

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

BRIAN P. CARNEY and WILLIAM C.
GUMPPER, JR., on behalf of themselves
and all others similarly situated,

Plaintiffs,

-vs-

RUSSELL P. GOLDMAN, P.C. and
JOHN DOES 1-25,

Defendant.

Civil Case No.: 3:15-cv-00260 (DEA)

FINAL APPROVAL ORDER OF THE CLASS ACTION SETTLEMENT

This matter came for hearing on December 17, 2018, upon the joint application (the "Motion") of Brian P. Carney and William C. Gumper, Jr., ("Plaintiffs"), and a class of persons similarly situated (collectively "Plaintiffs' or "Settlement Class Members"), and Russell P. Goldman, P.C. ("GOLDMAN"), for approval of the Class Action Settlement Agreement, dated August 27, 2018 (the "Agreement"). Due and adequate notice having been given to the Class, and the Court having considered the Agreement, all papers filed and proceedings had herein and all oral and written comments received regarding the proposed settlement, and having reviewed the record in this Litigation, and good cause appearing:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. On this Court preliminarily approved the Class Settlement Agreement reached between Plaintiff and Defendants for the claims alleged in the above-captioned matter *Brian P. Carney, et al v. Russell P. Goldman, P.C.*, D.N.J. Case No.: 3:15-cv-00260 (DEA) filed in the United States District Court for the District of New Jersey. The Court approved a form notice for

mailing to the class. The Court is informed that actual notice was sent by first-class mail to 437 individuals who are deemed Settlement Class Members. A total of 60 envelopes were returned by the United States Postal Service marked not deliverable with no forwarding addresses available, and 5 envelopes were returned and re-mailed to a forwarding address. 1 class member submitted a timely request for exclusion and Zero class member(s) requested exclusion after the deadline of December 3, 2018. Zero class member(s) sent a letter that is ambiguous. The Court has found that 436 class members opted into the Settlement, 1 class members excluded themselves from the Settlement, and Zero members objected to the Settlement.

2. The Court, for purposes of this Final Order of Dismissal (the "Final Order"), adopts all defined terms as set forth in the Class Settlement Agreement.

3. The Court has jurisdiction over the subject matter of the Litigation, the Plaintiff and Class Representative, the other Class Settlement Members, and the Defendant.

4. The Court finds that the distribution of the Notice of Class Action Settlement as provided for in the Preliminary Approval Order constituted the best notice practicable under the circumstances to all Persons within the definition of the Classes, and fully met the requirements of New Jersey law and due process under the United States Constitution.

5. The Court approves the settlement of the above-captioned action, as set forth in the Agreement, the release, and other terms, as fair, just, reasonable, and adequate as to the Parties. The Parties are directed to perform in accordance with the terms set forth in the Agreement.

6. Except as to any individual claim of class members who have requested exclusion from the Class, all of the Released Claims are dismissed without prejudice as to the Plaintiff and Class Representative and the other Members of the Class, and as against the Released Parties. The Parties are to bear their own costs, except as otherwise provided in the Agreement.

7. For purposes of settlement the parties stipulate to the following class:

All New Jersey Consumers who were sent notices or letters from [Goldman] prior to [Goldman] obtaining a judgment, against the such consumer, during the period between January 13, 2014 and March 20, 2017, concerning a debt allegedly owed to New Jersey Higher Education Student Assistance Authority, which stated in part:

“There remains due a balance as show above, which includes interest and collection costs.”

The parties represent that there are a total of approximately 436 members of the Class.

8. The Court finds that the stipulated class meets the requirements of Rule 23.

Specifically, the Court finds that:

(a) The class is so numerous that joinder is impracticable.

(b) There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members.

(c) Plaintiff's claims are typical of the claims of the class members.

(d) Plaintiff and class counsel have fairly and adequately represented the interests of the class members.

(e) A class action is superior to other alternative methods of adjudicating the issues in dispute between the parties.

