

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

WEST PALM BEACH	:	
POLICE PENSION FUND,	:	CIVIL ACTION
on behalf of itself and all others	:	
similarly situated,	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
DFC GLOBAL CORP., et al.,	:	No. 13-6731
Defendants.	:	

MEMORANDUM

Schiller, J.

September 20, 2017

The parties in this complex securities fraud litigation involving the payday lending industry have reached a settlement. The parties have moved for final approval of the settlement and plan of allocation, as well as for an award of attorneys' fees and reimbursement of litigation expenses. For the reasons that follow, the motions for final approval and attorneys' fees and costs shall be granted.

I. BACKGROUND

A. Facts

DFC Global was a provider of alternative financial services, including unsecured short-term consumer loans, also known as payday loans. (Jt. Decl. of Golan and Rizio-Hamilton in Supp. of (1) Lead Pls.' Mot. for Final Approval of Class Action Settlement and Plan of Allocation; and (2) Co-Lead Counsel's Mot. for an Award of Att'ys' Fees and Reimbursement of Litig. Expenses [Jt. Decl] ¶ 13.) Plaintiffs filed a class action lawsuit on behalf of all persons who purchased shares of DFC Global common stock during the class period, specifically between January 28, 2011 and February 3, 2014. Plaintiffs sought relief under § 10(b) of the Securities Exchange Act of 1934 and Rule 10b-

5, alleging that DFC Global and a number of DFC Global executives carried out a scheme to deceive the investing public through false statements and material omissions. Plaintiffs also sought relief under § 20(a) of the Securities Exchange Act of 1934, alleging controlling person liability against several executives. Finally, Plaintiffs brought claims pursuant to the Securities Act of 1933.

Plaintiffs contended that Defendants made materially false and misleading statements about DFC Global's true financial and operating condition and the nature of its lending practices in its U.K. payday lending operations, which caused the price of DFC Global common stock to be artificially inflated during the class period. Plaintiffs also claimed that investors were damaged when the truth was revealed and the price of the stock declined. (*Id.* ¶ 20.) The Complaint alleged that DFC Global and certain executives made a series of misstatements and omissions about DFC's short-term payday portfolio, as well as misstatements about the conservative and selective practices DFC Global employed. (*Id.* ¶ 21.) Relying on information from former employees, Plaintiffs claimed that DFC Global's lending practices "were far from conservative or prudent and that DFC routinely lent to borrowers without conducting any affordability checks." (*Id.* ¶ 22.) DFC Global permitted borrowers to roll over loans that the borrowers could not afford to repay, enriching DFC Global with fees. (*Id.* ¶ 23.) "The Complaint also alleged that DFC's loan loss reserves were understated as a result of its poor lending practices, its failure to adequately monitor the quality of its loans, and its failure to properly account for loans that were rolled over." (*Id.* ¶ 25.)

B. History of the Litigation

On November 20, 2013, Plaintiffs filed a class action complaint in this Court. On April 9, 2014, following a round of briefing regarding which party should act as lead plaintiff and which law firm should act as lead counsel, this Court appointed as lead plaintiff the institutional investor group

comprised of West Palm Beach Police Pension Fund, the Arkansas Teachers Retirement System, the Macomb County Employees Retirement System, and the Laborers' District Council and Contractors' Pension Fund of Ohio. The Court also approved Lead Plaintiffs' selection of Barrack, Rodos & Bacine and Bernstein Litowitz Berger & Grossman LLP as co-lead counsel. On April 22, 2014, this litigation was consolidated with a related case filed in this District. Lead Plaintiffs filed a Consolidated Class Action Complaint on July 21, 2014.

Co-Lead Counsel performed significant due diligence prior to filing the Complaint. The attorneys reviewed SEC filings, reports by securities and financial analysts, transcripts of DFC Global's earnings conference calls and publicly available presentations of DFC Global, analyzed DFC Global's press releases and media reports, consulted with industry and regulatory consultants and accounting experts, and analyzed information obtained from confidential witnesses who had previously worked at DFC Global. (Jt. Decl. ¶ 18.)

On October 3, 2014, Defendants filed motions to dismiss the complaint, to which Plaintiffs responded on December 2, 2014. On June 16, 2015, the Court denied the motions to dismiss, and on August 3, 2015, Defendants filed their answers to the Consolidated Class Action Complaint. Discovery commenced in July 2015. (Jt. Decl. ¶ 33.) During discovery, counsel for the parties conducted a number of meet and confer sessions. (Jt. Decl. ¶ 34.) Ultimately, Defendants produced over 1.7 millions pages of documents, and Lead Plaintiffs produced thousands of pages of documents. (Jt. Decl. ¶ 36.) A total of thirteen depositions were taken, including six depositions of Lead Plaintiffs' representatives and financial advisors, two depositions of expert witnesses taken in connection with Lead Plaintiffs' motion for class certification, and five depositions of current and former employees of DFC Global. (Jt. Decl. ¶ 38.)

On October 2, 2015, Lead Plaintiffs filed a motion for class certification, to which Defendants responded on February 12, 2016. Some supplemental briefing on the motion followed, and on August 4, 2016, the Court granted the motion for class certification. The parties subsequently engaged in extensive settlement discussions and reached an agreement, which will be described in great detail below.

On March 8, 2017, the Court entered an order that preliminarily approved the settlement, approved the proposed notice to the class, and set procedures and deadlines to see the litigation to its conclusion, should the Court grant final approval of the settlement. (Jt. Decl. ¶ 60.)

C. Settlement Terms

The Class consists of:

All persons or entities who purchased or otherwise acquired common stock issued by DFC Global Corporation (“DFC Global”) between January 28, 2011, and February 3, 2014, inclusive (“Class Period”), and were damaged thereby. Included within the Class are persons or entities who purchased shares of DFC Global stock on the open market and/or in a registered public offering on or about April 7, 2011. Excluded from the Class are: (a) Defendants; (b) members of the immediate families of the Individual Defendants; (c) any directors, officers, and partners of DFC Global or the Underwriter Defendants during the Class Period and members of their immediate families; (d) the subsidiaries, parents and affiliates of DFC Global and the Underwriter Defendants; (e) any firm, trust, corporation or other entity in which any Defendant has or had a controlling interest; and (f) the legal representatives, heirs, successors and assigns of any such excluded party.

