

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**EVELYN CARTER, et al.,**

*Plaintiffs,*

v.

**WELLS FARGO ADVISORS, LLC, et al.,**

*Defendants.*

Civil Action No. 09-01752 (CKK)

**ORDER GRANTING FINAL  
APPROVAL OF THE CLASS SETTLEMENT**

(June 8, 2011)

The parties in this action have entered into a [35-1] Settlement Agreement and have applied to this Court for preliminary and final approval of the Settlement. On January 7, 2011, the Court held a teleconference with the parties, during which the substance of the proposed settlement was addressed, including the notice plan. *See* Min. Entry (Jan. 7, 2011). On January 25, 2011, the Court entered a [37] Preliminary Approval Order, the findings and rulings of which are incorporated herein. On March 11, 2011, the Court held another teleconference with the parties, during which a supplemental notice plan was addressed. *See* Min. Order (Mar. 14, 2011). On March 15, 2011, the Court entered an [44] Order Granting the Parties' Joint Motion for Consent Order Regarding Supplemental Notice of the Class ("Supplemental Notice Order"), the findings and rulings of which are also incorporated herein. On June 8, 2011, the Court held a Final Fairness Hearing. Now, upon consideration of the parties' [46] Joint Motion for Final Approval of the Class Settlement, Class Counsel's [47] Motion for an Award of Attorneys' Fees and Expense Reimbursement, all the supporting memoranda and materials filed by the parties,

the matters discussed during the course of the Final Fairness Hearing, and the record as a whole, it is, this 8th day of June, 2011, hereby

**ORDERED** that the parties' [46] Joint Motion for Final Approval of the Class Settlement and Class Counsel's [47] Motion for an Award of Attorneys' Fees and Expense Reimbursement are **GRANTED** on the terms and conditions set forth herein; and it is

**FURTHER ORDERED** as follows:

1. Except as otherwise specified, the Court incorporates herein all the defined terms set forth in the [35-1] Settlement Agreement.

2. This Court has jurisdiction over the subject matter of this litigation and all matters relating thereto, and over Plaintiffs and Defendants.

3. The Settlement Class is:

All women who are or were employed in the United States as Financial Advisors by: (a) Wachovia Securities, LLC, or its successor Wells Fargo Advisors, LLC, at any time between March 17, 2003 and the date of Preliminary Approval (January 25, 2011); and/or (b) Wells Fargo Investments, LLC at any time between December 31, 2008 and the date of Preliminary Approval (January 25, 2011). Women who were employed as Financial Advisors by Prudential Securities Inc. or A.G. Edwards & Sons, Inc. are included only as of the effective date of the respective business consolidation or merger of these corporations with Wachovia Securities/Wachovia Corporation.

4. This Court confirms as final its conditional certification of the Settlement Class, as defined above and in paragraph four of its [37] Preliminary Approval Order, for purposes of settlement and based on the findings set forth herein and in the absence of any objections from any Class Members. The Settlement Class has approximately 3,057 members. There are too

many Class Members and they are too widely scattered around the country for joinder to be practicable. The Settlement Class meets the numerosity requirement of Rule 23(a). The claims of the members of the Settlement Class raise common factual and legal issues, some of which are identified in the [1] Complaint. The Settlement Class meets the commonality requirement of Rule 23(a). The claims of the Class Representatives are typical of the claims of the other Class Members. The Class Representatives are adequate representatives of the Class, and there is no evidence that they have any interest antagonistic to the Class Members they represent. Because the proposed Class meets the requirements of numerosity, commonality, typicality, and adequacy, it is appropriate that the Settlement proceed on behalf of the Class.

5. The proposed Class satisfies both the requirements of Fed. R. Civ. P. 23(b)(2) and 23(b)(3) and is hereby certified as a hybrid. The Court has afforded Class Members the opportunity to opt-out of the monetary portion of the Settlement without releasing any of their claims. At their request, forty-seven (47) Class Members have been permitted to opt-out of the monetary portion of the Settlement Agreement without releasing any of their claims. *See* Exhibit A to this Order.

