

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA**

IN RE HD SUPPLY HOLDINGS, INC.
SECURITIES LITIGATION

CONSOLIDATED CASE
NO. 1:17-CV-02587-ELR

ORDER APPROVING DISTRIBUTION PLAN

WHEREAS, in the above-captioned action (the “Action”), the Claims Administrator has completed the administration of the Settlement Fund, including the processing of all submitted Claim Forms, and is now prepared, with the approval of the Court, to distribute the net proceeds of the Settlement;

WHEREAS, on July 21, 2020, the Court granted Lead Plaintiffs’ Motion for Final Approval of Class Action Settlement and Plan of Allocation and entered an Order Awarding Attorneys’ Fees and Litigation Expenses to Lead Plaintiffs, entered an Order Approving Plan of Allocation of Net Settlement Fund (ECF Nos. 96-103) and retained jurisdiction over the Action, including the administration and distribution of the Net Settlement Fund;

WHEREAS, on July 21, 2020, the Court entered an Order and Final Judgment Approving Class Action Settlement ([ECF No. 103](#));

WHEREAS, as referred to in the Order Preliminarily Approving Settlement

and Providing for Notice entered on February 21, 2020 ([ECF No. 94](#)), the deadline for Settlement Class Members to submit claims to participate in a distribution from the Net Settlement Fund was July 18, 2020;

WHEREAS, as reflected in the Declaration of Matthew Mulvihill in Support of Lead Plaintiffs' Motion for Approval of Distribution Plan ("Mulvihill Dec." or "Mulvihill Declaration"), the Claims Administrator has completed the process of reviewing all submitted Claims, and has made a recommendation as to the eligibility of each submitted Claim;

WHEREAS, Lead Plaintiffs and the Claims Administrator now seek authorization to distribute the Net Settlement Fund to Authorized Claimants; and

WHEREAS, after reviewing Lead Plaintiffs' Motion for Approval of Distribution Plan, the Memorandum in support thereof, the Mulvihill Declaration, and all other exhibits and papers submitted in support thereof, the Court has determined that good cause exists for the relief requested.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Lead Plaintiffs' Motion for Approval of Distribution Plan ([ECF No. 104](#)) is GRANTED.
2. This Order incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated January 30, 2020 ([ECF No. 93-2](#)) (the

“Stipulation”), and the Mulvihill Declaration and all capitalized terms used in this Order shall have the same meanings as defined in the Stipulation or in the Mulvihill Declaration.

3. This Court has continuing jurisdiction over the subject matter of the Action and over all parties to the Action, including all Settlement Class Members.

4. Lead Plaintiffs’ proposed plan for distribution of the Net Settlement Fund to Authorized Claimants is APPROVED. Accordingly:

(a) The administrative recommendations of the Court-approved Claims Administrator, Epiq Class Action and Claims Solutions, Inc. (“Epiq”), to accept the Timely Eligible Claims stated in Exhibit B-1 to the Mulvihill Declaration and the Late But Otherwise Eligible Claims stated in Exhibit B-2 to the Mulvihill Declaration, are adopted;

(b) The Claims Administrator’s administrative recommendations for the Rejected Claims as wholly ineligible Claims, as stated in Exhibit B-3 to the Mulvihill Declaration, are adopted;

(c) Epiq is directed to conduct an Initial Distribution of the Net Settlement Fund, after deducting all payments previously allowed and the payments approved by this Order, and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees. In accordance with

the Court-approved Plan of Allocation, Epiq will calculate award amounts for all Authorized Claimants as if the entire Net Settlement Fund were to be distributed now by calculating each Authorized Claimant's *pro rata* share of the Net Settlement Fund in accordance with the Plan of Allocation;

(d) Epiq will then, in accordance with the terms of the Court-approved Plan of Allocation, eliminate from the distribution any Authorized Claimant whose total *pro rata* share of the Net Settlement Fund is less than \$10.00. These Claimants will not receive any payment from the Net Settlement Fund and will be so notified by Epiq;

(e) After eliminating Claimants who would have received less than \$10.00, Epiq will recalculate the *pro rata* shares of the Net Settlement Fund for Authorized Claimants who would have received \$10.00 or more based on the amount of the Authorized Claimant's Recognized Claim in comparison to the total Recognized Claims of all Authorized Claimants who would have received \$10.00 or more. This *pro rata* share is the Authorized Claimant's "Distribution Amount";