Under the settlement agreement, members of the class have agreed to “fully, finally and forever compromise[], settle[], release[], resolve[], relinquish[], waive[] and discharge[]” all of their claims against Defendants. (Settlement Agreement ¶ 4.) In consideration for terminating the litigation and providing releases to Defendants, “the DFC Global Defendants shall pay”

\$30,000,000.00 in cash into an escrow account. (*Id.* ¶ 7.) The cash shall be used to pay authorized claimants, any taxes owed, notice and administrative costs, litigation expenses authorized by the Court, and attorneys’ fees awarded by the Court. (*Id.* ¶ 8.) The settlement agreement further included provisions for notice and settlement administration, “including but not limited to the process of receiving, reviewing and approving or denying Claims, under Lead Counsel’s supervision and subject to the jurisdiction of the Court.” (*Id.* ¶ 17.) A claims administrator was tasked with determining the validity of a claim and the pro rata share of the settlement fund based on the allocation plan proposed in the notice. (*Id.* ¶¶ 19, 23.)

II. DISCUSSION

A. Settlement

“The claims, issues, or defenses of a certified class may be settled, voluntarily dismissed, or compromised only with the court’s approval.” Fed. R. Civ. P. 23(e). Because the settlement would bind class members, this Court may only approve the settlement upon a finding that it is “fair, reasonable, and adequate.” Fed. R. Civ. P. 23(e)(2). “[T]he district court acts as a fiduciary who must serve as a guardian of the rights of absent class members [T]he court cannot accept a settlement that the proponents have not shown to be fair, reasonable and adequate.” *In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768, 785 (3d Cir. 1995). However, “[t]he decision of whether to approve a proposed settlement of a class action is left to the sound discretion of the district court.” *Girsh v. Jepson*, 521 F.2d 153, 156 (3d Cir. 1975); *see also Walsh v. Great Atl. & Pac. Tea Co., Inc.*, 726 F.2d 956, 965 (3d Cir. 1983). The law looks favorably upon class action settlements to conserve scarce judicial resources. *Gen. Motors*, 55 F.3d at 784. Indeed, a court may

apply an initial presumption of fairness to a class action settlement when the negotiations occurred at arm's length, the parties engaged in sufficient discovery, those advocating for the settlement were experienced in similar litigation, and only a small fraction of the class objected. *In re Nat'l Football League Players Concussion Injury Litig.*, 821 F.3d 410, 436 (3d Cir. 2016).

The decision of whether a settlement is fair, reasonable, and adequate is guided by the nine-factor test enunciated in *Girsh v. Jepsen*, 521 F.2d 153 (3d Cir. 1975). The *Girsh* test directs the court to examine: (1) the complexity, expense, and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class action through the trial; (7) the ability of the defendants to withstand a greater settlement; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund in light of all the attendant risks of litigation. *Girsh*, 521 F.2d at 157. More recently, the Third Circuit Court of Appeals has expanded upon the *Girsh* factors to include several permissive and non-exhaustive factors: (1) the maturity of the underlying substantive issues; (2) the existence and probable outcome of claims by other classes and subclasses; (3) the comparison between the results achieved by the settlement for individual class or subclass members and the results achieved—or likely to be achieved—for other claimants; (4) whether class or subclass members are accorded the right to opt out of the settlement; (5) whether any provisions for attorneys' fees are reasonable; and (6) whether the procedure for processing individual claims under the settlement is fair and reasonable. *In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*, 148 F.3d 283, 323 (3d Cir. 1998).

1. *Presumption of fairness*

The Court concludes that a presumption of fairness is warranted here. The use of an independent mediator, which the parties employed here, is strong evidence of arm's length negotiations. *See Gates v. Rohm and Hass Co.*, 248 F.R.D. 434, 444 (E.D. Pa. 2008) (noting that the settlement was produced after “two full days of mediation before an experienced mediator”); *see also In re Flag Telecom Holdings, Ltd. Secs. Litig.*, Civ. A. No. 02-3400, 2010 WL 4537550, at *14 (S.D.N.Y. Nov. 8, 2010) (“The presumption in favor of the negotiated settlement in this case is strengthened by the fact that settlement was reached in an extended mediation supervised by Judge [Daniel] Weinstein.”).

The parties engaged in arm's length negotiations. Counsel for the parties participated in two in-person mediation sessions with Daniel Weinstein, a former California superior court judge who has experience in mediating securities class actions. (Jt. Decl ¶ 48.) Prior to both of these sessions, the parties exchanged detailed mediation statements with numerous exhibits. (*Id.* ¶¶ 49, 52.) Although these in-person sessions did not bear fruit, the mediator continued to hold substantial discussions with the parties, including a conference call during which the parties' respective damages experts participated. (*Id.* ¶ 53.) Following these meetings and calls, the mediator issued a proposal that the litigation be settled for \$30 million. (*Id.* ¶ 54.) The parties accepted the mediator's number and prepared the settlement agreement. (*Id.* ¶ 55.)

Moreover, this is far from the first rodeo for those advocating settlement. The lawyers involved here possess extensive litigation experience, which tilts the scales in favor of approving the settlement.

2. *Complexity, expense, and likely duration of the litigation*

The first *Girsh* factor looks at the time and money likely necessary if the litigation continued. *See Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 320 (3d Cir. 2011). Securities fraud litigation is “inherently complicated.” *See In re Viropharma Inc. Secs. Litig.*, Civ. A. No. 12-2714, 2016 WL 312108, at *9 (E.D. Pa. Jan. 25, 2016)

Although the parties had already performed a great deal of work, there remained a great deal to do. If not for the settlement, the parties would have to complete fact discovery, engage in expert discovery, brief the inevitable summary judgment motion, and then, if necessary, prepare for trial, including preparing proposed jury instructions and motions in limine. The Court also suspects that regardless of the outcome of the trial, post-trial motions and an appeal, would follow.

Securities litigation is notoriously complicated and it is certainly not conducted on the cheap. Because there is an excellent chance that this litigation would be costly, complicated, and proceed for years into the future, the Court finds that this factor weighs heavily in favor of approving the settlement.

3. *Reaction of the class to the settlement*

Based upon the number of objectors and their arguments, does the class support the settlement? *Prudential*, 148 F.3d at 318. Silence from the class generally indicates agreement, although “the practical realities of class actions ha[ve] led a number of courts to be considerably more cautious about inferring support from a small number of objectors to a sophisticated settlement.” *Gen. Motors*, 55 F.3d at 812.

