

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION**

DAN KOHL, *et al.*,

Plaintiff,

v.

LOMA NEGRA COMPANIA INDUSTRIAL
ARGENTINA SOCIEDAD ANONIMA, LOMA
NEGRA HOLDING GMBH, SERGIO FAIFMAN,
MARCO GRADIN, RICARDO FONSECA DE
MENDONÇA LIMA, LUIZ AUGUSTO KLECZ,
PAULO DINIZ, CARLOS BOERO HUGHES,
DIANA MONDINO, SERGIO DANIEL ALONSO,
BRADESCO SECURITIES INC., CITIGROUP
GLOBAL MARKETS INC., HSBC SECURITIES
(USA) INC., ITAU BBA USA SECURITIES, INC.,
MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED AND MORGAN STANLEY &
CO. LLC,

Defendants.

Index No. 653114/2018
Part 53

Hon. Andrew Borrok

Motion Sequence No. 008.

~~PROPOSED~~ CLASS SETTLEMENT DISTRIBUTION ORDER

Plaintiff and Court-appointed Class Representative Dan Kohl (“Plaintiff”), having filed an Unopposed Motion for Entry of Class Settlement Distribution Order, this Court, having considered all the papers filed in connection therewith, and based upon all other prior proceedings had herein, and good cause appearing:

IT IS HEREBY ORDERED¹ that:

1. The proposed final Distribution Plan recommended by the Court-appointed claims administration firm in this matter, A.B. Data, Ltd. (“A.B. Data”), as set forth at ¶43 of the Affirmation of Ann Cavanaugh in Support of Plaintiff’s Motion for Distribution of Class

¹ All capitalized terms, unless otherwise defined herein, have the same meaning as set forth in the Parties’ Stipulation of Settlement, NYSCEF No. 244, dated October 11, 2023 (the “Stipulation”), or in the Court’s subsequent Orders, NYSCEF Nos. 254 and 272, dated December 4, 2023 and April 10, 2024 that preliminarily and finally approved the Stipulation and Settlement, respectively.

Settlement Funds, dated April 1, 2025 (the “Cavanaugh Affirmation”), is approved as fair and reasonable;

2. A.B. Data’s administrative determinations accepting the claims as set forth in Exhibit D of the Cavanaugh Affirmation, and accepting the additional late, but otherwise valid claims postmarked and including February 28, 2025, as set forth in Exhibit E of the Cavanaugh Affirmation, are approved, and such claims are accepted;

3. The administrative determinations of A.B. Data rejecting other claims, as set forth on Exhibit F to the Cavanaugh Affirmation, are approved and such claims are rejected;

4. Any claims received after February 28, 2025, are, and shall be, rejected (as set forth in ¶32 of the Cavanaugh Affirmation);

5. A.B. Data shall be paid the additional sum of \$33,121.54 from the Settlement Fund for the balance of its fees and expenses incurred (and yet to be incurred) in connection with services performed, and to be performed, by A.B. Data in administering the Settlement and actually distributing the Settlement Fund to Class Members;

6. The balance of the Net Settlement Fund (after deducting claims administration payments previously allowed and those approved herein) shall be distributed to the accepted Claimants listed on Exhibits D and E to the Cavanaugh Affirmation, in accordance with the Distribution Plan (the “Initial Distribution”);

7. The payments to be distributed to the accepted Claimants shall bear the notation “DEPOSIT PROMPTLY, VOID AND SUBJECT TO RE-DISTRIBUTION IF NOT NEGOTIATED WITHIN 120 DAYS OF DISTRIBUTION.” A.B. Data is authorized to take appropriate actions to locate and/or contact any eligible Claimant who has not cashed the distribution check within said time;


8. If there is any balance remaining in the Settlement Fund after six months following the Initial Distribution (whether by reason of tax refunds, uncashed checks, or otherwise), then, if Lead Counsel, in consultation with A.B. Data, determines that it is cost-effective to do so, Lead Counsel shall, after payment of any outstanding Notice and Administration Expenses, cause A.B. Data to reallocate and redistribute such balance among Authorized Claimants who negotiated the checks sent in the initial distribution and who would receive a minimum of \$10.00 as part of an additional distribution. Such additional distributions shall be repeated every six months until the balance remaining in the Net Settlement Fund is reduced to a *de minimis* level such that, in the reasonable judgment of Lead Counsel, it no longer makes economic sense, considering costs of distribution, to attempt to make further distributions. Any balance that thereafter still remains in the Net Settlement Fund, after such reallocation(s), which is not feasible or economical to reallocate, shall be distributed to the City Bar Fund, a 501(c)(3) non-profit charitable corporation benefiting the New York City Bar Justice Center, or another 501(c)(3) organization serving the public interest designated by Lead Counsel that has no affiliation or financial relationship with Lead Counsel, Lead Plaintiff, Defendants, their Related Parties, or Defendants' Counsel, and is approved by the Court, as provided in ¶5.10 of the Stipulation.

9. All persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the claims submitted in this matter, or otherwise involved in the administration of the Settlement Fund, including Class Counsel and A.B. Data, are hereby released and discharged from any and all claims arising out of such involvement, and all Class Members, whether or not they are to receive payment from the Settlement Fund, are barred from making any further claim against the Settlement Fund or any of the Released Persons beyond the amount allocated to them pursuant to this Order;

10. One year after all funds have been distributed, A.B. Data is hereby authorized to destroy the paper and electronic copies of the Claims and all supporting documentation; and

11. This Court retains jurisdiction over any further application or matter which may arise in connection with this matter.

IT IS SO ORDERED this 28 day of April, 2025.



Hon. Andrew Borrok