(f) Epiq shall then prepare checks for the distribution and registers of such distributions, and send the payments by prepaid first-class mail, after the list of Authorized Claimants is compared to Epiq's internal list of claimants who have been identified as potentially fraudulent filers. Finally, Epiq will issue replacement

payments for distributions upon request by payee, and will respond to inquiries about distribution amounts and Recognized Loss Amount calculations;

(g) In order to encourage Authorized Claimants to deposit their checks promptly, all Distribution checks will bear the following notation: “DEPOSIT PROMPTLY. VOID AND SUBJECT TO RE-DISTRIBUTION IF NOT NEGOTAIATED WITHIN 90 DAYS OF DISTRIBUTION”;

(h) Authorized Claimants who do not deposit their Initial Distribution checks within the time allotted or on the conditions stated in the Mulvihill Declaration will irrevocably forfeit all recovery from the Settlement, and the funds allotted to all of these stale-dated checks will be available to be distributed to other Authorized Claimants in the Second Distribution described below. Similarly, Authorized Claimants who do not deposit their second or subsequent distribution checks, should such distributions occur, within the time frame allotted or on the conditions stated in the Mulvihill Declaration will irrevocably forfeit any further recovery from the Net Settlement Fund;

(i) After Epiq has made reasonable and diligent efforts to have Authorized Claimants deposit their Initial Distribution checks, as provided in the Mulvihill Declaration, but not earlier than nine (9) months after the Initial Distribution, if Lead Counsel in consultation with Epiq, determines it is cost-

effective to do so, Epiq will conduct a second distribution (the “Second Distribution”), in which any amount remaining in the Net Settlement Fund after the Initial Distribution, after deducting Epiq’s fees and expenses incurred in administering the Settlement for which it has not yet been paid, including Epiq’s estimated costs of the Second Distribution, and after deducting the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be distributed to all Authorized Claimants in the Initial Distribution who deposited their Initial Distribution check and are entitled to receive at least \$10.00 from the Second Distribution based on their *pro rata* share of the remaining funds;

(j) Additional distributions, after deduction of costs and expenses as described above and subject to the same conditions, may occur thereafter in six-month intervals until Lead Counsel, in consultation with Epiq, determines that further distribution is not cost-effective;

(k) At such time as Lead Counsel, in consultation with Epiq, determine that further distribution of the funds remaining in the Net Settlement Fund is not cost-effective, the remaining balance of the Net Settlement Fund, after payment of any unpaid fees or expenses incurred in connection with administering the Net Settlement Fund and after the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, shall be donated to Investor

Protection Trust, a non-sectarian, not-for-profit organization devoted to investor education;

(l) In order to allow the full and final distribution of the Net Settlement Fund, it is necessary to bar any further claims received after June 9, 2021 from eligibility in the distribution of the Net Settlement Fund, and no further adjustments to Claims received on or before June 9, 2021 that would result in an increased Recognized Claim amount may be made for any reason after September 27, 2021; and

(m) Epiq will destroy any paper copies of the Claim Forms, and all related paper documents, one (1) year after distribution of the Net Settlement Fund is complete, and any electronic copies of the same three (3) years after initial distribution of the Net Settlement Fund is complete.

5. Epiq shall be paid the outstanding balance of its fees and expenses in connection with the services performed, and to be performed, in administering the Claim Forms and distributing the Net Settlement Fund in the total amount of \$424,351.25 out of the Settlement Fund.

6. All persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Claims submitted, or who are otherwise involved in the administration or taxation of the Settlement Fund or the Net

Settlement fund, are hereby released and discharged from any and all claims arising out of that involvement, and all Class Members and other Claimants, whether or not they receive payment from the Net Settlement Fund, are hereby barred from making any further claims against the Net Settlement Fund, Lead Plaintiffs, Lead Counsel, the Claims Administrator, the Escrow Agent, or any other agent retained by Lead Plaintiffs or Lead Counsel in connection with the administration or taxation of the Settlement Fund or the Net Settlement Fund, or any other person released under the Settlement beyond the amounts allocated to Authorized Claimants.

7. This Court retains jurisdiction to consider any further applications concerning the administration of the Settlement, and any other and further relief that this Court deems appropriate.

SO ORDERED this 7th day of January 2022.



The Honorable Eleanor Louise Ross
United States District Judge