

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

IN RE: HIGHER ONE ONEACCOUNT MARKETING AND SALES PRACTICES LITIGATION)	No. 3:12-md-02407 (VLB)
)	
)	

**ORDER GRANTING FINAL APPROVAL OF SETTLEMENT, SERVICE AWARDS,
AND ATTORNEY FEE AND EXPENSE REQUEST**

WHEREAS, on November 24, 2014, this Court conducted a hearing (1) to determine whether to finally certify the Class, pursuant to Fed. R. Civ. P. 23; (2) to determine whether the terms of the Settlement Agreement and the proposed Settlement provided for therein are fair, reasonable, adequate and in the best interests of the Class and should be approved by the Court; (3) to determine whether the proposed Plan of Allocation for distributing the Settlement proceeds among Class Members should be approved by the Court; (4) to consider the applications for Service Awards, attorneys' fees and costs; and (5) to hear and rule upon such other matters as the Court may deem appropriate (the "Final Approval Hearing");

WHEREAS, the Court was advised at the Final Approval Hearing that Notice in the form approved by the Court was provided to Class Members pursuant to the Court's Preliminary Approval Order and the terms of the Parties' Settlement Agreement; and

WHEREAS, the Court, having considered all matters submitted to it at the Final Approval Hearing, including the arguments of counsel for the Parties;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement, including the definitions contained therein, is incorporated by reference in this Final Approval Order.

2. The Court has jurisdiction over the subject matter of the Action, Plaintiffs, Brandi Crawford, Tarsha Crockett, Aisha DeClue, Larry Forman, Rhonda Hannibal, Prince Kaywood, Gaynell Kaywood, John Brandon Kent, Brianne Elizabeth Kent, Kristen Krieg, Jonathan Lanham, Ashley Parker, and Jeanette Price, all the Members of the Class, and Defendants, Higher One Holdings, Inc., Higher One Inc. (collectively, together with Higher One Holdings, Inc., "Higher One"), Wright Express Financial Services Corporation, which since the beginning of the Litigation has changed its name to WEX Bank ("WEX"), Taylor Capital Group, Inc. ("Taylor"), and the Bancorp Bank ("Bancorp").

3. Pursuant to Fed. R. Civ. P. 23(b)(3), the Court hereby finally certifies, for purposes of effectuating the Settlement only, a Class consisting of All persons who opened a OneAccount between July 1, 2006 through August 2, 2012, and who incurred a OneAccount Fee during that period. Excluded from the Class are Defendants, their subsidiaries, affiliates, parents, officers and directors, current and former employees; any entity in which Defendants have a controlling interest; governmental entities; and all

judges assigned to hear any aspect of this case, as well as their immediate families. Also excluded is any person who, during the Class Period, released Defendants from liability concerning the claims in the Litigation.

4. In deciding whether to certify a settlement class, a court must consider the same factors that it would consider in connection with a proposed litigation class—i.e., all Rule 23(a) factors and at least one subsection of Rule 23(b) must be satisfied—except that the Court need not consider the manageability of a potential trial, since the settlement, if approved, would obviate the need for a trial. *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 620 (1997).

5. The Court finds, for Settlement purposes, that the Federal Rule of Civil Procedure 23 factors are present and that certification of the Class is appropriate under Rule 23.

6. Specifically, the Court finds, for settlement purposes, that the Settlement Class satisfies the following subdivisions of Federal Rule of Civil Procedure 23:

(a) Numerosity: In this Action, millions of individuals, spread out across the country, are Members of the Class. Their joinder is impracticable. Thus, the Rule 23(a)(1) numerosity requirement is met.

(b) Commonality: The threshold for commonality under Rule 23(a)(2) is not high. "Commonality requires the plaintiff to demonstrate that the class members 'have suffered the same injury,'" and the plaintiff's

common contention "must be of such a nature that it is capable of classwide resolution-which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2551, 180 L. Ed. 2d 374 (2011) (citation omitted). Here, the commonality requirement is readily satisfied. There are multiple questions of law and fact, centering on Defendants' Class-wide policies and practices, that are common to the Class, that are alleged to have injured all Class Members in the same way, and that would generate common answers central to the viability of the claims were this case to proceed to trial.

(c) **Typicality:** The Plaintiffs' claims also are typical of the Class because they concern the same Higher One policies and practices, arise from the same legal theories, and allege the same types of harm and entitlement to relief. Rule 23(a)(3) is therefore satisfied.

(d) **Adequacy:** Rule 23(a)(4) is satisfied here because there are no conflicts of interest between the Plaintiffs and the Class, and Plaintiffs have retained competent counsel to represent them and the Class. Class Counsel here regularly engage in consumer class litigation and other complex litigation similar to the present Litigation, and have dedicated substantial resources to the prosecution of these Actions. Moreover, Plaintiffs and Class Counsel have vigorously and competently represented the Class Members' interests in these Actions.

