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Lillian Franklin

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

**LILLIAN FRANKLIN,
INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS
SIMILARLY SITUATED,**

Plaintiff,

v.

WELLS FARGO BANK, N.A.,

Defendant.

Case No.: 14-cv-2349 MMA (BGS)

**DECLARATION OF LISA M.
MULLINS IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

DATE: August 3, 2015
TIME: 2:30 p.m.
COURTROOM: 3A

HON. MICHAEL M. ANELLO

DECLARATION OF LISA M. MULLINS

I, LISA M. MULLINS, declare:

1. I am the President of ILYM Group, Inc. (herein after referred to as “ILYM Group”), located at 15331 Barranca Parkway, Irvine, CA 92618. Our firm is a full service claims administrator, specializing in administrative services that support due process in class action litigation. We provide all notice-related services, claims administration, website services and development relating to class action settlements along with escrow agent services for Qualified Settlement Funds.
2. If called as a witness, I could and would testify to the matters herein from personal knowledge.
3. On February 9, 2014, the Court appointed ILYM Group as the Claims Administrator in the above referenced Action. In this capacity, ILYM Group was charged with (a) preparing, printing and mailing the Postcard Settlement Notice (herein after referred to as “Postcard Notice”); (b) acting as a liaison between claimants and the Parties regarding claims information; (c) hosting and placing a copy of the Postcard Settlement Notice and the long-form Notice entitled Frequently Asked Questions, or “FAQs”, on a dedicated information website www.franklinwellsfargotcpa.com to provide Class Members with easy and immediate access to information regarding the proposed Settlement and to allow Class Members to file a claim electronically; (d) publishing a copy of the notice in USA Today; (e) disseminating a press release about the settlement on a PR web; (f) setting up and maintaining two toll-free telephone numbers, one for filing claims (1 (800) 380-6403) and one for answering questions (1 (844) 744- 8424) anyone might have about the settlement ; (g) fielding inquires about the settlement; (h) processing of claims; (i) rejecting a claim form where it appears the claimant is not entitled to file a claim, for whatever reason; (j) directing the

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- 1 mailing of settlement payments to claimants; (k) mailing out the Class Action
2 Fairness Act of 2005 (“CAFA”) notice; and (l) to perform other tasks as the
3 Parties mutually agree to and/or the Court orders ILYM to perform.
- 4 4. On March 2, 2015, ILYM Group prepared and mailed out the Class Action
5 Fairness Act of 2005 (“CAFA”) notice of this settlement to the Attorney
6 Generals of all states and territories along with the Office of the Comptroller
7 of Currency.
- 8 5. ILYM Group received the Class data files from Defendants, which contained
9 a total of 4,076,207 cellphone numbers (“Class List”), and 3,666,588 names
10 and addresses (“Notice List”).
- 11 6. The data files of names and addresses and cellphone numbers were then
12 uploaded to our database and checked for duplicates and other possible
13 discrepancies. The final mailing list contained 3,666,588 names and
14 addresses from the Notice List and all had a cellphone number linked to
15 them.
- 16 7. However, there were a number of cellphone numbers in the “Class List” in
17 addition to those in the “Notice List”, representing persons that received calls
18 intended for Wells Fargo’s customers but are not identified by name within
19 Wells Fargo’s records and, hence, were not to be within the Notice Database
20 and Class List, and therefore would likely have learned of the Settlement by
21 publication and/or internet notice. These individuals could make a Claim
22 even if they were not on the Notice List by advising us of their cellphone
23 number on which they think they may have been called. We then compared
24 that number to the numbers on the Class List, and if their cellphone number
25 is on the Class List, they could then file a Claim.
- 26 8. The approximate total class size is 4,076,207, which is comprised of the
27 3,666,588 included in the Notice List and the 409,619 additional cellphone
28 numbers in the Class List mentioned above.