6. The Court confirms as final the appointment of Plaintiffs Evelyn Carter, Michelle Phillips, and Eileen Wasserman as Class Representatives as stated in paragraph five of its [37] Preliminary Approval Order. The Named Plaintiffs are adequate representatives of the Class of which they are members under Fed. R. Civ. P. 23(a)(4).

7. The Court confirms as final the appointment of the following as Class Counsel: Mehri & Skalet, PLLC; Sprenger + Lang, PLLC; and Moody & Warner. The Court further

confirms the appointment of the following as Lead Class Counsel: Cyrus Mehri of Mehri & Skalet, PLLC; and Steven Sprenger of Sprenger + Lang, PLLC.

8. The Class Notice and Claim Form mailed to Class Members, pursuant to this Court's orders, constituted the best notice practicable under the circumstances, and the Court-approved notice plan was accomplished in all material respects. In accordance with the [37] Preliminary Approval Order and the [44] Supplemental Notice Order, the Claims Administrator mailed the Notice and Claim Form to 3,057 Class Members. Over 99% of the Class Members appear to have received notice. Due to invalid addresses, not every Class Member received notice via mail. However, notice was also published on three websites. The notice that was provided fully met the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution, and any other applicable law.

9. The Class Action Fairness Act ("CAFA") provides that "[a]n order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State officials are served with the notice" of the proposed settlement. 28 U.S.C. § 1715(d). The Defendants provided notice to the United States Attorney General and the Attorneys General of all fifty (50) states and the District of Columbia. No objections have been filed by Federal or State officials.

10. The Settlement Agreement, which was revised after this Court's review and its discussions with the parties, was the culmination of over three years of discussions and negotiations between the parties. Those discussions and negotiations were informed by months of investigation, including interviews with female financial advisors across the country. The

terms of the settlement were negotiated at arm's length with the assistance of an experienced, professional mediator.

**11.** Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, this Court grants final approval to the [35-1] Settlement Agreement and incorporates the terms and conditions of the Settlement Agreement herein. The Court finds that the Settlement Agreement and its terms are fair, reasonable, and adequate in all respects. The Court specifically finds that the Settlement is rationally related to the strength of the claims of Plaintiffs and Class Members given the risk, expense, complexity, and duration of further litigation. This Court also finds that the Settlement Agreement is the result of arm's-length negotiations between highly experienced counsel, after thorough factual and legal investigation.

**12.** The Court further finds that the response of the Class to the Settlement supports settlement approval. The Class contains approximately 3,057 members, and approximately 1,215 claims from Class Members had been submitted as of May 25, 2011. This is a claim submission rate of about 40% well before the deadline for postmarking claim forms on June 20, 2011. Moreover, as of the deadline to object to the Settlement on May 5, 2011, no Class Member had submitted objections to the Settlement. A single request for exclusion submitted by one Class Member contained the term "object" but merely provided a description of her reasons for opting out of the proposed settlement; the Court finds that this Class Member's request is an opt-out request and is not an objection.

**13.** The Claims Administrator shall render a determination as to the monetary award, if any, that should be paid to each Claimant from the Settlement Fund. In rendering such determinations, the Claims Administrator shall apply a points-based formula taking into account:

each week Claimant worked as a Financial Advisor for Defendants during the Class Period; allegations in the Claim Form concerning individual claims of gender-based discrimination; allegations in the Claim Form concerning individual claims of sexual harassment; allegations in the Claim Form concerning termination or constructive discharge allegedly resulting from gender-based discrimination; allegations in the Claim Form that the Claimant reported gender-based discrimination to Defendants; allegations in the Claim Form that the Claimant has experienced physical or emotional harm as a result of gender-based discrimination, subject to appropriate follow-up by the Claims Administrator; the extent of claims that the Claimant is releasing; and the Claimant's contributions to the investigation or prosecution of this action. Class Members are not required to provide information concerning their experiences and allegations; they may instead participate in the Settlement based solely on the length of their service as Financial Advisors for Defendants during the Class Period.

