPTING AND REJECTING CLAIMS

2. Under the terms of the Settlement Agreement, Class Members were required to submit a proof of claim form in order to obtain their share of the Net Settlement Fund.

3. The following are definitions of the terms used herein:

- "Charged-Off Amount" is the amount shown in Chase's records as due and owing to Chase (and not a third party) on a Charged-Off Account.
- A "Payable Claim" is a claim that was timely submitted, is not deficient, and is being recommended for payment.
- A "Non-Payable Claim" is a claim that was not submitted timely, has a fatal deficiency that has not been cured by the Claimant, is duplicative of another claim, or was withdrawn by the claimant, and is being recommended for rejection.

4. Class Members were given the option of filing a claim electronically through the case's website, *www.KardonickSettlement.com*, or by paper through the mail or facsimile. The Claimant had to have a Chase credit card account that was enrolled in a Payment Protection

Product at some point between September 1, 2004 and November 11, 2010. The procedures followed by HR&S in processing the paper claims was to receive all correspondence and claims submitted in this matter as delivered to our office or to the case mailing address. Envelopes received from either source were opened and sorted into correspondence (such as requests for claim forms) and actual proof of claim forms. The correspondence received was reviewed and appropriate responses provided. The claim forms were opened and the claim form was assigned a claim number. The information from each claim form, including the name and address of the claimant, their date of birth and the claimant's response to the Items 2, 3 and 4 on the claim form (Item 2 - the mailing label number, the last four digits of their Social Security Number and/or the last four digits of any Chase credit card account that was enrolled in a Payment Protection Product; Item 3 - response to a question on bankruptcy status; and Item 4 - response to the situation applicable to claimant and their enrollment in the Chase Product) was entered into our claims database. Claims filed electronically were completed by the claimant and loaded directly into our claims database.

5. HR&S received a total of 235,629 proofs of claim through October 31, 2012 that were associated with 260,389 accounts. Of these, 234,444 proofs of claim were filed on or prior to the extended claims filing deadline of September 9, 2011, pursuant to ¶23 of this Court's "Final Judgment and Order of Dismissal" dated September 16, 2011 (Document 384) approving the extension. A total of 1,185 proofs of claim were filed after the extended claims filing deadline of September 9, 2011.

6. HR&S established internal codes to identify and classify types of deficiencies and conditions that existed within the claims. Where a timely-filed claim lacked the required filing

information or was otherwise deficient or incomplete, in whole or in part, or where the claimant could not be matched to the account data supplied by Chase, a rejection letter was sent advising the claimant of the deficiency and requesting the submission of appropriate information or documentary evidence to cure the defect. A total of 8,473 rejection letters were mailed. Copies of sample rejection letters are attached hereto as Exhibit A.

7. When a rejection letter was sent, each claimant was notified that unless the deficiency was corrected within thirty (30) days, the claim would be entirely rejected. Documentation and information received in response to these letters was carefully reviewed and evaluated. If the response cleared the deficiency, the database was updated to reflect that change in the claim. A total of 1,445 corrections or responses were received that cured deficiencies and 7,028 claims were rejected for no proper response being received from the claimant.

8. Of the 235,629 total persons or entities who have submitted claims herein, a total of 217,023 are deemed Payable Claims. The Plan of Administration and Distribution calls for the valid claims to be segregated into three categories, and the Notice and Claim Form package provided an explanation for each category: "Category 1" are Settlement Class Members who have made a claim for payment protection benefits and have had their claim denied; "Category 2" are Settlement Class Members who: (a) claim they have been billed for or enrolled in a Chase Payment Protection Product without their knowledge or consent; and/or (b) fall under one of the following Cardmember Agreement exclusions: (i) Self-Employment, (ii) Retirement, (iii) Seasonal employment, (iv) Employment less than 30 hours per week (less than 15 hours for students) or (v) Voluntary forfeiture of job (resignation); and "Category 3" are Settlement Class Members who submitted a valid claim form but who do not fall into Categories 1 or 2 above and

who are not completely satisfied with the Chase Payment Protection Product(s) in which they were enrolled. The allocation of the Payable Claims is:

	<u>Claims</u>	<u>Accounts</u>
Category 1	11,008	12,929
Category 2	74,741	83,540
Category 3	<u>131,274</u>	<u>150,812</u>
<u>Totals:</u>	<u>217,023</u>	<u>247,281</u>

9. A total of 18,606 claimants have been rejected and are identified and maintained in our database as Non-Payable. The allocation of Non-Payable Claims is:

	<u>Claims</u>
Fatally Deficient Claims ¹	7,028
Previously Requested Exclusion	8
Withdrawn by Claimant	8
Duplicative	10,377
Late-Filed	<u>1,185</u>
<u>Total</u>	<u>18,606</u>

10. HR&S has spent the time necessary to perform a thorough job of processing the claims and to protect the interests of each Class Member submitting a claim. No claims were rejected out-of-hand, and adequate time was spent communicating with claimants and suggesting appropriate ways they could complete or document their claims and participate in the settlement. HR&S handled telephone calls and letters from claimants courteously, and assisted Class

¹ Includes those whose account or group number(s) are invalid, missing and/or unmatched.

Members to the fullest extent possible. The professional attitude and work product of HR&S was, I believe, of the highest quality.

11. It is respectfully requested that the Court enter an Order approving the above determinations accepting and rejecting the claims submitted herein.

