



D131376454

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

ENTERED
MAR 17 2021

| | | |
|------------------------|---|--------------------------------|
| JERRY GARRETT, | : | CASE NO. A 190 4332 |
| | : | |
| Plaintiff, | : | Judge Jody M. Luebbers |
| | : | |
| v. | : | <u>AGREED ORDER GRANTING</u> |
| | : | <u>PRELIMINARY APPROVAL OF</u> |
| GUARDIAN SAVINGS BANK, | : | <u>CLASS ACTION SETTLEMENT</u> |
| | : | |
| Defendant. | : | |

Before this Court is Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement (“Motion”). The Court has reviewed the Motion and Settlement Agreement between Plaintiff and Defendant Guardian Savings Bank. After reviewing the request for preliminary approval, this Court grants the Motion and preliminarily concludes that the proposed Settlement is fair, reasonable, and adequate.

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement,¹ including the proposed notice plan and forms of notice to the Class, the appointment of Plaintiff Jerry Garrett as the Class Representative, the appointment as Counsel for Plaintiff as Class Counsel, the approval of CAC Services Group, LLC as the Settlement Administrator, the establishment of a \$71,500.00 Settlement Fund, and the proposed method of distribution from the Settlement

¹ All capitalized terms used in this Order shall have the same meanings as set for in the Settlement Agreement.



VERIFY RECORD

Fund, are fair, reasonable, and adequate, subject to further consideration at the Fairness Hearing described below.

2. The Court does hereby preliminarily and conditionally approve, for settlement purposes, the following Class:

All persons or entities who were the mortgagor to a mortgage from September 16, 2013 to September 16, 2019 or current owner of the real property to which the mortgage pertains from March 23, 2015 to September 16, 2019 where Guardian Savings (or any predecessor or other entity acquired or merged with – or otherwise now part of Guardian Savings – including any affiliates, subsidiaries, and/or related lending institutions) was the mortgagee for real property in the State of Ohio, whereby the mortgage was satisfied in full and Guardian Savings failed to record an entry of mortgage satisfaction with the applicable county recorder's office within 90 days of the date of mortgage satisfaction.

3. Based on the information provided: the Class is ascertainable; it consists of roughly 286 Class Members satisfying numerosity; there are common questions of law and fact including whether GSB filed untimely mortgage releases under R.C. 5301.36 *et seq.* satisfying commonality; the proposed Class Representative's claims are typical in that they are members of the Class and allege they have been damaged by the same conduct as the other members of the Class; the proposed Class Representative and Class Counsel fully, fairly, and adequately protect the interests of the Class; questions of law and fact common to members of the Class predominate over questions affecting only individual members for settlement purposes; and a class action for settlement purposes is superior to other available methods for the fair and efficient adjudication of this Action.

4. The Court appoints Plaintiff Jerry Garrett as the Class Representative.

5. The Court appoints Terence R. Coates, Justin C. Walker, W.B. Markovits, and Zachary C. Schaengold of Markovits, Stock & DeMarco, LLC and Matthew C. Metzger of Wolterman Law Office, LPA as Class Counsel for the Class.

6. The Court appoints CAC Services Group, LLC as the Settlement Administrator.

7. A Fairness Hearing shall be held before the Court on Sept. 9, 2021 at 1:30 a.m. (p.m.) for the following purposes:

- a. To determine whether the proposed Settlement is fair, reasonable, and adequate to the Class and should be approved by the Court;
- b. To determine whether to grant Final Approval, as defined in the Settlement Agreement;
- c. To determine whether the notice plan conducted was appropriate;
- d. To determine whether the claims process under the Settlement is fair, reasonable and adequate and should be approved by the Court;
- e. To determine whether the requested Class Representative Incentive Award in the amount of \$1,500.00, Class Counsel's attorneys' fees in the amount of \$23,333.33 and litigation expenses in the amount no more than \$2,500.00, and the Settlement Administrator's fees and expenses in the amount of \$2,500.00 should be approved by the Court;
- f. To determine whether the planned allocation of Settlement Payments

and other distributions from the Settlement Fund are fair, reasonable, and adequate, including the retention of 75% of undistributed settlement funds by GSB and 25% to Tender Mercies and Cincinnati Zoo & Botanical Garden; and,

g. To rule upon such other matters as the Court may deem appropriate.

8. The Court approves, as to the form and content, the Class Notice (including the Claim Form) and the Social Media Notice. Furthermore, the Court approves the implementation of the Settlement Website and the proposed methods of mailing, distributing, and/or otherwise publishing of the various notices substantially in the form as noted on pages 10-11 of the Settlement Agreement, and finds that such notice plan meets the requirements of Civ.R. 23 and due process, and is the best notice practicable under the circumstances, and shall constitute due and efficient notice to all persons or entities entitled to notice.

9. The Court preliminarily approves the following Timeline for the purposes of conducting the notice plan, settlement administration, claims processing, and other execution of the proposed Settlement:

SETTLEMENT TIMELINE

| | |
|---|------------------------------|
| <u>Grant of Preliminary Approval</u> | <u>March 15, 2021</u> |
| CAC's submission of signed W-9 form to GSB | March 19, 2021 |
| GSB's Payment of \$2,500.00 to CAC | March 25, 2021 |
| Notice Date | April 14, 2021 |

| | |
|---|------------------------------|
| Settlement Website activated | On or before the Notice Date |
| Objection Deadline | June 14, 2021 |
| Opt-Out Deadline | June 14, 2021 |
| Claims Deadline | June 14, 2021 |
| - Master List | July 26, 2021 |
| Valid Claim List | August 5, 2021 |
| | |
| <u>Fairness Hearing</u> | |
| Motion for Final Approval, and Class Counsel's Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Class Representative Incentive Award | -7 days |
| CAC Provide Notice of Opt-Outs | -14 days |
| | |
| <u>Final Approval</u> | |
| Effective Date | +35 days |
| Payment of the Class Representative Incentive Award, Attorneys' Fees and Expenses, and any subsequent Settlement Administration Costs and Expenses | +40 days |
| Payment Deadline | +56 days |

10. In order to be a timely claim under the Settlement, a Claim Form must be either submitted or received by the Settlement Administrator no later than 60 days after the Notice Date. Class Counsel and the Settlement Administrator will ensure that all specific dates and deadlines are added to the Class Notice and posted on the Settlement Website after this Court enters this Order in accordance with the timeline being keyed on the grant of this Order.

11. Additionally, all requests to opt out or object to the proposed Settlement must be received no later than 60 days after the Notice Date. Any request to opt out of

the Settlement should, to the extent possible, contain words or phrases such as “opt-out,” “opt out,” “exclusion,” or words or phrases to that effect indicating an intent not to participate in the settlement or be bound by this Agreement) to CAC and/or Class Counsel. Opt-Out notices shall not be rejected simply because they were inadvertently sent to the Court or Class Counsel so long as they are timely postmarked or received by the Court or GSB’s Counsel. Members of the Class who seek to Opt-Out shall receive no benefit or compensation under this Agreement.

12. Class Members may submit an objection to the proposed Settlement under Ohio Rule of Civil Procedure 23(E)(5). For an Objection to be valid, it must be filed with the Court within 60 days of the Notice Date and include each and all of the following:

- (a) The Objector’s name, mailing address, telephone number, and email address;
- (b) A statement including all legal and factual support for the Objection;
- (c) “Notice of Class Action Objection” at the top of the document and include the Action’s case number and case name;
- (d) Be signed by the Objector and the Objector’s legal counsel in the event the Objector is represented by legal counsel;
- (e) A statement regarding whether the Objector intends to appear at the Fairness Hearing; and,
- (f) A complete and accurate list of all objections the Objector has filed in any court of law within the past 5 years.

Any Objection failing to include the requirements expressed above will be deemed to be invalid. Furthermore, any Class Member objecting to the Settlement agrees to submit to any discovery related to the Objection.

13. All Class Members shall be bound by all determinations and judgments in this Action concerning the Settlement, including, but not limited to, the release provided for in the Settlement Agreement, whether favorable or unfavorable, except those who timely and validly requested exclusion from the Class. The persons and entities who timely and validly requested exclusion from the Class will be excluded from the Class and shall not have rights under the Settlement Agreement, shall not be entitled to submit Claim Forms, and shall not be bound by the Settlement Agreement or any Final Approval order as to GSB in this Action.

14. Pending final determination of whether the Settlement Agreement should be approved, Plaintiff and the Class are barred and enjoined from commencing or prosecuting any claims asserting any of the Settled Claims against GSB.

15. The Court reserves the right to adjourn the date of the Fairness Hearing without further notice to the potential Class Members, and retains jurisdiction to consider all further requests or matters arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modification as may be agreed to by the Parties or as ordered by the Court, without further notice to the Class.

AGREED TO BY:

/s/ Terence R. Coates

Terence R. Coates (0085579)

MARKOVITS, STOCK & DEMARCO, LLC

Counsel for Plaintiff

/s/ Russell S. Sayre

Russell S. Sayre (0047125)

TAFT, STETTINIUS & HOLLISTER

Counsel for Guardian Savings Bank

IT IS SO ORDERED.

ENTERED

MAR 16 2021

Judge, Hamilton County Court of Common Pleas

JODY M. LUEBBERS, JUDGE



3/17/21