

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re COINSTAR, INC., SHAREHOLDER
DERIVATIVE LITIGATION

Lead Case No. 2:11-cv-00133-MJP
ORDER AND FINAL JUDGMENT

This Document Relates To:

ALL ACTIONS.

ORDER AND FINAL JUDGMENT

1 This matter comes before the Court on the parties' motion for final approval of derivative
2 settlement. Dkt. #160. Having reviewed the memoranda, all documents, evidence, the record
3 herein, and oral argument, the Court enters this Order and Final Judgment.

4 IT IS ORDERED, ADJUDGED, AND DECREED that:

5 1. This Judgment incorporates by reference the definitions in the Stipulation, and all
6 capitalized terms used herein shall have the same meanings as set forth in the Stipulation.

7 2. This Court has jurisdiction over the subject matter of the Federal Action, including all
8 matters necessary to effectuate the Settlement, and over all Settling Parties.

9 3. The Court finds that the notice provided to Coinstar shareholders constituted the best
10 notice practicable under the circumstances. The notice fully satisfied the requirements of Federal
11 Rule of Civil Procedure 23.1 and the requirements of due process.

12 4. The Court finds that, during the course of the litigation of the Actions, the Settling
13 Parties and their respective counsel at all times complied with the requirements of Federal Rule of
14 Civil Procedure 11 and all other similar laws.

15 5. The Court finds that the terms of the Stipulation and Settlement are fair, reasonable,
16 and adequate as to each of the Settling Parties, and finally approves the Stipulation and Settlement in
17 all respects, and orders the Settling Parties to perform its terms to the extent the Settling Parties have
18 not already done so.

19 6. The Court finds that the Fee Award of \$750,000 is fair and reasonable, and approves
20 the Fee Award. The Fee Award shall be paid in accordance with the Stipulation, particularly
21 paragraph 5.1 thereof.

22 7. The claims against the Individual Defendants, as well as all of the Released Claims
23 against each of the Individual Defendants and their Related Persons, are dismissed with prejudice.
24 The Settling Parties shall bear their own costs, except as otherwise provided in the Stipulation.

25 8. Upon the Effective Date, as defined in the Stipulation, Coinstar, Plaintiffs (acting on
26 their own behalf and derivatively on behalf of Coinstar), and each of Coinstar's shareholders (solely

1 in their capacity as Coinstar shareholders) shall be deemed to have, and by operation of this
2 Judgment shall have, fully, finally, and forever released, relinquished, and discharged the Released
3 Claims against the Released Persons and any and all claims (including Unknown Claims) arising out
4 of, relating to, or in connection with, the defense, settlement or resolution of the Actions against the
5 Released Persons, provided that nothing herein shall in any way impair or restrict the rights of any
6 Settling Party to enforce the terms of the Stipulation or this Judgment.

7 9. Upon the Effective Date, as defined in the Stipulation, Coinstar, Plaintiffs (acting on
8 their own behalf and derivatively on behalf of Coinstar), and each of Coinstar's shareholders (solely
9 in their capacity as Coinstar shareholders) will be forever barred and enjoined from commencing,
10 instituting or prosecuting any of the Released Claims or any action or other proceeding against any
11 of the Released Persons based on the Released Claims or any action or proceeding, arising out of,
12 related to, or in connection with, the settlement or resolution of the Actions, provided that nothing
13 herein shall in any way impair or restrict the rights of any Settling Party to enforce the terms of the
14 Stipulation or this Judgment.

15 10. Upon the Effective Date, as defined in the Stipulation, each of the Released Persons
16 shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever
17 released, relinquished, and discharged each and all of the Plaintiffs, Plaintiffs' Counsel, Coinstar,
18 and all of the Coinstar shareholders (solely in their capacity as Coinstar shareholders) from all claims
19 (including Unknown Claims) arising out of, relating to, or in connection with, the institution,
20 prosecution, assertion, settlement or resolution of the Actions or the Released Claims. Nothing
21 herein shall in any way impair or restrict the rights of any Settling Party to enforce the terms of the
22 Stipulation or this Judgment.