(e) Predominance and Superiority: Rule 23(b)(3) is satisfied as well because the common legal and factual issues here predominate over individualized issues, and resolution of the common issues for the Class Members in a single, coordinated proceeding is superior to thousands of individual lawsuits addressing the same legal and factual issues. The predominance requirement is satisfied here because common questions present a significant aspect of the case and can be resolved for all Class Members in a single adjudication. In a liability determination, those common issues would predominate over any issues that are unique to individual Class Members.

7. The Court appoints Brandi Crawford, Tarsha Crockett, Aisha DeClue, Larry Forman, Rhonda Hannibal, Prince Kaywood, Gaynell Kaywood, John Brandon Kent, Brianne Elizabeth Kent, Kristen Krieg, Jonathan Lanham, Ashley Parker, and Jeanette Price as the Class Representatives for the Class.

8. The Court appoints the following firms as Class Counsel: Tycko & Zavareei LLP, Shepherd, Finkelman, Miller, & Shah, LLP, Gentle Turner Sexton Debrosse & Harbison, and JonesWard PLC.

9. The Court finds that Defendants have complied with the notice requirements of 28 U.S.C. § 1715.

10. Individual Notice, E-mailed Notice, or Mailed Notice was provided to all Class Members who could be identified with reasonable effort; the Long-Form Notice was provided on the Settlement Website; and

the Published Notice was effectuated. The form and method of notifying the Class of the terms and conditions of the proposed Settlement met the requirements of Fed. R. Civ. P. 23, due process, and any other applicable law; constituted the best notice practicable under the circumstances; and constituted due and sufficient notice to all person and entities entitled thereto.

11. A total of 45 persons opted to exclude themselves from the Class. A list of the persons that have validly excluded themselves from the Class is attached as Exhibit 1 hereto. The people listed in Exhibit 1 are not bound by this Order or the Judgment entered in this case.

12. Three objections to the Settlement were filed. Each was submitted by Class Counsel for the Court's consideration. The Court has reviewed these objections, and finds that they are meritless, and therefore the Court overrules the three objections.

13. The Settlement is approved as fair, reasonable and adequate, and the Parties are directed to consummate the Settlement Agreement in accordance with its terms and conditions.

14. The Plan of Allocation is also hereby approved as fair, reasonable and adequate.

15. The Litigation is hereby dismissed with prejudice in its entirety and without an award of costs.

16. As stated in Paragraph 70 of the Settlement Agreement, as of the Effective Date, the Class is deemed to have fully and unconditionally released and discharged the Released Parties from any and all claims, demands, rights, causes of action, judgments, executions, damages, liabilities, and costs or expenses of any kind, including attorneys' fees and court costs, in law or equity, known or unknown, suspected or fixed or contingent, arising out of or relating to the opening of or the marketing, disclosure, charging, imposition, collection, reimbursement, non-reimbursement, or waiver of fees on OneAccounts maintained by Class Members that were brought or that could have been brought in the Litigation and that are based on conduct that occurred and policies and practices that were in place on or before the Effective Date. This release is intended to be a full and general release of all known and unknown claims that relate to any fees associated with or relating to a OneAccount that any member of the Class may have against the Released Parties and includes claims arising out of or relating to all of Defendants' policies and practices, and that were brought or that could have been brought in the Litigation, regarding charging, imposing, collecting, reimbursing, not reimbursing or waiving fees on OneAccounts; marketing the OneAccount; and disclosures relating to the terms and conditions of OneAccount and the fees associated with it. No releases will be provided by account holders of any accounts other than the OneAccounts. This release discharges the claims of all those who claim through any Class Member or who assert claims on behalf

of Class Members (including the federal government or any state government in its capacity as *parens patriae*).

17. In recognition of their contribution to the Litigation, and pursuant to the terms of the Settlement Agreement, Plaintiffs Brandi Crawford, Tarsha Crockett, Aisha DeClue, Larry Forman, Rhonda Hannibal, Prince Kaywood, Gaynell Kaywood, John Brandon Kent, Brianne Elizabeth Kent, Kristen Krieg, Jonathan Lanham, Ashley Parker, and Jeanette Price are awarded Class Representative Service Awards of \$5,000. In recognition of their contribution to the Litigation, and pursuant to the terms of the Settlement Agreement, Former Plaintiffs Bailey Bates, Rachel Hancock, Anna Brooke Warren, Sherry McFall, Jill Massey, and Lee McWhorter are awarded Service Awards of \$2,500.

18. In recognition of its work, the time and expenses incurred on behalf of the Class Members of the Class and the value of the results achieved on behalf of the Class Members, pursuant to the terms of the Settlement Agreement, Class Counsel are awarded reasonable attorneys' fees, in the amount of \$4,500,000, and expenses and costs in the amount of \$49,442.60.

19. Without affecting the finality of this Final Approval Order and Judgment in any way, this Court hereby retains continuing and exclusive jurisdiction over the Parties to this Agreement, including all Defendants, all Class Members, and all objectors, to administer, supervise, construe, and

enforce the Settlement Agreement, the Final Approval Order, and this Judgment.