12. Unless otherwise directed, HR&S will continue to receive, review and process any correspondence or information submitted by claimants with respect to their already-filed, timely Proofs of Claim. Should we receive adjustments to Proofs of Claim prior to distribution of the Net Settlement Fund, we will update our claims database with the new information. HR&S will then report the updated totals to Plaintiffs' Counsel immediately prior to distribution.

DISTRIBUTION

13. Submitted herewith is the Settlement Fund Analysis, Exhibit B. This document illustrates the activity in the Settlement Fund, which as of October 31, 2012 had a value of \$12,077,694.87, and, assuming the Court approves HR&S's invoice, would have a value of \$11,853,347.99 ("the Net Settlement Fund") available for distribution to Payable Claims.

14. The settlement consideration is either in the form of a cash distribution or as a Charge-Off (or a credit) against any unpaid balance owed by the claimant to Chase. The amounts applied to Charged-Off accounts are not deducted from the Settlement Fund total amount available for distribution². The initial calculation allocated the Net Settlement Funds to all Payable Claims' accounts based on the formula described in the Exhibit I of the Stipulation. All Category 1 accounts have a multiplier of 4, all Category 2 accounts have a multiplier of 2 and all Category 3 accounts have a multiplier of 1. The resulting product of all the accounts will

² This allocation is explained on page 25 of the Stipulation and Agreement of Class Action Settlement at Section IX.D. and Exhibit I to the Stipulation (Documents 16 and 16.9 dated 12/21/2010).

be used to allocate the Net Settlement Fund³. Once the initial calculation was completed, the valid accounts were compared to the accounts containing a Charged-Off amount received from Chase to determine if any Payable Claims accounts contain a Charged-Off amount. HR&S has prepared a "Charged-Off List" of any claimant that had a Payable Claim with an account(s) containing a Charged-Off amount. This Charged-Off List was submitted to Chase on or about September 28, 2012.

15. The next and final calculations included: (a) all Payable Claims' accounts that were not included on the Charged-Off List; and (b) any Payable Claims' accounts included in the Charged-Off List where the Creditable Amount calculated in ¶14, above, exceeds the Charged-Off balance. The claims in (b), above, are considered payable only for the amount ("the Payable Amount") that their Creditable Amount exceeds the Charged-Off amount (*i.e.*, Chase will reduce their Charged-Off balance to zero, and their Creditable Amount has been reduced by the Charged-Off amount). The Net Settlement Fund balance was allocated to these claims on a *pro-rata* basis based on each account's Payable Amount to determine the cash distribution amount. These 217,023 Payable Claims are identified and maintained in our database as described above.

16. The original proposal submitted for the administration stated that postcard checks would be used for the distribution. Calculation of the distribution notes that a number of checks will exceed \$50.00. For security and internal and bank processing reasons, it is recommended that the distribution format be revised so any check greater than \$50.00 and/or mailed to a foreign address be on a conventional size check, and any domestically-mailed check of \$50.00 or less be issued on a postcard check. If approved, the breakdown of the distribution would be:

³ A detailed explanation of this calculation is included in Exhibit I of the Stipulation.

	Number of <u>Claims</u>	Number of <u>Checks</u>	Net Settlement Fund <u>Amount</u>
Completely Charged-Off	27,676	0	\$ 0.00
Greater than \$50.00 and/or Foreign	84,345	84,345	7,884,990.00
\$50.00 or less, Domestic	<u>105,002</u>	<u>105,002</u>	<u>3,968,355.86</u>
<u>Totals:</u>	<u>217,023</u>	<u>189,347</u>	<u>\$11,853,345.86⁴</u>

FEES AND DISBURSEMENTS

17. HR&S, under the direction of Lead Counsel for the Class, was hired to mail copies of the Class notice and proof of claim forms to Class Members, to cause the publication of summary notice to the Class, to process all claims submitted by Class Members in these actions, and to distribute the Net Settlement Fund to authorized claimants. The total fees and expenses incurred by HR&S and to be incurred through one distribution and all post-distribution services is \$4,569,307.97 (of which a total of \$3,361,316.05 is for postage). This includes all costs incurred to mail the Notice, Claim Forms and the conventional and postcard checks. To date, \$4,344,961.09 of this amount has been paid. Attached as Exhibit C is a copy of HR&S's final bill, showing a balance due of \$224,346.88 (of which a total of \$87,635.11 is for postage).

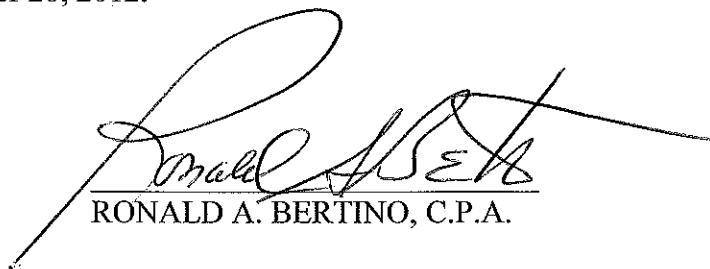
CONCLUSION

18. For the foregoing reasons, it is respectfully requested that this Court enter an Order: (1) approving HR&S's administrative determinations accepting and rejecting claims as herein set forth; (2) approving HR&S's fees and expenses as herein set forth; and (3) authorizing

⁴ This total check amount is \$2.13 less than the estimated Net Settlement Fund as of October 31, 2012 (Exhibit B) due to computer rounding of check amounts.

distribution of the Net Settlement Fund to the authorized claimants.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on November 28, 2012.



RONALD A. BERTINO, C.P.A.