A notice packet was mailed to over 22,800 potential class members. To date, not a single objection was raised. (Reply Mem. of Law in Further Supp. of Lead Pls.’ Mot. for Final Approval

of Settlement and Plan of Allocation; and Co-Lead Counsel’s Mot. for an Award of Att’ys’ Fees and Reimbursement of Litig. Expenses at 1-2.) Moreover, only one request for exclusion was received. (*Id.* at 3.) There are a number of institutional investors that would have an incentive to object if troubled by the terms of the deal. Therefore, this response (or rather, lack thereof), weighs in favor of approving the settlement.

4. *Stage of the proceedings and the amount of discovery completed*

The third *Girsh* factor considers the current stage of the proceedings and the lawyers’ knowledge of the strengths and weaknesses of their case. “Through this lens, courts can determine whether counsel had an adequate appreciation of the merits of the case before negotiating.” *Gen. Motors*, 55 F.3d at 813; *see also In re Cendant Corp. Litig.*, 264 F.3d 201, 235 (3d Cir. 2001) (“This factor captures the degree of case development that class counsel have accomplished prior to settlement.”).

Counsel has had ample time and information to learn the strengths and weaknesses of the case. Prior to filing a complaint, class counsel conducted a significant amount of due diligence, including interviews of former DFC Global employees, analysis of SEC filings, and review of publicly available information. Following some initial motion practice, counsel obtained substantial discovery that further allowed them to learn their case and process the pros and cons of settlement. Depositions, document review, and further briefing ensued and allowed for refinement of arguments and litigation positions.

The Court is convinced that this factor weighs heavily in favor of approving the settlement.

5. *Risks of establishing liability and damages*

“The fourth and fifth *Girsh* factors survey the possible risks of litigation in order to balance

the likelihood of success and the potential damage award if the case were taken to trial against the benefits of an immediate settlement.” *Nat’l Football League*, 821 F.3d at 439. “By evaluating the risks of establishing liability, the district court can examine what the potential rewards (or downside) of litigation might have been had class counsel elected to litigate the claims rather than settle them.” *Gen. Motors*, 55 F.3d at 814. The more risks that Plaintiffs may face during litigation, the stronger this factor favors approving a settlement. *See Prudential*, 148 F.3d at 319. In examining this factor, the court may “give credence to the estimation of the probability of success proffered by class counsel, who are experienced with the underlying case, and the possible defenses which may be raised to their causes of action.” *Lachance v. Harrington*, 965 F. Supp. 630, 638 (E.D. Pa. 1997).

As is to be expected in a complex securities case, Defendants had counter arguments for everything Plaintiffs threw their way. For instance, and as noted in this Court’s Memorandum addressing Defendants’ motions to dismiss, Defendants offered a plethora of reasons for the Court to dismiss Plaintiffs’ claims. Defendants argued that: (1) Plaintiffs failed to allege a misstatement or omission of material fact that was false or misleading when made; (2) most of the allegedly fraudulent statements were non-actionable statements of belief or opinion, forward-looking statements protected by the Private Securities Litigation Reform Act’s safe harbor, or statements of puffery; (3) Plaintiffs failed to plead scienter properly; (4) Plaintiffs failed to plead loss causation properly; and (5) the statute of limitations had expired on certain claims.

Plaintiffs faced significant hurdles demonstrating the falseness of Defendants’ statements. Defendants would have argued that statements about the conservative nature of their lending practice were true and that such statements were also not subject to legal liability because the statements were mere puffery upon which no investor would have reasonably relied. (*See* Jt. Decl. ¶ 68.) Being able

to prove falsity would not be enough, however. Plaintiffs would also have to show that the false statements were made with fraudulent intent or recklessness. Defendants had a number of arrows in their quiver to shoot down Plaintiffs' scienter contentions. (*Id.* ¶ 69.)

Establishing liability would be difficult for the Class. Establishing damages would also be no picnic. Plaintiffs would be required to demonstrate loss causation, which means Plaintiffs would have been required to prove that Defendants' deceptive conduct caused their claimed economic loss. *See Erica P. John Fund, Inc. v. Halliburton Co.*, 563 U.S. 804, 807 (2011). According to Plaintiffs, "Defendants had substantial arguments that at least some of the declines in the price of DFC Global common stock were not caused by revelations of the true facts concerning DFC Global's alleged false and misleading statements." (Jt. Decl. ¶ 73.) Moreover, Plaintiffs' damages may have been limited if Defendants were able to convince a jury that "Lead Plaintiffs could not reasonably establish any liability before February 2012, when the [Office of Fair Trading] announced that it was conducting an investigation of the U.K. payday lending industry, or, at the latest, before March 2013, when the [Office of Fair Trading] issued its report detailing the deficiencies observed from its investigation into the payday lending business in the U.K." (*Id.* ¶ 76.)

The Court finds that these factors weigh heavily in favor of approving the settlement.

6. *Risk of maintaining the class action through the trial*

"Under Rule 23, a district court may decertify or modify a class at any time during the litigation if it proves to be unmanageable." *Prudential*, 148 F.3d at 321.

The parties have not pointed the Court to any specific argument beyond the general legal principle that class certification is always open to review. This factor is neutral.

7. *Ability of Defendants to withstand a greater judgment*

This factor takes on its greatest role in those cases in which the defendant's inability to pay led to a lesser financial settlement than would ordinarily be awarded. *See Krimes v. JPMorgan Chase*, Civ. A. No. 15-5087, 2017 WL 2262998, at *9 (E.D. Pa. May 24, 2017).

The Court has little information in the record to form a conclusion about this factor. "Here, while Defendants arguably could afford to pay more, Lead Plaintiffs respectfully submit that this factor should not be viewed as determinative by this Court." (Mem. of Law in Supp. of Lead Pls.' Mot. for Final Approval of Class Action Settlement and Plan of Allocation [Pls.' Mem.] at 22.) The Court agrees and finds that the fact that DFC Global could pay more does not weigh against approval of the settlement.

