

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Julie Karpik, et al.,

Plaintiffs,

Case No. 2:17-cv-1153

v.

Judge Michael H. Watson

Huntington Bancshares Inc., et al.,

Magistrate Judge Jolson

Defendants.

OPINION AND ORDER

Plaintiffs Julie Karpik, Michelle Lewis, Deborah Mondell, Robert Owen, Linda Humenik, Diane George, and Theodore George (collectively "Plaintiffs") move for preliminary approval of a class action settlement reached in this case. Mot., ECF No. 67. Defendants have entered into a settlement agreement with Plaintiffs and do not oppose the motion for preliminary approval. Upon review of the motion for preliminary approval and its supporting documents, including the Class Action Settlement Agreement dated August 7, 2020, the Court **GRANTS** Plaintiffs' motion for preliminary approval.

THEREFORE, IT IS HEREBY ORDERED:

1. Capitalized terms used in this Order that are not otherwise identified herein have the meaning assigned to them in the Settlement Agreement.
2. The Court has jurisdiction to consider the motion for preliminary approval and the relief requested therein in accordance with 28 U.S.C. § 1331 and 29 U.S.C. § 1132(e)(1).

3. Venue before this Court is proper pursuant to 29 U.S.C.

§ 1132(e)(2).

4. The terms set forth in the Settlement Agreement are hereby preliminarily approved, subject to further consideration at the Fairness Hearing provided for below. The Court concludes that the Settlement Agreement is sufficiently within the range of reasonableness to warrant the preliminary approval of the Settlement Agreement, the scheduling of the Fairness Hearing, and the mailing of Notices to Settlement Class Members, each as provided for in this Order. The Court further finds, on a preliminary basis, that the proposed formula proposed for allocating the Distributable Settlement Fund among Settlement Class Members is fair and reasonable.

Class Certification for Settlement Purposes

5. Pursuant to Rules 23(a) and (b)(1) of the Federal Rules of Civil Procedure, the Court hereby certifies for settlement purposes only the following Settlement Class (the "Class" or the "Settlement Class"):

All participants and beneficiaries of the Huntington 401(k) Plan, formerly known as the Huntington Investment and Tax Savings Plan, from December 29, 2011 through October 14, 2020, excluding the Defendants or any Plan participant who is or was a fiduciary to the Plan during the Class Period.

6. Solely for settlement purposes, the Court finds that each element required for certification of the Class pursuant to Rule 23 of the Federal Rules of Civil Procedure has been met: (a) the members of the Class are so numerous

that their joinder in the Action is impracticable; (b) there are questions of law and fact common to the members of the Class that predominate over any questions affecting only individual members of the Class; (c) Plaintiffs' claims are typical of the claims of the Class; and (d) Plaintiffs and Class Counsel have fairly and adequately represented and protected the interests of the Class. Solely for settlement purposes, the Court further finds that the requirements of Rule 23(b)(1) have been met. Prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications as to individual Settlement Class Member(s) that would establish incompatible standards of conduct for the parties opposing the claims asserted in this Action, and adjudications with respect to individual Class members would, as a practical matter, be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests.

7. For settlement purposes, the Court hereby finds that pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiffs are adequate class representatives and certifies them as Class Representatives for the Class, and appoints the law firms of Nichols Kaster, PLLP and Barkan Meizlish DeRose Wentz McInerney Peifer, LLP as Class Counsel. Plaintiffs and Class Counsel have fairly and adequately represented the Class in terms of both litigating the claims of the Class and entering into and implementing the Settlement and have

satisfied all the requirements of Federal Rules of Civil Procedure 23(a)(4) and 23(g), respectively.

Class Notice

8. The Court approves the Notice of Proposed Class Action Settlement (“Notice”) in the form attached as Exhibit B to the Settlement Agreement. The parties may make non-substantive changes to the Notice, such as filling in the applicable dates and correcting any typographical errors or addressing similar issues.