20. Plaintiffs and Class Members are hereby barred and permanently enjoined from asserting any of the Released Claims, including during any appeal from the Final Approval Order or this Judgment.

21. Pursuant to Paragraph 59.c of the Settlement Agreement, any funds remaining in the Net Cash Settlement Fund from uncashed and undelivered checks, and not otherwise distributed according to the provisions of Paragraph 59 of the Settlement Agreement, shall be donated to an appropriate *cy pres* recipient. Plaintiffs shall file an application to distribute these funds, as soon as practicable. Plaintiffs shall meet and confer with Defendants prior to filing any application and the Parties shall make every effort to agree in good faith upon the identity to appropriate *cy pres* recipient(s) for consideration by the Court.

22. In the event that the Settlement does not become effective in accordance with the terms of the Settlement Agreement or the Effective Date does not occur, or in the event that any other ground for termination provided in the Settlement Agreement occurs, then this Order and the Final Judgment shall be rendered null and void to the extent provided and in accordance with the Settlement Agreement and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Settlement Agreement.

23. Neither the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement, may be cited or used in any way in any proceeding as an admission by Defendants, Released Parties, or Plaintiffs, including any admission as to the propriety of Class treatment, except that any and all provisions of the Settlement Agreement may be admitted into evidence and otherwise used in a proceeding to enforce any and all terms of the Agreement, or in defense of any claims released or barred by the Settlement Agreement.

DONE AND ORDERED, this 15th day of December, 2014.

/s/
Hon. Vanessa L. Bryant

EXHIBIT 1

Higher One OneAccount Settlement
Requests to Exclude from the Settlement

As of October 6, 2014

Name	City	State
JACLYN D ALLEN	CLARKSON	KY
SEPTABEYA M BEAN	PEARL	MS
COREY E BROWN	HAWESVILLE	KY
DAISY Y CHAVEZ	VAN NUYS	CA
ZORI A CRAWFORD	COLUMBUS	GA
SARAH C DIAMSAY	MISSION VIEJO	CA
JOSE D SANCHEZ DIAZ	OMAHA	NE
KISER M EDWARDS	ST PETERSBURG	FL
ZEFFREY M EDWARDS	TEMPLE	TX
NANCY EQUIHUA	VISALIA	CA
CASSIE M ERWIN	KLAMATH FALLS	OR
MEGHEAN E FELLING	BROOKLYN	NY
JADE C FLADER	NORTHRIDGE	CA
RAKEESHA R GRAHAM	DEL CITY	OK
MICHAEL G HAN	DENTON	TX
PAUL S HASTINGS	LAGO VISTA	TX
LACY A HOFF	TEMPLE	TX
SAMUEL J HOWARD	LYNCHBURG	VA
HOLLY F HUMES	REASNOR	IA
CHARLES IGWE	DAYTONA BEACH	FL
ALAN P JARRIN	UNION CITY	NJ
BEZACHIN JIFAR	BRONX	NY
LESLIE JOHANNSEN	KINGWOOD	TX
SHANICE N MAYS	BRADENTON	FL
LINDSEY E MORGAN	NORTON SHORES	MI
ALICE E MOUKOUDI	COLUMBIA	MD
ASMA MUMTAZ	KENOSHA	WI
APEKSHA NAGAR	WOODSTOCK	GA
THU NGUYEN	ARLINGTON	TX
MICHAEL S POWELL	JEFFERSON	GA
JUDY A POWELL	INDIANAPOLIS	IN
MIKHAILA N ROBERSON	WACO	TX
RONDA J. ROBY	SACRAMENTO	CA
NICHOLAS W ROMANO	PROVIDENCE	RI
ELIZABETH A SAMSON	PEARL	MS
NADIA Y SANDOVAL	LONG BEACH	CA
ALEXEY SHPAK	LOS ANGELES	CA
DANIELLE K SMITH	BUTLER	MO

Name	City	State
CHELSEA P SMITH	COLLEGE STATION	TX
DONALD L SNOWDEN	CUMMING	GA
SHAKARA I STEWART	HOUSTON	TX
RAFAL SZCZESNY	BRIDGEPORT	PA
VANESSA A TAYLOR	LOS ANGELES	CA
ALEXANDRIA M THATCHER	WEST HARTFORD	CT
STEPHANIE D TRAN	ANAHEIM	CA
NHAT H TRAN	STANTON	CA
CATHLEEN M WEDDLE	HOUSTON	TX
JANAY E WHEELER	NEW ORLEANS	LA
MEGAN R WHITE	MOUNT WASHINGTON	KY
ASHLEY N WILKINS	STEARNS	KY
JAMIE WOLF	ROTHBURY	MI
MARSHA N WOOD	MIAMI	FL
ERICA L ZOLLERS	GROVES	TX