9. Excluded from the Settlement Class is 1 Class members, who timely and validly requested exclusion.

10. Defendant will maintain a list of class members who are subject to the Release.

11. Each Class Member not opting out as of the Effective Date does hereby release and forever discharge the Defendant, and its Related Parties (hereinafter, "the Released Parties") from all causes of action, suits, claims, and demands, whatsoever, known or unknown, in law or

in equity, which the Class now has, ever had, or hereafter may have against the released parties, for any violations of the FDCPA arising out of the claims alleged on behalf of the Class in the Complaint. This Agreement does not address the validity of the debts allegedly owed by the Class Members. Plaintiffs and the Class Members do not release their right to dispute any alleged debt or any part of an alleged debt unrelated to the collection letters at issue. This release is conditioned on the final approval of the Agreement by the Court and Defendant meeting its obligations therein.

12. Plaintiffs, their assigns, heirs, successors, agents, attorneys and personal representatives do hereby release and forever discharge the Released Parties of and from all causes of action, suits, claims and demands, whatsoever, known or unknown, in law or in equity arising from the facts alleged in the Complaint. This release is conditioned on the final approval of the Agreement by the Court and Defendant meeting its obligations therein.

13. Plaintiffs and the Class Members do not waive or release any defenses available to them, if any, in defense of any underlying debt collection litigation brought by or on behalf of New Jersey Higher Education Student Assistance Authority.

14. Subject to Court approval, for their actual and statutory damages and for their service as class representatives, Brain P. Carney and William C. Gumper, Jr., will each receive Two Thousand Dollars (\$2,000.00) as a monetary incentive award within 10 days after the Effective Date.

15. Within 10 days of the Effective Date, Defendant shall pay the sum of \$10,925.00 to the Class Administrator to be distribute a check in the amount of \$25.00, to those Settlement Class Members who do not exclude themselves form the Class Settlement.

16. Neither the Agreement nor the settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Agreement or the

settlement:

a. is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Released Parties; or

b. is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Parties in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. The Agreement and/or the Final Order from this Litigation may be used in any other action in order to support a defense or counterclaim based on the existence of the Agreement, such as *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or the like.

17. The Court dismisses the claims of Plaintiffs and the Class against Defendant without prejudice and without costs.

18. Within ten (10) days after the Effective Date, Defendants shall make all payments required by the Agreement.

19. Within thirty (30) days of the Effective Date, the Class Administrator shall issue the checks and deliver them to claimants.

20. If any Settlement Class Member fails to cash a settlement check within ninety (90) days of mailing ("Void Date"), the check will be void, Defendants shall be released from any related obligation to the Settlement Class Member, and the Settlement Class Member's right to receive benefits in the Action and pursuant to the Settlement shall be deemed forfeited.

21. The Court designates the National Consumer Law Center as the *cy pres* recipient. Class Counsel shall issue the *cy pres* award to the National Consumer Law Center within 30 days of the Void Date.

22. When all of the following have been completed: (i) payments to Plaintiffs and the Class, (ii) the expiration of fifty (50) days after the Void Date, (iii) payment of attorney's fees, and (iv) payment of the *cy pres* award, the Class Administrator shall file a "Notice of


Compliance" that Class Counsel has complied with the Terms of the Agreement and all Class members who are entitled to receive checks have been issued checks, and any money remaining in the Class Settlement Fund has been donated to the *cy pres* recipient, National Consumer Law Center. The Notice of Compliance will request that the Court convert the dismissal of the claims of Plaintiff and the Class against Defendants and the Released Parties in this Order to a dismissal with prejudice.

23. The Court has reviewed Class Counsel's petition for attorneys' fees and costs of \$85,075.00. The Court finds that Class Counsel's petition is fair and reasonable. Defendants shall pay \$85,075.00 to Class Counsel in accordance with the Agreement. Payment shall be made within ten (10) days of the Effective Date.

24. The Court reserves exclusive and continuing jurisdiction over the Litigation, the Plaintiff and the Class Representatives, the Class and the Released Parties for the purpose of: supervising the implementation, enforcement, construction, administration and interpretation of the Agreement and this Final Order and Judgment.

25. This case is hereby terminated. This is a final decision for purposes of 28 USC Section 1291.

SO ORDERED this 17th day of December, 2018.



Honorable, Douglas E. Arpert,
U.S.M.J.

- terminates ECF No. 83