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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

BY

AT GREENBELT
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND

DEPUTY

WARD KLUGMANN, Individually and on
behalf of all others similarly situated,

Plaintiff,

v.

AMERICAN CAPITAL, LTD., MALON
WILKUS, JOHN R. ERICKSON,
IRA WAGNER, SAMUEL A. FLAX, and
RICHARD E. KONZMANN,

Defendants.

Civil Action No. 8:09-CV-00005-PJM

**[AMENDED PROPOSED] ORDER APPROVING THE FINAL DISTRIBUTION OF THE
SETTLEMENT FUND AND APPROVING PAYMENT OF SETTLEMENT
ADMINISTRATION COSTS**

Plaintiffs' Amended Motion for an Order Approving the Final Distribution of the Settlement Fund and Approving Payment of Settlement Administration Costs (the "Motion") having been duly heard, it is hereby GRANTED, as follows:

- (1) The Court APPROVES the procedures used and actions taken by the Garden City Group ("GCG") and Settlement Class Counsel for the administration of the Settlement as described in the Memorandum in Support of the Motion and in the Amended Affidavit of Jason Zuena In Support of Motion for Distribution of the Net Settlement Fund ("Zuena Affidavit"), attached as Exhibit 1 to the to the Memorandum in Support of the Motion;
- (2) The Court APPROVES Plaintiffs' request for payment to GCG in the amount of \$754,884.04 for fees and costs incurred-to-date, but yet unpaid, and anticipated future

fees and costs for administration of the Settlement, as set forth in Exhibit D to the Zuena Affidavit;

- (3) The Court APPROVES GCG's administrative determination to exclude the claims of persons or entities set forth in the list of "Rejected or Ineligible" claims, included in Exhibit C to the Zuena Affidavit;
- (4) The Court APPROVES the fully or partially valid claims of Class Members (the "Authorized Claimants") identified in the lists of Timely Authorized Claimants and Late Postmarked but Otherwise Authorized Claimants, included in Exhibit C to the Zuena Affidavit, and ORDERS that payment be made to those Authorized Claimants in accordance with the approved Plan of Allocation;
- (5) The Court DIRECTS that distribution checks to Authorized Claimants shall bear the notation "Non-Negotiable After 180 Days," and that no check shall be negotiated in the Net Settlement Fund more than 200 days after the date of the check;
- (6) The Court DIRECTS Settlement Class Counsel to determine, after six (6) months from the date of the distribution of the Net Settlement Fund, the feasibility of distributing any balance remaining in the Net Settlement Fund (whether by reason of tax refunds, uncashed checks or otherwise), among Authorized Claimants who deposited the checks sent in the initial distribution in an equitable and economic fashion, and AUTHORIZES Settlement Class Counsel to direct GCG to make such a second distribution to Authorized Claimants in the event that they make an affirmative determination of feasibility. In the event that the amount of money remaining the in the Net Settlement Fund is insufficient to justify the cost of a second distribution to Authorized Claimants,

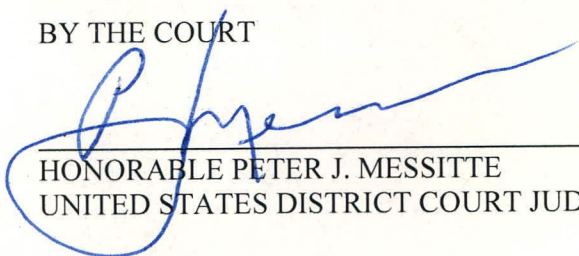
Settlement Class Counsel shall seek Court approval for an alternative distribution.

- (7) The Court ORDERS that no Proof of Claim and Release Form received by GCG after 5:00 p.m. on May 30, 2013 shall be considered for inclusion in the initial distribution to Approved Claimants as ordered herein.
- (8) The Court ORDERS GCG to destroy all claim forms, along with all related correspondence, one year after the final distribution of the Net Settlement Fund to Authorized Claimants and destruction of the Payable Claims and Non-Payable Claims Listings and the computer database (compiled from the claim forms and related correspondence) three years after the final distribution to Authorized Claimants.
- (9) GCG, Plaintiffs, Settlement Class Counsel, Defendants, Defendants' Counsel, and/or any persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Proof of Claim forms ("Released Persons") are released and discharged from any and all claims arising out of such involvement. Settlement Class Members, whether or not they are to receive payment from the Settlement Fund, are barred from making any further claims against the Settlement Fund or the Released Persons beyond the amount allocated to them pursuant to this Motion.

SO ORDERED.

Signed this 2 day of July, 2013.

BY THE COURT


HONORABLE PETER J. MESSITTE
UNITED STATES DISTRICT COURT JUDGE