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- 1 9. As part of the preparation for mailing, all 3,666,588 names and addresses
2 were then processed against the National Change of Address (“NCOA”)
3 database, maintained by the United States Postal Service (“USPS”), for
4 purposes of updating and confirming the mailing addresses of the Class
5 Members before mailing the Notice postcard. To the extent an updated
6 address for an individual identified as a Class Member was found in the
7 NCOA database, the updated address was used for the mailing of the Notice
8 Packet.
- 9 10. ILYM Group was also required to perform a reverse look-up on 585 phone
10 numbers that Defendant had provided and were included in 4,076,207 phone
11 numbers ILYM was provided with. As a result of this look-up, ILYM Group
12 was able to identify the names and addresses of 545 Class Members.
- 13 11. On March 11, 2015, in compliance with the Court’s February 9, 2015 Order
14 Granting Preliminary Approval of the Class Action Settlement, ILYM Group
15 mailed notice to 3,666,588 Class members in the form of a postcard-type
16 notice approved by the Court. Attached hereto as **Exhibit A**.
- 17 12. On March 11, 2015, ILYM Group caused to be published a press release, in
18 order to provide additional notice to the Class Members. Attached hereto as
19 **Exhibit B**.
- 20 13. On March 11, 201, ILYM Group caused to be published in USA Today, the
21 Notice of Proposed Class Action Settlement, in order to provide additional
22 notice to Class Members. Attached hereto as **Exhibit C**.
- 23 14. As of the date of this declaration, 390,574 postcards were returned to our
24 office as undeliverable. Of the 390,574 postcards that were returned to us as
25 undeliverable, 48,961 were returned with a forwarding address provided by
26 the United States Postal Service and were promptly re-mailed to the
27 forwarding address provided.

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CLAIMS RECEIVED

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- 2 15. As of the date of this declaration, ILYM Group has received 107,134 valid
- 3 timely Claims from the 4,076,207 Class Members in this matter. There are a
- 4 total of 258 valid late Claims. The participation rate for valid timely Claims
- 5 equates to 2.63%. With the addition of the 258 late claims, the rate would
- 6 remain the same. I understand Class Counsel will request that these late
- 7 claims be included in the group of Claims to be paid and we will wait to hear
- 8 from the Parties and the Court as to whether the late claims will be accepted
- 9 as valid and pay them or, if they are not to be included, we will not pay them,
- 10 as instructed.
- 11 16. As explained in the Settlement Agreement and in my prior May 19, 2015
- 12 declaration, there were a group of individuals included in the Class that were
- 13 called by Wells Fargo for whom Wells Fargo had only the cell phone
- 14 numbers, but had no identifying records about the names or addresses of the
- 15 owners of the cell phone numbers called. The number of the cell phones in
- 16 that group was 409,619 (“Linked Numbers”). As of the date of this
- 17 declaration, a total of 476 Class Members have filed a claim from that list.
- 18 More specifically, fourteen (14) were received via the toll-free telephone
- 19 number, and 462 were received via website submission.
- 20 17. As of the date of this declaration, a total of 124 received Claims have been
- 21 deemed deficient for a number of reasons; including where the claimant
- 22 provided a telephone number that was not listed in Defendant’s records or
- 23 they provided a Claim Identification Number that belonged to another Class
- 24 Member. A deficiency letter has been sent to all of these individuals advising
- 25 them of the deficient information and giving them the opportunity to cure
- 26 their deficient claim. At this time, none of these deficient claims have been
- 27 cured or deemed valid. Should any of these deficient claims be cured by the
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1 date of final hearing, ILYM Group intends to include them in the total
2 number of valid claims received.

3 **REQUESTS FOR EXCLUSION**

4 18. As of the date of this declaration, ILYM Group has received a total of sixty-
5 eight (68) requests for exclusion, all of which were received via U.S Mail. Of
6 the sixty-eight (68) requests for exclusion that ILYM Group received, only
7 fifty-nine (59) were deemed as valid requests for exclusion and nine (9) were
8 deemed invalid, since they could not be found on the Class List or provide a
9 telephone number listed on the Class List. Of the fifty-nine (59) requests for
10 exclusions, nine (9) had previously submitted a Claim and have since wished
11 to revoke their Claim and no longer partake in this settlement. The deadline
12 to request for exclusion or object was extended per the Court’s order from
13 June 19th to June 29th, 2015. A list of the Class Members who have submitted
14 a valid request for exclusion to date is attached hereto as **Exhibit D**.

15 **OBJECTIONS**

16 19. As of the date of this declaration, ILYM Group has received eight (8)
17 objections. These objections were submitted by Anne L. Card, Daniel
18 Darnell, Douglas Kaye, Guye Reeder, C. Jeffrey Thut, Crystal Bowen-Poore,
19 Charmain T. Schuh, and Ishaq Alkhair. A total of three (3) Objectors (Ishaq
20 Alkhair, Crystal Bowen-Poore, and Guye E. Reeder) have since withdrawn
21 their objections leaving five (5) remaining objections from Daniel Darnell,
22 Douglas Kaye, Anne L. Card, Charmain T. Schuh, and C. Jeffrey Thut.

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1 **COMPUTATION OF AMOUNT TO BE PAID PER CLAIM**

2 20. I understand that the Court will be deciding the amounts to be awarded for
3 attorneys' fees, costs of suit including the costs ILYM Group incurred for
4 notice and claims administration, and for incentive awards, which amounts
5 will be deducted from the \$13,859,103.80 Settlement Fund. We attempted to
6 determine the approximate amount to be paid per valid claimant based upon
7 the final numbers we have for those fees and costs, both with and without the
8 late claims. After deduction of the Settlement Costs as requested in the
9 moving papers filed with the Court to date, including the Class
10 Representative Fee Award of \$1,500, Class Counsel Fees and costs request
11 of \$3,464,775.95, and Claims Administration costs of \$2,768,727.56, the
12 total amount available for distribution to the Class is \$7,624,100.29
13 (\$13,859,103.80 - \$1,500- \$3,464,775.95 - \$2,768,727.56). This would
14 allow the timely claimants to receive a *pro rata* share in the amount of
15 \$71.16 each. If the Court allows the 258 late claims to be paid as well, each
16 claimant would then receive \$70.99.

17 **COST OF NOTICE AND CLAIMS ADMINISTRATION**

18 21. I understand the costs of notice and claims administration are to be paid from
19 the Settlement Fund, and a payment was made to ILYM Group by Wells
20 Fargo shortly after the Preliminary Approval Order was entered, as per that
21 Order, to allow payment of costs and fees related to the up-front costs and
22 fees for noticing and claims administration.

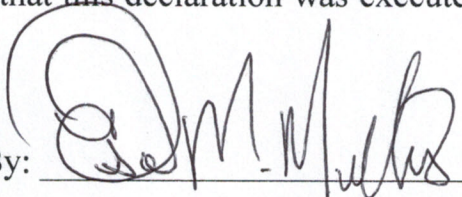
23 22. On March 10, 2015, ILYM Group received a check from Defendant, Wells
24 Fargo to cover the estimated up-front costs and fees for noticing and claims
25 administration in the amount of \$2,277,400.93. This payment was deposited
26 into a designated account established solely for the handling of such
27 administration costs. A true and correct copy of our costs for claims
28 administration is attached hereto as **Exhibit E**.

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23. ILYM Group has since incurred \$491,326.63 in costs which also takes into account the costs incurred during the Claims period along with the costs associated with disbursement. The total amount of fees ILYM Group will incur for the administration of this settlement is \$2,768,727.56. Based on our original estimated fees, \$2,987,795.18, this will leave a remaining balance of \$219,067.62 (\$2,987,795.18 - \$2,768,727.56) after all administration costs and fees have been paid. As stipulated in the Settlement Agreement, the remaining balance of \$219,067.62 will revert to the Net Settlement Fund available to the Class.

I declare under penalty of perjury of the laws of California and the United States that the foregoing is true and correct, and that this declaration was executed in Las Vegas, NV on July 20, 2015

By: 
LISA M. MULLINS