8. *Range of reasonableness of the settlement fund in light of the best possible recovery and in light of all the attendant risks of litigation*

The last two *Girsh* factors assess "the present value of the damages plaintiffs would likely recover if successful, appropriately discounted for the risk of not prevailing . . . compared with the amount of the proposed settlement." *Prudential*, 148 F.3d at 322. In conjunction, these two factors ask "whether the settlement represents a good value for a weak case or a poor value for a strong case." *In re Warfarin Sodium Antitrust Litig.*, 391 F.3d 516, 538 (3d Cir. 2004). "Notably, in conducting the analysis, the court must guard against demanding too large a settlement based on its view of the merits of the litigation; after all, settlement is a compromise, a yielding of the highest hopes in exchange for certainty and resolution." *Sullivan*, 667 F.3d at 324.

Counsel for the Class concedes that the damages recoverable are much greater than the settlement amount. (Pls.' Mem. at 22–23.) This concession, however, is based upon a best case

scenario, in which Plaintiffs were able to establish liability and loss causation for all of the alleged false statements and for the entire length of the Class Period. That scenario—complete and total victory throughout the entire course of complex securities litigation—occurs with the regularity of unicorn sightings. The risks here were real, and a misstep at any point in the litigation could have greatly reduced the damages, or forced the Class out of court entirely. Regardless, complete and total victory would only come after significant expenditures and years of fierce battle. These factors weigh in favor of approval of the settlement.

9. *Prudential factors*

The Court also concludes that the *Prudential* factors also weigh in favor of approving the settlement. First, this litigation has proceeded far enough that the lawyers and this Court can assess the probable outcome of a trial on the merits. Second, Co-Lead Class Counsel report that they are unaware of any related claims asserted by other classes or other claimants. Third, class members were afforded the opportunity to opt-out of the settlement agreement, though only one has done so. Fourth, as will be discussed below, the request for attorneys' fees is reasonable. Fifth, the procedure for processing individual claims is fair and reasonable.

B. Attorneys' Fees

Class Counsel seeks an attorneys' fee award of 25 percent of the settlement fund, or \$7,500,000 for work on litigation.

Rule 23(h) of the Federal Rules of Civil Procedure authorizes an award of "reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement." The court must direct a thorough review of the request for fees. *Gen. Motors*, 55 F.3d at 819. The party requesting fees must demonstrate the reasonableness of its request and therefore must submit

evidence to support its request. *See Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983).

There are two methods for calculating attorneys' fees in a class action: the percentage-of-recovery method and the lodestar method. *Prudential*, 148 F.3d at 333. The lodestar method is used in statutory-fee-shifting cases. *Id.* (noting that lodestar method "is designed to reward counsel for undertaking socially beneficial litigation in cases where the expected relief has a small enough monetary value that a percentage-of-recovery method would provide inadequate compensation"). The percentage-of-recovery method is preferred when the fee is to be paid from a common fund "because it allows courts to award fees from the fund in a manner that rewards counsel for success and penalizes it for failure." *In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 300 (3d Cir. 2005). Because this is a common fund case, the Court will employ the percentage-of-recovery method to determine the amount of attorneys' fees it will award Class Counsel. As suggested by the Third Circuit, the Court will then apply a lodestar cross-check to ensure the reasonableness of the award. *See Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n.1 (3d Cir. 2000).

In determining a reasonable percentage fee award, the Third Circuit requires the district court to consider ten factors: (1) the size of the fund created and the number of beneficiaries; (2) the presence or absence of substantial objections by members of the class to the settlement terms and/or fees requested by counsel; (3) the skill and efficiency of the attorneys involved; (4) the complexity and duration of the litigation; (5) the risk of nonpayment; (6) the amount of time devoted to the case by plaintiffs' counsel; (7) awards in similar cases; (8) the value of benefits attributable to the efforts of class counsel relative to the efforts of other groups, such as government agencies conducting investigations; (9) the percentage fee that would have been negotiated had the case been subject to a private contingent fee arrangement at the time counsel was retained; and (10) any innovative

settlement terms. *In re Diet Drugs*, 582 F.3d 524, 541 (3d Cir. 2009). These factors should not “be applied in a rigid, formulaic manner, but rather a court must weigh them in light of the facts and circumstances of each case.” *Moore v. Comcast Corp.*, Civ. A. No. 08-773, 2011 WL 238821, at *4 (E.D. Pa. Jan. 24, 2011).

1. *The size of the fund and the number of beneficiaries*

The settlement fund is \$30 million. Approximately 20,000 notice packets have been mailed to potential Class members. This is a large settlement fund that has the potential to benefit a great number of investors. This factor weighs in favor of approving the fee petition.

2. *Absence of substantial objections by members of the class to the fee request*

The notice of the settlement was sent to thousands of potential Class members and was posted on a publicly available website. No objections have been raised. The lack of objections weighs in favor of this award of attorneys’ fees. *See Rite Aid*, 396 F.3d at 305 (two objectors out of 300,000 class members supported approval of the requested fees).

3. *The skill and efficiency of the attorneys involved*

This litigation involved impressive legal talent on both sides. Included as an exhibit to the fee petition is the firm biography of Barrack, Rodos & Bacine and the firm biography of Bernstein Litowitz Berger & Grossman LLP. As would be expected from a piece of legal advertising, the information contained in these biographies is glowing. Both firms have achieved significant successes and boast an impressive array of legal talent. The Class here was represented by skilled advocates who were able to achieve a large recovery.

4. *The complexity and duration of the litigation*

Securities litigation is tough stuff. *See In re Ikon Office Solutions, Inc. Secs. Litig.*, 194

F.R.D. 166, 179 (E.D. Pa. 2000) (noting the “inherently complicated nature of large class actions alleging securities fraud”). This alleged securities fraud matter is no different, and would have required significant resources to further delve into the payday loan industry. This litigation commenced in 2013, and since then, the parties have completed significant briefing and reviewed close to two million pages of documents.

Moreover, this litigation, had it not settled, would have continued far into the future. As counsel notes, significant discovery was still left to be conducted, including discovery with respect to merits, loss causation, and experts. Additionally, motion practice and jury preparation was on the horizon. Finally, the Court suspects that regardless of the outcome, an appeal was likely to follow. Given the complexity of the case and duration of the litigation, this factor weighs in favor of approving the fee petition.

5. *Risk of nonpayment*

There is a greater risk of nonpayment for cases taken on a contingent fee basis. *See Ripley v. Sunoco, Inc.*, 287 F.R.D. 300, 315 (E.D. Pa. 2012) (concluding that risk of nonpayment factor weighed in favor of approving fee petition because class counsel took the action under a contingency arrangement).