9. Defendant shall cause the Plan’s recordkeepers during the class period to provide the Settlement Administrator with the last known mailing address for each Settlement Class Member. The names and addresses provided to the Settlement Administrator pursuant to this Order shall be used solely for the purpose of providing notice of this Settlement.

10. Within thirty (30) days after entry of this Order, the Settlement Administrator shall cause copies of the Notice to be sent via first-class U.S. mail, postage pre-paid to each Settlement Class Member through the notice procedure described in the Settlement Agreement. The Notice shall be accompanied by the Rollover Form attached as Exhibit E to the Settlement Agreement for Settlement Class Members who are Former Participants.

11. The Court finds that the Notice to be provided as set forth in this Order is the best means of providing notice to the Settlement Class Members as is practicable under the circumstances and, when completed, shall constitute due

and sufficient notice of the Settlement and the Fairness Hearing, and the requested Attorneys' Fees and Expenses and Class Representative Service Awards, to all persons affected by or entitled to participate in the Settlement in full compliance with the requirements of due process and the Federal Rules of Civil Procedure.

12. All reasonable Administrative Costs for the Settlement Administrator, Independent Fiduciary, and Escrow Agent in connection with their duties under the Settlement shall be paid as set forth in the Settlement Agreement without further order of the Court.

Fairness Hearing

13. The Court will hold a Fairness Hearing on Tuesday February 9, 2021 at 10:00 .m. in the Joseph P. Kinneary United States Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215, for the following purposes: (a) to determine whether the proposed Settlement is fair, reasonable, adequate and in the best interests of the Class and should be approved by the Court; (b) to determine whether a Final Approval Order substantially in the form attached as Exhibit A to the Settlement Agreement should be entered pursuant to the terms of the Settlement, dismissing with prejudice all claims asserted in the Action against Defendants with respect to Settlement Class Member(s); (c) to determine whether the proposed Plan of Allocation for the proceeds of the Settlement is fair and reasonable and should be approved; (d) to determine whether the separate motion for payment of Attorneys' Fees and Expenses to Class Counsel and

Class Representative Service Awards to the named Plaintiffs should be approved; and (e) to consider any other matters that may properly be brought before the Court in connection with the Settlement. Notice of the Settlement and the Fairness Hearing shall be given to Class Members as set forth in Paragraph 10 of this Order.

14. The Court may adjourn the Fairness Hearing and approve the proposed Settlement with such modifications as the Parties may agree to, if appropriate, without further notice to the Class.

Appearance and Objections at Settlement Hearing

15. The Court will consider written comments and objections to the Settlement Agreement, to the Plan of Allocation, to the proposed award of Attorneys' Fees and Expenses, or to the request for Class Representative Service Awards for the Plaintiffs only if such written comments or objections are filed with the Court Clerk not later than 21 days before the Fairness Hearing and comply with the requirements of Paragraph 16 below, and are served on the Parties at the following addresses:

For Filing with the Court:

United States District Court
Southern District of Ohio
85 Marconi Boulevard
Columbus, OH 43215

To Class Counsel:

Kai Richter
NICHOLS KASTER, PLLP
4600 IDS Center
80 S 8th Street
Minneapolis, MN 55402

To Defendants' Counsel:

Mark B. Blocker
SIDLEY AUSTIN LLP
One South Dearborn Street
Chicago, IL 60603

16. The Court will only consider written comments and objections to the Settlement that are signed by the Settlement Class Member and are timely filed with the Court Clerk and served not later than 21 days before the Fairness Hearing and include all of the following: (a) the name and case number of the Action; (b) the Settlement Class Member's full name, address, telephone number, and signature; and (c) a statement of all comments or grounds for the objection. Any member of the Settlement Class or other person who does not timely file and serve a written objection complying with the terms of this paragraph shall be deemed to have waived, and shall be foreclosed from raising, any objection to the Settlement Agreement, and any untimely objection shall be barred absent an Order from the Court. The Parties may take discovery, including depositions, from anyone who files an objection with respect to any of the issues raised in the objection.