23 11. Neither the Stipulation nor the Settlement, nor any act performed or document
24 executed pursuant to or in furtherance of the Stipulation or the Settlement: (a) is or may be deemed
25 to be, or may be offered, attempted to be offered or used in any way by the Settling Parties or any
26 other Person as a presumption, a concession or an admission of, or evidence of, any fault,

1 wrongdoing or liability of the Settling Parties or of the validity of any Released Claims; or (b) is
2 intended by the Settling Parties to be offered or received as evidence or used by any other person in
3 any other actions or proceedings, whether civil, criminal or administrative. The Released Persons
4 may file the Stipulation and/or this Judgment in any action that may be brought against them in order
5 to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, full faith
6 and credit, release, standing, good faith settlement, judgment bar or reduction or any other theory of
7 claim preclusion or issue preclusion or similar defense or counterclaim, and any of the Settling
8 Parties may file the Stipulation and documents executed pursuant and in furtherance thereto in any
9 action to enforce the Settlement.


10 12. Without affecting the finality of this Judgment in any way, this Court retains
11 continuing jurisdiction with respect to implementation and enforcement of the terms of the
12 Stipulation.

13 13. In the event that the Settlement does not become effective in accordance with the
14 terms of the Stipulation, this Order and Final Judgment shall be vacated, and all Orders entered and
15 releases delivered in connection with the Stipulation and this Order and Final Judgment shall be null
16 and void, except as otherwise provided for in the Stipulation.

17 14. This Judgment is a final, appealable judgment and should be entered forthwith by the
18 Clerk in accordance with Rule 58, Federal Rules of Civil Procedure.

19 IT IS SO ORDERED.

20 Dated this 9 day of November, 2012


THE HONORABLE MARSHA J. PECHMAN
UNITED STATES DISTRICT JUDGE

1 Presented by:

2 ROBBINS GELLER RUDMAN
3 & DOWD LLP
4 DARREN J. ROBBINS
5 TRAVIS E. DOWNS III
6 BENNY C. GOODMAN III

7
8 s/ Travis E. Downs III
9 TRAVIS E. DOWNS III

10 655 West Broadway, Suite 1900
11 San Diego, CA 92101
12 Telephone: 619/231-1058
13 619/231-7423 (fax)
14 Email: darrenr@rgrdlaw.com
15 Email: travisd@rgrdlaw.com
16 Email: bennvg@rgrdlaw.com

17 ROBBINS GELLER RUDMAN
18 & DOWD LLP
19 MATTHEW S. MELAMED
20 Post Montgomery Center
21 One Montgomery Street, Suite 1800
22 San Francisco, CA 94104
23 Telephone: 415/288-4545
24 415/288-4534 (fax)
25 Email: mmelamed@rgrdlaw.com

26 Lead Counsel for Plaintiffs

27 LAW OFFICES OF TAMARA J. DRISCOLL
28 TAMARA J. DRISCOLL (WSBA #29212)
29 321 North 80th Street
30 Seattle, WA 98103
31 Telephone: 206/724-5362
32 Email: tamaradriscoll@alumni.nd.edu

33 Liaison Counsel

34 JACOBS & SLAWSKY, P.A.
35 NORMAN J. SLAWSKY
36 3516 Covington Highway
37 Decatur, GA 30032
38 Telephone: 404/299-1211
39 404/299-1288 (fax)
40 Email: nslawskv@gmail.com

1 TERRELL MARSHALL DAUDT
2 & WILLIE PLLC
3 BETH E. TERRELL (WSBA #26759)
4 JENNIFER RUST MURRAY (WSBA
5 #36983)
6 936 North 34th Street, Suite 400
7 Seattle, WA 98103
8 Email: bterrell@tmdwlaw.com
9 Email: imurray@tmdwlaw.com

10 SCHUBERT JONCKHEER & KOLBE LLP
11 ROBERT C. SCHUBERT
12 WILLEM F. JONCKHEER
13 DUSTIN L. SCHUBERT
14 Three Embarcadero Center, Suite 1650
15 San Francisco, CA 94111
16 Telephone: 415/788-4220
17 415/788-0161 (fax)
18 Email: rschubert@schubertlawfirm.com
19 Email: wjonckheer@schubertlawfirm.com
20 Email: dschubert@schubertlawfirm.com

21 Additional Counsel for Plaintiffs
22
23
24
25
26