Here, counsel undertook this matter on an entirely contingent fee basis, which at least left open the possibility that counsel would receive little or nothing for their troubles. (*See Mem. of Law in Supp. of Co-Lead Counsel’s Mot. for an Award of Attorneys’ Fees and Reimbursement of Litig. Expenses [Fee Petition Mem.] at 14-15.*) This factor weighs in favor of approving the fee petition.

6. *The amount of time devoted to the case*

Counsel has spent over 20,000 hours and incurred close to half a million dollars in expenses

litigating this matter. (*Id.* at 15.) The attorneys worked a great deal of hours on the following: initially investigating the case; interviewing confidential witnesses; preparing the complaint researching and briefing Defendants' motion to dismiss; conducting and defending discovery; preparing and briefing the motion for class certification; and mediating this matter. This factor weighs in favor of approving the fee petition.

7. *Awards in similar cases*

In the Third Circuit, fee awards in common fund cases generally range from 19 percent to 45 percent of the fund. *See Bredbenner v. Liberty Travel, Inc.*, Civ. A. Nos. 09-905, 09-1248, 09-4587, 2011 WL 1344745, at *21 (D.N.J. Apr. 8, 2011). In fact, the Third Circuit has relied on studies that demonstrated that an average percentage fee recovery in large class action settlements is approximately 30%. *See Sullivan*, 667 F.3d at 333. Thus, a fee award of 25% of the total settlement here is reasonable and in keeping with similar precedent. *See McGee v. Cont'l Tire N. Am., Inc.*, Civ. A. No. 06-6234, 2009 WL 539893, at *16 (D.N.J. Mar. 4, 2009) (approving a 22%-31% fee award in a consumer fraud class action); *In re Linerboard Antitrust Litig.*, Civ. A. Nos. 98-5055, 99-1000, 99-1341, 2004 WL 1221350, at *14 (E.D. Pa. June 2, 2004) (citing a Federal Judicial Center study that found that in federal class actions the median attorneys' fee awards was between 27% and 30%).

8. *Additional factors*

There are three final factors that courts consider: the value of benefits attributable to the efforts of class counsel relative to the efforts of other groups, such as government agencies conducting investigations; the percentage fee that would have been negotiated had the case been subject to a private contingent fee arrangement at the time counsel was retained; and any innovative settlement terms.

These factors simply play no role here. Although there have been government investigations into the industry, there is no indication that such investigations played any role in the settlement here. Moving on, this litigation is being undertaken on a contingent fee basis, which makes the percentage fee that would have been negotiated irrelevant here. Finally, the parties have not alerted the Court to—nor has the Court uncovered—any creative settlement terms here.

C. Lodestar Cross-Check

“The lodestar crosscheck is intended to gauge the reasonableness of the attorneys’ fee award as a whole.” *Milliron v. T-Mobile, USA, Inc.*, 423 F. App’x 131, 136 (3d Cir. 2011). In performing the lodestar cross-check, the court multiplies “the number of hours reasonably worked on a client’s case by a reasonable hourly billing rate for such services based on the given geographical area, the nature of the services provided, and the experience of the attorneys.” *Rite Aid*, 396 F.3d at 305. The court may then apply a multiplier to “account for the contingent nature or risk involved in a particular case and the quality of the attorneys’ work.” *Id.* at 305-06. If the multiplier that must be used in order to obtain the result reached by application of the percentage-of-recovery method “is too great, the court should reconsider its calculation under the percentage-of-recovery method.” *Id.* at 306. However, because the cross-check is not the primary analysis in common fund cases, it does not require “mathematical precision [] or bean-counting.” *Id.* In evaluating the hours reasonably spent on the case, the Court does not have to “review actual billing records” but can “rel[y] on summaries submitted by the attorneys.” *See id.*

Class counsel has submitted declarations demonstrating 20,885.65 hours of attorney and professional support staff in litigating this action. (Fee Petition Mem. at 18.) Using the relevant firms’ 2016 hourly rates, the cumulative lodestar in this matter is \$9,891,022.50. Counsel seeks 25%

of the settlement fund, which works out to \$7.5 million. Thus, the multiplier here is approximately .76. A multiplier of .76 is well within the range the Third Circuit has approved. *Prudential*, 148 F.3d at 341 (noting that multipliers from one to four are reasonable and frequently awarded in common fund cases); *see also In re AT&T Corp. Secs. Litig.*, 455 F.3d 160, 173 (3d Cir. 2006) (finding that 1.28 and 2.99 were acceptable multipliers).

The Court concludes that the lodestar cross-check provides further support for approval of the fee petition.

D. Costs

Class Counsel seek litigation expenses totaling \$472,462.44 for expert fees, research, court reporting and transcripts, photocopying, travel, and postage. (Fee Petition Mem. at 19-20.) Class counsel are “entitled to reimbursement of expenses that were adequately documented and reasonably and appropriately incurred in the prosecution of the case.” *Moore v. Comcast Corp.*, Civ. A. No. 08-773, 2011 WL 238821, at *5 (E.D. Pa. Jan. 24, 2011). Items such as photocopying, telephone and fax charges, express mail charges, expert witness fees, travel and lodging, and computer-assisted research are necessary for the prosecution of a large class action lawsuit. Accordingly, class counsel are entitled to be reimbursed for those costs. *Soon Oh v. AT & T Corp.*, 225 F.R.D. 142, 154 (D.N.J. 2004).

Similarly, Lead Plaintiffs are also entitled to have certain costs reimbursed. *See* 15 U.S.C. § 78u-4(a)(4) (“Nothing in this paragraph shall be construed to limit the award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class to any representative party serving on behalf of a class.”). Here, the Lead Plaintiffs, Arkansas Teachers Retirement System, Macomb County Employees Retirement System, and the Laborers’ District

Council and Contractors' Pension Fund of Ohio, seek awards of \$5,560, \$7,080, and \$9,000, respectively. (Fee Petition Mem. at 20-21.) As outlined in the fee petition memorandum, Lead Plaintiffs performed a number of tasks to aid in this litigation. Among these tasks, Lead Plaintiffs reviewed pleadings and briefs, provided discovery, met with lawyers, prepared for depositions, authorized settlement discussions, and approved the settlement. (Fee Petition Mem. at 21.) These costs are documented and reasonable and Lead Plaintiffs are entitled to be reimbursed for them.