17. Anyone who files and serves a timely, written comment or objection in accordance with this Order may also appear at the Fairness Hearing either in

person or through qualified counsel retained at their own expense. Those persons or their attorneys intending to appear at the Fairness Hearing must effect service of a notice of intention to appear setting forth, among other things, the name, address, and telephone number of the Settlement Class Member (and, if applicable, the name, address, and telephone number of that Settlement Class Member's attorney) on Class Counsel and Defendants' Counsel (at the addresses set out above) and file it with the Court Clerk by not later than 21 days before the Fairness Hearing. Anyone who does not timely file and serve a notice of intention to appear in accordance with this paragraph shall not be permitted to appear at the Fairness Hearing, except by Order of the Court for good cause shown. Any comment or objection that is timely filed will be considered by the Court even in the absence of a personal appearance by the Settlement Class Member or that Settlement Class Member's counsel.

Additional Issues

18. The Court approves the retention of Analytics Consulting LLC as the Settlement Administrator.

19. The Court approves the selection of Alerus Financial as the Escrow Agent. The contents of the Settlement Fund held by Alerus Financial as Escrow Agent shall be deemed and considered to be *in custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court until such time as they shall be distributed pursuant to the Settlement Agreement and/or further Order(s) of the Court.

20. In further aid of the Court's jurisdiction to review, consider, implement, and enforce the Settlement, the Court orders that Plaintiffs and all Settlement Class Members are preliminarily enjoined and barred from commencing, prosecuting, or otherwise litigating, in whole or in part, either directly, representatively, derivatively, or in any other capacity, whether by complaint, counterclaim, defense, or otherwise, in any local, state, or federal court, or in any agency or other authority or forum wherever located, any contention, allegation, claim, cause of action, matter, lawsuit, or action asserting the Released Claims.

Termination of Settlement

21. If the Settlement is terminated or not approved, or if the Effective Date of the Settlement does not occur, this Order shall become null and void and be without prejudice to the rights of Plaintiffs, the Settlement Class Members, and Defendants, and the Settling Parties shall be deemed to have reverted to their respective positions in this Action as of August 7, 2020.

Supporting Papers

22. Plaintiffs shall file their motion for final approval of the proposed Settlement no later than fourteen (14) calendar days prior to the Fairness Hearing, and shall file their motion for Attorneys' Fees and Expenses, and Class Representative Service Awards, no later than fourteen (14) calendar days prior to deadline for Settlement Class Members to submit written comments or objections.

Use of Order

23. This Order is not admissible as evidence for any purpose against Defendants in any pending or future litigation involving any of the Parties. This Order (a) shall not give rise to any inference of, and shall not be construed or used as an admission, concession, or declaration against Defendants of, wrongdoing or liability in the Action or any other proceeding; (b) is not an admission of any liability of any kind, whether legal or factual; (c) shall not be used or received in evidence in any action or proceeding for any purpose, except in an action or proceeding to enforce the Settlement Agreement; (d) shall not be construed or used as an admission, concession, or declaration by or against Plaintiffs or the Settlement Class that their claims lack merit or that the relief requested in the Action is inappropriate, improper, or unavailable; (e) shall not be construed or used as an admission, concession, declaration or waiver by any party of any arguments, defenses, or claims he, she, or it may have, including, but not limited to, any objections by Defendants to class certification, in the event that the Settlement Agreement is terminated. This Order and the Settlement Agreement and any proceedings taken pursuant to the Settlement Agreement are for settlement purposes only. Defendant specifically denies any fault, breach, liability or wrongdoing.

Jurisdiction

24. The Court retains jurisdiction for purposes of implementing the Settlement Agreement and reserves the power to enter additional orders to

effectuate the fair and orderly administration and consummation of the Settlement Agreement as may be appropriate, and to resolve any and all disputes arising thereunder.

IT IS SO ORDERED.


MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT