

IN THE CIRCUIT COURT FOR MORGAN COUNTY
NINTH JUDICIAL DISTRICT
THE STATE OF TENNESSEE

MARCIA GOLDBERG, Individually and on Behalf of All Others Similarly Situated,)	Case No. 2015-CV-33
)	
Plaintiff,)	
)	Judge Pemberton
vs.)	
)	
DELOY MILLER, et al,)	
)	
Defendants.)	
)	
<hr/> KENNETH GAYNOR, Individually and on Behalf of All Others Similarly Situated,)	Case No. 2015-CV-34
)	
Plaintiff,)	
)	Judge Pemberton
vs.)	
)	
DELOY MILLER, et al,)	
)	
Defendants.)	
<hr/>)	

PLAINTIFFS' STATEMENT OF NON-OPPOSITION IN FURTHER
SUPPORT OF MOTION FOR FINAL APPROVAL OF
SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION; AND
FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES AND
AWARDS TO PLAINTIFFS PURSUANT TO 15 U.S.C. §77z-1(a)(4)

Plaintiffs Kenneth Gaynor, Marcia Goldberg, and Christopher R. Vorrath respectfully submit this statement of non-opposition in further support of their Motion for Final Approval of Settlement and Approval of Plan of Allocation and for an Award of Attorneys' Fees and Expenses and Awards to Plaintiffs Pursuant to 15 U.S.C. §77z-1(a)(4). Pursuant to the Court's March 7, 2023 Order Preliminarily Approving Settlement Pursuant to Tenn. R. Civ. P. 23.03 and Permitting Notice to the Class ("Preliminary Approval Order") and as a supplement to the initial filing made by Plaintiffs and their counsel on May 9, 2023, Plaintiffs submit to the Court the following updated information regarding the mailing of notice to the Settlement Class.

Here, at the conclusion of an extensive Court-approved notice program, the Settlement Class' response to the Settlement, Plan of Allocation, and counsel's request for an award of attorneys' fees and expenses has been overwhelmingly positive. More than 14,300 copies of the Notice of Pendency of Class Action, Proposed Class Action Settlement, and Motion for Attorneys' Fees and Expenses ("Notice") and Proof of Claim and Release form ("Proof of Claim") were sent to potential Settlement Class Members and their nominees.¹ In addition, the Summary Notice was transmitted over the *Business Wire* and published in *The Wall Street Journal* on March 28, 2023. Murray Aff., ¶11. Copies of the Notice, Proof of Claim, Stipulation and Agreement of Settlement, Preliminary Approval Order, and all opening briefs and supporting documents in support of the Settlement were also posted on a

¹ See ¶¶5-10 to the Affidavit of Ross D. Murray Regarding Notice Dissemination, Publication, and Requests for Exclusion Received to Date ("Murray Aff."), and ¶¶3-4 to the accompanying Supplemental Affidavit of Ross D. Murray Regarding Notice Dissemination and Requests for Exclusion Received to Date.

website dedicated to the Litigation. *Id.*, ¶13. The May 23, 2023 deadline for objecting to any aspect of the Settlement, the Plan of Allocation, and/or Plaintiffs’ Counsel’s request for an award of attorneys’ fees and expenses has since passed and to counsel’s knowledge, as of the date of this statement, not a single objection has been received to any of the relief requested.

Accordingly, the reaction of the Settlement Class is significant evidence that the Settlement Class supports the Settlement, Plan of Allocation, and counsel’s attorneys’ fee and expense request, and thus weighs strongly in favor of approval. *In re High Pressure Laminate Antitrust Litig.*, 2006 WL 3681147, at *5 (Ct. App. Tenn. Dec. 13, 2006) (“The favorable response by the great majority of Class Members in this case to the settlement agreements . . . also militates in favor of the conclusion that the settlements are fair and reasonable.”).

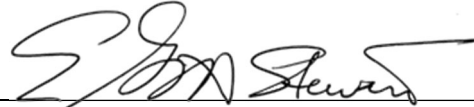
For the reasons set forth herein and in previously submitted memoranda and affidavits, Plaintiffs respectfully submit that the \$7.6 million Settlement is a highly favorable result for the Settlement Class, and the Plan of Allocation is a fair and equitable method for distributing the Net Settlement Fund. Therefore, both should be approved as fair, reasonable, and adequate. Finally, the attorneys’ fees and expenses requested by Plaintiffs’ Counsel and the awards to Plaintiffs for their dedicated service to the Settlement Class since its inception in 2015 are reasonable under the circumstances and should be awarded in the amounts sought.²

² Proposed orders granting the relief sought herein are submitted herewith.

DATED: June 2, 2023

Respectfully submitted,

ROBBINS GELLER RUDMAN
& DOWD LLP
ELLEN GUSIKOFF STEWART (*pro hac vice*)



ELLEN GUSIKOFF STEWART

655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)
elleng@rgrdlaw.com

ROBBINS GELLER RUDMAN
& DOWD LLP
JACK REISE (*pro hac vice*)
STEPHEN R. ASTLEY (*pro hac vice*)
BAILIE L. HEIKKINEN (*pro hac vice*)
225 NE Mizner Boulevard, Suite 720
Boca Raton, FL 33432
Telephone: 561/750-3000
561/750-3364 (fax)
jreise@rgrdlaw.com
sastley@rgrdlaw.com
bheikkinen@rgrdlaw.com

ROBBINS GELLER RUDMAN
& DOWD LLP
CHRISTOPHER M. WOOD, #032977
414 Union Street, Suite 900
Nashville, TN 37219
Telephone: 615/244-2203
615/252-3798 (fax)
cwood@rgrdlaw.com

Lead Counsel for Plaintiffs

BARRETT JOHNSTON MARTIN
& GARRISON, LLC
DOUGLAS S. JOHNSTON, JR., #5782
JERRY E. MARTIN, #20193
TIMOTHY L. MILES, #21605
Bank of America Plaza
414 Union Street, Suite 900
Nashville, TN 37219
Telephone: 615/244-2202
615/252-3798 (fax)

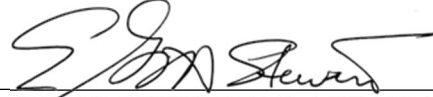
Local Counsel for Plaintiffs

LAW OFFICES OF CURTIS V. TRINKO, LLP
CURTIS V. TRINKO
39 Sintsink Drive West, 1st Floor
Port Washington, NY 11050
Telephone: 516/883-1437
ctrinko@trinko.com

Additional Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2023, a true and exact copy of the foregoing document has been served via email or First Class Mail to all parties on the attached Service List.

A handwritten signature in black ink, appearing to read "Ellen Gusikoff Stewart", written over a horizontal line.

ELLEN GUSIKOFF STEWART

SERVICE LIST

Jack Reise
Stephen R. Astley
Bailie L. Heikkinen
ROBBINS GELLER RUDMAN
& DOWD LLP
225 NE Mizner Boulevard, Suite 720
Boca Raton, FL 33432
jreise@rgrdlaw.com
sastley@rgrdlaw.com
bheikkinen@rgrdlaw.com

Ellen Gusikoff Stewart
ROBBINS GELLER RUDMAN
& DOWD LLP
655 West Broadway, Suite 1900
San Diego, CA 921010
elleng@rgrdlaw.com

Curtis V. Trinko
LAW OFFICES OF CURTIS V. TRINKO
39 Sintsink Drive West - 1st Floor
Port Washington, NY 11050
ctrinko@trinko.com

Attorneys for Plaintiffs

Lawrence P. Leibowitz
Brandon J. Tindell
LEIBOWITZ LAW FIRM, PLLC
608 South Gay Street, Suite 200
Knoxville, TN 37902-1637
lpl@leibowitzfirm.com
bjt@leibowitzfirm.com

*Attorneys for Defendants Don A.
Turkleson, Bob G. Gower, Joseph T.
Leary, and Marceau N. Schlumberger*

Christopher M. Wood
ROBBINS GELLER RUDMAN
& DOWD LLP
414 Union Street, Suite 900
Nashville, TN 37219
cwood@rgrdlaw.com

Jerry E. Martin
BARRETT JOHNSTON MARTIN
& GARRISON, LLC
Bank of America Plaza
414 Union Street, Suite 900
Nashville, TN 37219
jmartin@barrettjohnston.com

Taylor A. Williams
Thomas H. Jarvis
PAINE, TARWATER, and
BICKERS, LLP
900 South Gay Street, Suite 2200
Knoxville, TN 37902
taw@painetarwater.com
thj@painetarwater.com

Attorneys for Defendant David Voyticky

Stephen A. Marcum
MARCUM & PETROFF, P.C.
3 Courthouse Square
P.O. Box 240
Huntsville, TN 37756
smarcum@marcumlaw.net

*Attorney for Defendants Deloy Miller
and William B. Richardson*

Ronald T. Hill
EGERTON, MCAFEE, ARMISTEAD
& DAVIS P.C.
P.O. Box 2047
Knoxville, TN 37901
rhill@emlaw.com

*Attorney for Defendants Northland Capital
Markets, Dominick & Dominick, LLC
(n/k/a Dominick & Dickerman LLC), and I-
Bankers Securities, Inc.*

E. Richards Brabham, III
KENNERLY, MONTGOMERY &
FINLEY, P.C.
550 Main Street
First Floor, Bank of America Center
Knoxville, TN 37902
rbrabham@kmfpc.com

Attorney for Defendant Maxim Group, LLC

Wayne A. Ritchie II
James R. Stovall
RITCHIE, DAVIES, JOHNSON
& STOVALL, P.C.
606 West Main Street, Suite 300
Knoxville, TN 37902
war@rdjlaw.com
jstovall@rdjlaw.com

*Attorneys for Defendant Aegis Capital
Corp.*

James E. Wagner
FRANTZ, MCCONNELL & SEYMOUR,
LLP
P.O. Box 39
550 West Main Street, Suite 500
Knoxville, TN 37901
jwagner@fmsllp.com

Edward D. Totino
Perrie M. Weiner
BAKER & MCKENZIE LLP
1901 Avenue of the Stars, Suite 950
Los Angeles, CA 90067
edward.totino@bakermckenzie.com
perrie.weiner@bakermckenzie.com

*Attorneys for Defendant Ladenburg
Thalman & Co. Inc. (n/k/a Ladenburg
Thalman Financial Services Inc.)*

Nicholas W. Diegel
BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC
265 Brookview Centre Way, Suite 600
Knoxville, TN 37919
ndiegel@bakerdonelson.com

Jeffrey B. Korn
Sameer Advani
WILKIE FARR & GALLAGHER LLP
787 Seventh Avenue
New York, NY 10019
jkorn@wilkie.com
sadvani@wilkie.com

*Attorneys for Defendants MLV & Co. LLC
and National Securities Corporation*

Charles M. Stivers
118 Richmond Road
Manchester, KY 40962
charlesmstivers@hotmail.com

Catherine Rainey
380 Maple Street, Unit 1807
Gallatin, TN 37066
carainey1130@gmail.com

Gerald Hannahs
17710 Leatha Lane
Little Rock, AR 72223
filly@arkansas.net

Pro Se Defendants

Jordan T. Newport
HAGOOD MOODY HODGE PLC
900 South Gay Street, Suite 2100
Knoxville, TN 37902
jnewport@hagoodmoodyhodge.com

Attorney for Defendant Scott Boruff

David Hall
48110 David Hall Road
Kenai, AK 99611
d.hallak907@gmail.com

General Merrill A. McPeak
USAF (Ret.)
3550 SW Bond Avenue, # 2204
Portland, OR 97239
mamcpeak@comcast.net