**14.** The Court finds that the proposed procedures for the determination and allocation of monetary awards are fair, reasonable, adequate, and rationally related to the relative strengths and weaknesses of the respective claims asserted, and payment shall be made according to those procedures. When the Claims Administrator has rendered a final determination as to the monetary award, if any, that should be paid to each individual Claimant from the Settlement Fund, the parties shall submit for the Court's consideration and approval a detailed declaration from the Claims Administrator describing how the proposed procedures were utilized in rendering determinations across the Class, identifying the final factors taken into consideration, the relative weight afforded to each factor, and providing any further information that might be of use to the Court in evaluating the overall reasonableness and adequacy of the Claims

Administrator's determinations. The Court shall limit its approval of the final determination to the overall reasonableness and adequacy of the process employed by the Claims Administrator in rendering its determinations. The Court will neither evaluate nor approve individual monetary awards. As set forth in the Settlement Agreement, the Claims Administrator's determinations as to the monetary award, if any, that should be paid to each Claimant from the Settlement Fund shall be final and not subject to review by, or appeal to, any court, mediator, arbitrator, or other judicial body, including this Court.

15. Any undistributed funds that remain in the Settlement Fund six (6) months after the mailing of the Notice of Award shall be distributed to 501(c)(3) organizations advancing career opportunities for women, including career opportunities in the financial services industry. However, prior to making any such distributions, the parties shall notify the Court of the total amount of undistributed funds in the Settlement Fund and submit for the Court's approval a list of the organizations that will receive those funds and the proposed allocation between them.

16. The proposed award of attorneys' fees and expenses was set forth in the Settlement Agreement filed with the Court and in the Notice provided to Class Members and the attorneys general. No timely objection was received in response to the request for attorneys' fees or reimbursement of expenses. The Court finds that the proposed award of attorneys' fees and litigation expenses is reasonable and within the range of fee awards made in comparable cases. The actual and estimated expenses are sufficiently documented and reasonable. The Court approves the combined fee and expense award in the amount of 30% of the \$32,000,000 monetary settlement plus an annual payment during the four years of the term of the Settlement in the amount of \$320,000 in the first year and in the amount of \$200,000 for each of the next

three years, plus interest, if any, accruing on those amounts, to cover future fees and expenses relating to monitoring and enforcing the Settlement.

17. By operation of the entry of this Order as the Final Judgment, all released Class and Named Plaintiff claims (as described in Section V of the Settlement Agreement and as set forth in the [32-5] Class Member Release and [32-6] Named Plaintiff Release) are fully, finally, and forever released, relinquished, and discharged, pursuant to the terms of the Settlement Agreement, as to all Settlement Class members other than those listed in Exhibit A to this Order, who timely opted out pursuant to the terms of the Court's [37] Preliminary Approval Order and [44] Supplemental Notice Order.

18. The Court has reviewed the release provisions in the [35-1] Settlement Agreement and in the [32-5] Class Member Release and [32-6] Named Plaintiff Release, and the Court finds the releases to be fair, reasonable, and enforceable under applicable law. All claims released pursuant to the Settlement Agreement are dismissed with prejudice as to all members of the Settlement Class other than those listed in Exhibit A to this Order.

19. Each member of the Settlement Class, including any member who makes an irrevocable election to exclude herself from the monetary relief provisions of the Settlement Class, is permanently enjoined from commencing, prosecuting, or maintaining in any court other than this Court any claim, action, or other proceeding that challenges or seeks review of or relief from any order, judgment, act, decision, or ruling of this Court in connection with the Settlement Agreement.

20. Each member of the Settlement Class, except for those Class Members listed in Exhibit A to this Order, is permanently enjoined from commencing, prosecuting, or maintaining,

either directly, representatively, or in any capacity, any claim that is subsumed within the Settlement Agreement including any and all sex discrimination claims against Defendants under federal, state, and local laws, through February 14, 2011.

**21.** The Complaint shall automatically, ten business days after the effective date, be dismissed with prejudice, except that the Court shall retain continuing jurisdiction limited to enforcing the Settlement Agreement, this Order, and the accompanying Administrative Order issued this same date.

**22.** Neither the Settlement Agreement, nor this Order, nor the certification of the Class, nor any communication or action by the parties in connection with the Settlement constitutes or shall be deemed to constitute an admission by Defendants of any liability or wrongdoing whatsoever, or a finding by this Court as to the merits of any claim or defense asserted or that could have been asserted in this action, or of any wrongdoing by Defendants. Neither the Settlement Agreement nor this Order is or shall be used or deemed to be an admission in any action or proceeding of any fault, liability, or wrongdoing by any person or entity; and neither the Settlement Agreement, nor any of the negotiations or proceedings related thereto, nor this Order, nor any related document or communication, shall be offered or received in evidence against any person or entity in any action or proceeding as an admission, concession, presumption, or inference as to the merits of any claim or defense; provided, however, that the Settlement Agreement or this Order may be received in evidence in any proceeding in this Court as may be necessary to consummate or enforce the Settlement Agreement or this Order.


23. The Court hereby enjoins disclosure to third parties of the documents and information discussed or exchanged during the parties' confidential settlement negotiations and mediation to any third party not specified in the parties' confidentiality agreements.

24. This Order and the Settlement Agreement are binding on all members of the Class, other than those listed in Exhibit A to this Order. The Class Members identified in Exhibit A to this Order have submitted opt-out requests and have excluded themselves from the monetary relief portions of the Settlement Agreement. Three Class Members submitted requests for exclusion prior to the March 18, 2011 mailing of the supplemental notice, but did not submit a second request for exclusion as required by the supplemental mailing and insert; these three Class Members will be deemed to have opted out unless they submit a timely Claim Form. Class counsel is directed to continue to exercise reasonable diligence in contacting these three Class Members in advance of the deadline to submit Claim Forms and shall advise the Court of any further developments.

25. The Court retains jurisdiction over this matter for purposes of resolving issues relating to the administration, implementation, and enforcement of the Settlement Agreement, this Order, and the accompanying Administrative Order.

**SO ORDERED.**

Dated: June 8, 2011

  
\_\_\_\_\_  
COLLEEN KOLLAR-KOTELLY  
United States District Judge

# **EXHIBIT A**

**List of 47 Potential Class Members Who Submitted Valid Requests for Exclusion from the  
Proposed Class Action Settlement**

<b>Last Name</b>	<b>First Name</b>
Adams	Stephanie
*Balkunas	Maria Victoria
Beauchamp-Orlowski	Julie
Beck	Catherine
Blacklock	Barbara J.
Boumeester	Gayle
Bridwell	Nita
Cady	Amy D.
Cavill	Bonnie B.
Cypher	Claudia Susanne
Deeley	Andrea
Douglas	Diane
*Ellertson	Amy J.
Fisher	Diane K.
George-Mercado	Chanttel
Gomez-Sanches	Katia Marina
Groschup	Stephanie
Heinze	Deborah L.
Hunter	Teresa
*Inchaustegui	Lizzette J.
Johnson	Elissa
Kinne	Kathy
Lachman	Lindsey
Lawrence	Betty Jean "BJ"

Lineberry	Kimberly A.
Longfield	Bernadette
Macie	Evelyn J.
Martin	Carolyn
Miller	Stephanie E.
Oddone	Paula A.
Olsen	Ellen S.
Penney	Susan E.
Rommel	Rhonda
Rosenbaum	Ann P.
Rovall	Tami
Rowland	Arlene
Ryan	Carrie B.
Sanchez	Ivette Marie
Sanfilippo	Donna
Schifanelli	Gordana
Seener	Elda M.
Sisul	Kim Elizabeth
Thomas	Tracy M.
Winoker	Diana
Wolfe	Jennifer
Young	Amee L.
Zimbro	Dana L.

\*These individuals submitted requests for exclusion prior to the supplemental mailing of notice on March 18, 2011, and did not submit a second request for exclusion as required by the supplemental mailing and insert.