IV. CONCLUSION

Having reviewed the record before the Court and the parties' submissions, the Court concludes that the requirements of Rule 23 have been satisfied, and that the settlement is fair, reasonable, and adequate. Similarly, the request for attorneys' fees and costs is also reasonable. The Court therefore grants the motion to approve the settlement and for attorneys' fees and costs. Separate Orders approving the settlement, the plan of allocation, and the petition for attorneys' fees and costs will be docketed separately.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE DFC GLOBAL CORP.
SECURITIES LITIGATION

Civ. A. No. 2:13-cv-06731-BMS

**ORDER
GRANTING CO-LEAD COUNSEL'S MOTION FOR AN AWARD OF
ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

WHEREAS:

A. On September 19, 2017, a hearing was held before this Court to consider, among other matters: (1) Co-Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the "Fee and Expense Application"); and (2) the fairness and reasonableness of the Fee and Expense Application to the Class Members. All interested persons were afforded the opportunity to be heard;

B. The maximum amount of fees and expenses that would be requested by Co-Lead Counsel was set forth in the Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the "Notice") that was disseminated in accordance with the Court's Order entered on March 8, 2017;

C. The Notice advised that any objections to the Fee and Expense Application were required to be filed with the Court no later than June 16, 2017, and mailed to counsel for the parties such that they were received no later than June 16, 2017;

D. On June 1, 2017, Co-Lead Counsel filed their Fee and Expense Application, supported by declarations and a memorandum of law;

E. This Court has duly considered Co-Lead Counsel's Fee and Expense Application, the declarations and memorandum of law submitted in support thereof, and all of the submissions and arguments presented with respect thereto.

NOW, THEREFORE, after due deliberation, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. This Order incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated February 28, 2017 (ECF 131-1) (the "Stipulation"), as well as the provisions set forth in paragraph 15 of the Stipulation. All capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.

2. The Court has jurisdiction to enter this Order and over the subject matter of the Action and all parties to the Action, including all Class Members.

3. The Fee and Expense Application is GRANTED. Co-Lead Counsel are awarded the sum of 25% of the Settlement Fund) in attorneys' fees, plus interest at the same rate earned by the Settlement Fund.

4. Co-Lead Counsel's motion for reimbursement of litigation expenses is GRANTED. Lead Counsel are awarded the sum of \$472,462.44 in litigation expenses.

5. In making this award of attorneys' fees and reimbursement of Litigation Expenses to be paid from the Settlement Fund, the Court has considered and found that:

(a) The Settlement has created a fund of \$30,000,000 in cash that has been funded into escrow pursuant to the terms of the Stipulation, and that numerous Class Members who submit acceptable Claim Forms will benefit from the Settlement that occurred because of the efforts of Plaintiffs' Counsel;

(b) The fee sought by Co-Lead Counsel has been reviewed and approved as reasonable by the Court-appointed Lead Plaintiffs, Arkansas Teacher Retirement System ("ATRS"), Macomb County Employees Retirement System ("Macomb County"), and Laborers' District Council and Contractors' Pension Fund of Ohio ("Ohio Laborers"), who are institutional investors that oversaw the prosecution and resolution of the Action;

(c) Copies of the Notice were mailed to over 19,800 potential Class Members and nominees stating that Co-Lead Counsel would apply for attorneys' fees in an amount not to exceed 25% of the Settlement Fund and reimbursement of Litigation Expenses in an amount not to exceed \$700,000;

(d) Co-Lead Counsel have conducted the litigation and achieved the Settlement with skill, perseverance and diligent advocacy;

(e) The Action raised a number of complex issues;

(f) Had Co-Lead Counsel not achieved the Settlement there would remain a significant risk that Lead Plaintiffs and the other members of the Class may have recovered less or nothing from Defendants;

(g) Plaintiffs' Counsel devoted over 20,800 hours, with a lodestar value of approximately \$9,891,000, to achieve the Settlement; and

(h) The amount of attorneys' fees awarded and Litigation Expenses to be reimbursed from the Settlement Fund are fair and reasonable and consistent with awards in similar cases.

6. Co-Lead Counsel's motion for reimbursement of costs and expenses incurred by the Lead Plaintiffs directly related to their representation of the Class, as authorized by the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(a)(4), is GRANTED. Lead Plaintiff ATRS is hereby awarded \$5,560; Lead Plaintiff Macomb County is hereby awarded \$7,080; and Lead Plaintiff Ohio Laborers is hereby awarded \$9,000.

7. Co-Lead Counsel shall allocate the attorneys' fees awarded amongst Plaintiffs' Counsel in a manner which they, in good faith, believes reflects the contributions of such counsel to the institution, prosecution and settlement of the Action.

8. The Notice provided the best notice practicable under the circumstances. Said Notice provided due and adequate notice of these proceedings and the matters set forth therein, including the fee and expense request, to all persons entitled to such Notice, and said Notice fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process.

9. Any appeal or any challenge affecting this Court's approval regarding any attorneys' fees and expense application shall in no way disturb or affect the finality of the Judgment.

10. Exclusive jurisdiction is hereby retained over the parties and the Class Members for all matters relating to this Action, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Order.

11. In the event that the Settlement is terminated or the Effective Date of the Settlement otherwise fails to occur, this Order shall be rendered null and void to the extent provided by the Stipulation.

12. There is no just reason for delay in the entry of this Order Granting Co-Lead Counsel's Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses, and immediate entry of this Order by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

SO ORDERED:

A handwritten signature in black ink, appearing to read 'BMS', written over a horizontal line.

Berle M. Schiller
United States District Judge

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE DFC GLOBAL CORP.
SECURITIES LITIGATION

Civ. A. No. 2:13-cv-06731-BMS

**ORDER GRANTING LEAD PLAINTIFFS'
PROPOSED PLAN OF ALLOCATION**

WHEREAS:

A. On September 19, 2017, a hearing was held before this Court to consider, among other matters: (1) Lead Plaintiffs' Plan of Allocation (the "Plan") for distribution of the Net Settlement Fund established as a result of the Settlement in this Action; and (2) the fairness and reasonableness of the Plan to the Class Members. All interested persons were afforded the opportunity to be heard;

B. The Plan was set forth in the Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses (the "Notice") that was disseminated in accordance with the Court's Order entered on March 8, 2017;

C. On June 1, 2017, Lead Plaintiffs moved for approval of the Plan, as set forth in the Notice.

D. This Court has duly considered Lead Plaintiffs' motion, the declarations and memoranda of law submitted in support thereof, and all of the submissions and arguments presented with respect to the fairness and reasonableness of the Plan for distributing the proceeds of the Settlement to members of the Class.

NOW, THEREFORE, after due deliberation, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Order incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated February 28, 2017 (ECF 131-1) (the “Stipulation”). All capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.

2. The Court has jurisdiction to enter this Order and over the subject matter of the Action and all parties to the Action, including all Class Members.

3. The proposed Plan, in the form set forth in the Notice, is APPROVED. Lead Plaintiffs are authorized and directed to utilize the Plan as the basis for calculating the Proofs of Claim submitted by Class Members in connection with the Settlement in this Action.

2. The Court hereby finds and concludes that the Plan is fair and reasonable to Members of the Class. The Court further finds that the Plan is rationally based on the market prices and market movements of DFC Global Corp. common stock during the Class Period, the claims made in the Action, and analysis prepared by Lead Plaintiffs’ expert consultant, and is further consistent with the Opinions and Orders previously issued by the Court with respect to the claims asserted by Lead Plaintiffs in the Action.

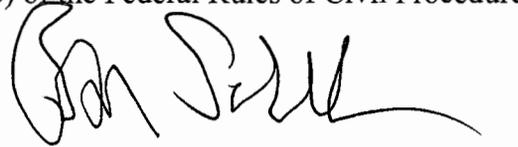
3. There shall be no distribution of any of the Settlement Fund to any Class Member until this Order becomes final, and is either affirmed on appeal and/or is no longer subject to review by appeal or certiorari, and the time for any petition for rehearing, appeal or review, whether by certiorari or otherwise, has expired.

4. The Notice described herein provided the best notice practicable under the circumstances. Said Notice provided due and adequate notice of these proceedings and the

matters set forth therein, including the Plan, to all persons entitled to such Notice, and said Notice fully satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process.

5. There is no just reason for delay in the entry of this Order Granting Lead Plaintiffs' Proposed Plan of Allocation, and immediate entry of this Order by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Berle M. Schiller", written over a horizontal line.

Berle M. Schiller
United States District Judge

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE DFC GLOBAL CORP.
SECURITIES LITIGATION

Civ. A. No. 2:13-cv-06731-BMS

JUDGMENT APPROVING CLASS ACTION SETTLEMENT

WHEREAS, a consolidated class action is pending in this Court entitled *In re DFC Global Corp. Securities Litigation*, Civ. A. No. 2:13-cv-06731-BMS (the “Action”);

WHEREAS, (a) Lead Plaintiffs Arkansas Teacher Retirement System, Macomb County Employees Retirement System, and Laborers’ District Council and Contractors’ Pension Fund of Ohio (“Lead Plaintiffs”), on behalf of themselves and the Class, and (b) defendant DFC Global Corp. (“DFC Global” or the “Company”); defendants Jeffrey A. Weiss, Randy Underwood, William M. Athas, David Jessick, Kenneth Schwenke, Clive Kahn, John Gavin, Ronald McLaughlin, and Michael Kooper (collectively, the “Individual Defendants” and, together with DFC Global, the “DFC Global Defendants”); and defendants Credit Suisse Securities (USA) LLC and Nomura Securities International, Inc. (collectively, the “Underwriter Defendants” and, together with the DFC Global Defendants, the “Defendants”; and, together with Lead Plaintiffs, the “Parties”) have entered into a Stipulation and Agreement of Settlement dated February 28, 2017 (the “Stipulation”), that provides for a complete dismissal with prejudice of the claims asserted against Defendants in the Action on the terms and conditions set forth in the Stipulation, subject to the approval of this Court (the “Settlement”);

WHEREAS, unless otherwise defined in this Judgment, the capitalized terms herein shall have the same meaning as they have in the Stipulation;

WHEREAS, by Order dated March 8, 2017 (the “Preliminary Approval Order”), this Court: (a) preliminarily approved the Settlement; (b) ordered that notice of the proposed Settlement be provided to potential Class Members; (c) provided Class Members with the opportunity either to exclude themselves from the Class or to object to the proposed Settlement; and (d) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, due and adequate notice has been given to the Class;

WHEREAS, the Court conducted a hearing on September 19, 2017 (the “Settlement Hearing”) to consider, among other things, (a) whether the terms and conditions of the Settlement are fair, reasonable and adequate to the Class, and should therefore be approved; and (b) whether a judgment should be entered dismissing the Action with prejudice as against the Defendants; and

WHEREAS, the Court having reviewed and considered the Stipulation, all papers filed and proceedings held herein in connection with the Settlement, all oral and written comments received regarding the Settlement, and the record in the Action, and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. **Jurisdiction** – The Court has jurisdiction over the subject matter of the Action, and all matters relating to the Settlement, as well as personal jurisdiction over all of the Parties and each of the Class Members.

2. **Incorporation of Settlement Documents** – This Judgment incorporates and makes a part hereof: (a) the Stipulation filed with the Court on March 1, 2017; and (b) the Notice and the Summary Notice, both of which were filed with the Court on June 1, 2017.

3. **Notice** – The Court finds that the dissemination of the Notice and the publication of the Summary Notice: (a) were implemented in accordance with the Preliminary Approval Order; (b) constituted the best notice practicable under the circumstances; (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of (i) the pendency of the Action; (ii) the effect of the proposed Settlement (including the Releases to be provided thereunder); (iii) Lead Counsel’s motion for an award of attorneys’ fees and reimbursement of Litigation Expenses; (iv) their right to object to any aspect of the Settlement, the Plan of Allocation and/or Lead Counsel’s motion for attorneys’ fees and reimbursement of Litigation Expenses; (v) their right to exclude themselves from the Class; and (vi) their right to appear at the Settlement Hearing; (d) constituted due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, as amended, and all other applicable law and rules.

4. **Final Settlement Approval and Dismissal of Claims** – Pursuant to, and in accordance with, Rule 23 of the Federal Rules of Civil Procedure, this Court hereby fully and finally approves the Settlement set forth in the Stipulation in all respects (including, without limitation: the amount of the Settlement; the Releases provided for therein; and the dismissal with prejudice of the claims asserted against Defendants in the Action), and finds that the Settlement is, in all respects, fair, reasonable and adequate to the Class. The Parties are directed to implement, perform and consummate the Settlement in accordance with the terms and provisions contained in the Stipulation.

5. The Action and all of the claims asserted against Defendants in the Action by Lead Plaintiffs and the other Class Members are hereby dismissed with prejudice. The Parties shall bear their own costs and expenses, except as otherwise expressly provided in the Stipulation.

6. **Binding Effect** – The terms of the Stipulation and of this Judgment shall be forever binding on Defendants, Lead Plaintiffs and all other Class Members (regardless of whether or not any individual Class Member submits a Claim Form or seeks or obtains a distribution from the Net Settlement Fund), as well as their respective successors and assigns. The entity listed on Exhibit 1 hereto is excluded from the Class pursuant to request and is not bound by the terms of the Stipulation or this Judgment.

7. **Releases** – The Releases set forth in paragraphs 4 and 5 of the Stipulation, together with the definitions contained in paragraph 1 of the Stipulation relating thereto, are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, this Court orders that:

(a) Without further action by anyone, and subject to paragraph 8 below, upon the Effective Date of the Settlement, Lead Plaintiffs and each of the other Class Members, on behalf of themselves, and their respective heirs, executors, administrators, attorneys, agents, partners, predecessors, successors, beneficiaries, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Plaintiffs' Claim against the Defendants and the other Defendants' Releasees, and shall forever be barred and enjoined from commencing, instituting, asserting, maintaining, enforcing, prosecuting, or otherwise pursuing, either directly or in any other capacity, any or all

of the Released Plaintiffs' Claims against any of the Defendants' Releasees, whether or not such Class Members execute and deliver a Claim to the Claims Administrator.

(b) Without further action by anyone, and subject to paragraph 8 below, upon the Effective Date of the Settlement, Defendants, on behalf of themselves, and their respective heirs, executors, administrators, attorneys, agents, partners, predecessors, successors, beneficiaries, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Defendants' Claim against Lead Plaintiffs and the other Plaintiffs' Releasees, and shall forever be enjoined from prosecuting any or all of the Released Defendants' Claims against any of the Plaintiffs' Releasees. This Release shall not apply to the entity listed on Exhibit 1 hereto.

8. Notwithstanding paragraphs 7(a) – (b) above, nothing in this Judgment shall bar any action by any of the Parties to enforce or effectuate the terms of the Stipulation or this Judgment.

9. **Rule 11 Findings** – The Court finds and concludes that the Parties and their respective counsel have complied in all respects with the requirements of Rule 11 of the Federal Rules of Civil Procedure in connection with the institution, prosecution, defense, and settlement of the Action.

10. **No Admissions** – Neither this Judgment, the Term Sheet, the Stipulation (whether or not consummated), including the exhibits thereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of the Term Sheet and the Stipulation, nor any proceedings taken pursuant to or in

connection with the Term Sheet, the Stipulation and/or approval of the Settlement (including any arguments proffered in connection therewith):

(a) shall be offered against any of the Defendants' Releasees as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Defendants' Releasees with respect to the truth of any fact alleged by Lead Plaintiffs or the validity of any claim that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Defendants' Releasees or in any way referred to for any other reason as against any of the Defendants' Releasees, in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation;

(b) shall be offered against any of the Plaintiffs' Releasees, as evidence of, or construed as, or deemed to be evidence of any presumption, concession or admission by any of the Plaintiffs' Releasees that any of their claims are without merit, that any of the Defendants' Releasees had meritorious defenses, or that damages recoverable under the Complaint would not have exceeded the Settlement Amount or with respect to any liability, negligence, fault or wrongdoing of any kind, or in any way referred to for any other reason as against any of the Plaintiffs' Releasees, in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; or

(c) shall be construed against any of the Releasees as an admission, concession, or presumption that the consideration to be given under the Settlement represents the amount which could be or would have been recovered after trial;

provided, however, that the Parties and the Releasees and their respective counsel may refer to this Judgment and the Stipulation to effectuate the protections from liability granted hereunder and thereunder or otherwise to enforce the terms of the Settlement.

11. **Retention of Jurisdiction** – Without affecting the finality of this Judgment in any way, this Court retains continuing and exclusive jurisdiction over: (a) the Parties for purposes of the administration, interpretation, implementation and enforcement of the Settlement; (b) the disposition of the Settlement Fund; (c) any motion for an award of attorneys’ fees and/or Litigation Expenses by Lead Counsel in the Action that will be paid from the Settlement Fund; (d) any motion to approve the Plan of Allocation; (e) any motion to approve the Class Distribution Order; and (f) the Class Members for all matters relating to the Action.

12. Separate orders shall be entered regarding approval of a plan of allocation and the motion of Lead Counsel for an award of attorneys’ fees and reimbursement of Litigation Expenses. Such orders shall in no way affect or delay the finality of this Judgment and shall not affect or delay the Effective Date of the Settlement.

13. **Modification of the Agreement of Settlement** – Without further approval from the Court, Lead Plaintiffs and Defendants are hereby authorized to agree to and adopt such amendments or modifications of the Stipulation or any exhibits attached thereto to effectuate the Settlement that: (a) are not materially inconsistent with this Judgment; and (b) do not materially limit the rights of Class Members in connection with the Settlement. Without further order of the Court, Lead Plaintiffs and Defendants may agree to reasonable extensions of time to carry out any provisions of the Settlement.

14. **Termination of Settlement** – If the Settlement is terminated as provided in the Stipulation or the Effective Date of the Settlement otherwise fails to occur, this Judgment shall

be vacated, rendered null and void and be of no further force and effect, except as otherwise provided by the Stipulation, and this Judgment shall be without prejudice to the rights of Lead Plaintiffs, the other Class Members and Defendants, and the Parties shall revert to their respective positions in the Action as of December 8, 2016, as provided in the Stipulation.

15. **Entry of Final Judgment** – There is no just reason to delay the entry of this Judgment as a final judgment in this Action. Accordingly, the Clerk of the Court is expressly directed to immediately enter this final judgment in this Action.

SO ORDERED this 20th day of September, 2017.



The Honorable Berle M. Schiller
United States District Judge

#1047326

Exhibit 1

1. UTC Financial Services (USA), Inc.
Port of Spain, Trinidad, W.I.