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14 **UNITED STATES DISTRICT COURT**
15 **DISTRICT OF NEVADA**

16 SONORO INVEST S.A., a Panamanian
corporation,

17 Plaintiff,

18 v.

19 ROBERT MILLER, an individual; ANDREW
20 SHERMAN, an individual; COSTAS TAKKAS, an
individual; and STEPHEN GOSS, an individual,

21 Defendants,

22 and

23 ABAKAN, INC., a Nevada corporation,

24 Nominal Defendant.
25

Case No. 2:15-cv-2286

ORDER
PRELIMINARILY APPROVING
SETTLEMENT AND PROVIDING FOR
NOTICE

ECF No. 148

26 WHEREAS, Plaintiff in the above-captioned shareholder derivative action has made an
27 unopposed application pursuant to Fed.R.Civ.P. 23.1(c) for an order: (i) preliminarily approving a
28 settlement of this action in accordance with the Settlement Agreement dated August 10, 2017, which

1 sets forth the terms and conditions for the proposed settlement and dismissal of this action with
2 prejudice, and (ii) approving the form and content of the Notice to be sent to current Abakan
3 shareholders directly via first-class mail;

4 WHEREAS, all capitalized terms contained herein shall have the same meanings as set forth
5 in the Settlement Agreement (in addition to the capitalized terms therein); and

6 WHEREAS, the Court has reviewed and considered the Settlement Agreement;

7 NOW, THEREFORE, IT IS HEREBY ORDERED:

8 1. The Court does hereby preliminarily approve, subject to further consideration at the
9 Settlement Hearing described below, the Settlement Agreement annexed as Exhibit A to Plaintiff's
10 unopposed motion, including the terms and conditions for the settlement and dismissal with prejudice
11 of this action.

12 2. A hearing ("Settlement Hearing") shall be held before this Court on
13 Dec. 14, 2017, at 9 a.m. to determine: (i) whether the terms and conditions of
14 the Settlement Agreement are fair, reasonable, and adequate to current Abakan shareholders,
15 (ii) whether a final order and judgment approving the Settlement Agreement should be entered, and
16 (iii) whether the reimbursement of the requested attorneys' fees and costs to Plaintiff's counsel
17 should be finally approved.

18 3. The Court approves, as to form and content, the Notice annexed as Exhibit B to
19 Plaintiff's unopposed motion, and finds that the distribution of such notice substantially in the form
20 set forth in this Order meets the requirements of Fed.R.Civ.P. 23.1 and due process, and is the best
21 notice practicable under the circumstances and shall constitute due and sufficient notice to all persons
22 entitled thereto.

23 4. Within ten (10) days of the Court's entry of this Order, Abakan shall cause the Notice
24 to be sent to current Abakan shareholders directly via first-class mail, the cost of which shall be
25 borne by Abakan's insurance carrier.

26 5. All papers in support of final approval of the settlement shall be filed with the Court at
27 least thirty (30) days prior to the Settlement Hearing, and any reply papers shall be filed with the
28 Court at least seven (7) days prior to the Settlement Hearing.

1 6. Any current Abakan shareholder may object and/or appear and show cause, if such
2 shareholder has any concern why the proposed settlement should not be approved as fair, reasonable,
3 and adequate, or why a final order and judgment should not be entered thereon, or why the
4 reimbursement of the requested attorneys' fees and costs to Plaintiff's counsel should not be finally
5 approved; provided, however, unless otherwise ordered by the Court, no current Abakan shareholder
6 shall be heard or entitled to contest the approval of the terms and conditions of the settlement, or if
7 approved, a final order and judgment to be entered thereon approving the same, or the fee award,
8 unless that shareholder has, at least fourteen (14) days prior to the Settlement Hearing: (i) filed with
9 the Clerk of Court a written objection to the settlement setting forth (a) the nature of the objection,
10 (b) proof of ownership of Abakan stock through the date of the Settlement Hearing, including the
11 number of Abakan shares and the date of purchase, (c) any documentation in support of such
12 objection, and (ii) if a current Abakan shareholder intends to appear and requests to be heard at the
13 Settlement Hearing, such shareholder must have, in addition to the foregoing requirements, filed with
14 the Clerk of Court (a) a written notice of such shareholder's intention to appear, (b) a statement that
15 indicates the basis for such appearance, and (c) the identities of any witnesses the shareholder intends
16 to call at the Settlement Hearing and a statement as to the subjects of their testimony. If a current
17 Abakan shareholder files a written objection and/or written notice of intent to appear, such
18 shareholder must also simultaneously serve copies of such notice, proof, statement, and
19 documentation, together with copies of any other papers or briefs such shareholder files with the
20 Court, either by hand delivery or first class mail on each of the following counsel of record:

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19 *Attorneys for Defendant Stephen Goss*

20 Any current Abakan shareholder who does not make their objection in the manner provided
21 herein shall be deemed to have waived such objection and shall forever be foreclosed from making
22 any objection to the fairness, reasonableness, or adequacy of the settlement as incorporated in the
23 Settlement Agreement, unless otherwise ordered by the Court, and shall otherwise be bound by the
24 final order and judgment to be entered and the releases to be given.

25 7. All current Abakan shareholders shall be bound by all orders, determinations, and
26 judgments in the action concerning the settlement.

27 8. The Court reserves the right to adjourn the date of the Settlement Hearing or modify
28 any other dates set forth herein without further notice to current Abakan shareholders, and retains
jurisdiction to consider all further applications arising out of or in connection with the settlement.
The Court may approve the settlement and any of its terms, with such modifications as may be
agreed to by the Parties, if appropriate, without further notice to current Abakan shareholders.

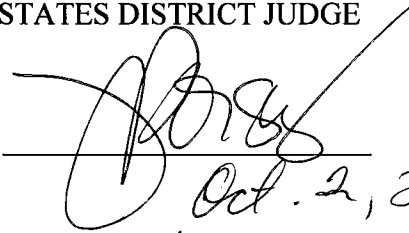
9. In accordance with the prior Order on Stipulation (ECF No. 147), the Court hereby
extends the stay of this action, including all deadlines and discovery, until such time as the Court

1 enters an order on Plaintiff's motion for final approval of the settlement. In the event the Court
2 denies Plaintiff's motion for final approval of the settlement, the parties will jointly seek the entry of
3 a new scheduling order, if necessary.

4
5 IT IS SO ORDERED:

6 UNITED STATES DISTRICT JUDGE

7
8 DATED: _____


Oct. 2, 2017.