

**CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

GERALDINE DONAHUE; SADIKI
LAWRENCE; ONEEB REHMAN; MAT
JESSOP; AARON HUFFMAN; RYAN
ARTMAN; and SHANNON ALATALO,
individually and on behalf of a class of other
similarly situated individuals,
Plaintiffs,

v.

EVERI HOLDINGS, INC.; and EVERI
PAYMENTS, INC.,
Defendants.

JUDGE DAVID B. ATKINS

DEC 03 2020

Circuit Court-1879

Case No. 2018-CH-15419

Hon. David B. Atkins

FINAL ORDER AND JUDGMENT

Pending before the Court is the Unopposed Motion for Judgment and Order Granting Final Approval of the Class Action (the "Motion") of the plaintiff Geraldine Donahue ("Plaintiff," and collectively, with the named plaintiffs in the other related actions identified in Paragraph 1.2 of the Settlement Agreement (defined below), "Representative Plaintiffs").

WHEREAS, on August 6, 2020, the Plaintiff and Defendants Everi Holdings Inc. ("Everi Holdings") and Everi Payments Inc. ("Everi Payments") (collectively, "Defendants" or "Everi") filed a Stipulation and Agreement of Settlement (the "Settlement" or "Settlement Agreement"), which, together with the exhibits thereto, sets forth the terms and conditions for the Settlement;

WHEREAS, to the extent not otherwise defined herein, all capitalized terms in this Order shall have the meanings attributed to them in the Settlement Agreement;

WHEREAS, the Settlement Agreement was entered into after extensive arm's-length negotiation by experienced counsel and in mediation under the guidance of mediator Randall Wulff of Wulff Quinby Sochynsky;

WHEREAS, on August 20, 2020, the Court issued the Preliminary Approval Order, in which the Court found that the Settlement appeared fair, reasonable, and adequate in all respects, granted preliminary approval to the Settlement, directed the Settlement Administrator to effectuate the Notice Plan by disseminating the Class Notice to Settlement Class Members and making

available copies of the Long Form Notice, the Settlement Agreement, and other Settlement-related documents on the Settlement Website, appointed the Representative Plaintiffs on behalf of the Settlement Class, the Representative Plaintiffs' counsel as Class Counsel, and Angeion Group, LLC as the Settlement Administrator; and scheduled a Final Approval Hearing to determine whether the proposed Settlement is fair, reasonable and adequate;

WHEREAS, On November 20, 2020, 2020, the Court held a hearing to determine whether the proposed Settlement Agreement executed by the Parties should be approved as Final by this Court, and Class Counsel and counsel for Defendants appeared at the hearing;

WHEREAS, the Court having considered the Settlement Agreement and all of the files, records, and proceedings herein, and having reviewed the pleadings and evidence filed in support of the request for final approval of the Settlement and conducted the hearing, the Court finds, and **IT IS ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:**

I. THE CLASS, REPRESENTATIVE PLAINTIFF, AND CLASS COUNSEL

1. This Final Approval Order and Judgment incorporates the Settlement Agreement and all Exhibits thereto.

2. The Court finds that it has jurisdiction over the subject matter of this action and personal jurisdiction over the parties and the members of the Settlement Class described below.

3. Based upon the record before the Court, including all submissions in support of the Settlement Agreement, objections and responses thereto, as well as the Settlement Agreement, and pursuant to 735 ILCS 5/2-801, the Settlement Class is certified, consisting of the following:

“Settlement Class” means All persons in the United States who, at any time between February 16, 2016 and December 31, 2019, (i) engaged in at least one quasi-cash or manual cash disbursement transaction using a debit card or credit card at a gaming establishment in the United States or on tribal lands, (ii) where such transaction was processed using Everi Payments' CashClub® technology; and (iii) for which Everi Payments' system was programmed to generate a printed customer receipt that displayed four digits in a field on said receipt labeled “BIN”. The following are excluded from the Settlement Class: (1) any trial judge and other judicial officers that may preside over the Action; (2) the Mediator; (3) Everi, as well as any parent, subsidiary, affiliate or control person of Everi, and the officers, directors, agents, servants or employees of Everi; (4) any of the Released Parties;

(5) any Settlement Class Member who has timely submitted a Request for Exclusion by the Opt-Out Deadline; (6) any person or entity who has previously given a valid release of the claims asserted in the Action; and (7) Plaintiff's Counsel.

4. Pursuant to 735 ILCS 5/2-801, plaintiffs Geraldine Donahue, Sadiki Lawrence, Oneeb Rehman, Mat Jessop, Aaron Huffman, Shannon Alatalo, and Ryan Artman are hereby appointed Representative Plaintiffs ("Plaintiffs" or "Representative Plaintiffs") and the following counsel are hereby appointed Class Counsel:

Frank S. Hedin
David W. Hall
Hedin Hall LLP
1395 Brickell Avenue, Suite 1140
Miami, Florida 33131

Scott D. Owens
Scott D. Owens, P.A.
2750 N. 29th Ave., Ste. 209A
Hollywood, Florida 33020

5. The Court finds that the proposed Settlement Class meets all the applicable requirements of 735 ILCS 5/2-801, and hereby certifies the Settlement Class. The Court hereby finds, in the specific context of the Settlement, that:

(a) **Numerosity:** The Settlement Class satisfies the numerosity requirement of 735 ILCS 5/2-801(1). Joinder of these widely dispersed, numerous Settlement Class Members into one suit would be impracticable.

(b) **Commonality:** The Settlement Class satisfies the commonality and predominance requirement of 735 ILCS 5/2-801(2). The claims in this case present questions of law and fact common to the Settlement Class that predominate over any questions affecting only individual members.

(c) **Adequacy:** The Representative Plaintiffs and Class Counsel satisfy the adequacy of representation requirement of 735 ILCS 5/2-801(3). The Representative Plaintiffs' interests do not conflict with, and are co-extensive with, those of absent Settlement Class Members. The Representative Plaintiffs will fairly and adequately represent the interests of the Settlement Class

and Class Counsel is qualified, experienced, and well-equipped to conduct this litigation, such that Settlement Class Members will receive proper, efficient, and appropriate protection of their interests in the presentation of the claim with such representation.

(d) The Controversy is Fairly and Efficiently Adjudicated as a Class Action: Finally, a class action is the most appropriate method for the fair and efficient adjudication of the controversy presented in this action, satisfying the requirement of 735 ILCS 5/2-801(4). Class certification promotes efficiency, the interests of judicial economy, and uniformity of judgment because, among other reasons, the many members of the Settlement Class will not be forced to separately pursue the relatively small claims alleged in this action and seek relief in various courts around the country. Thus, the class action mechanism is the most fair and efficient method to resolve this dispute.

6. The Representative Plaintiffs are Geraldine Donahue, Sadiki Lawrence, Oneeb Rehman, Mat Jessop, Aaron Huffman, Shannon Alatalo, and Ryan Artman. Based upon the Court's familiarity with the claims and parties, the Court's finding that the Representative Plaintiffs are members of the Settlement Class and will fairly and adequately represent the interests of the Settlement Class, and that Class Counsel is qualified, experienced, and well-equipped to conduct this litigation, the Court finds that the Representative Plaintiffs and Class Counsel are appropriate representatives on behalf of the Settlement Class.

7. The Settlement Agreement was reached after extensive arm's-length negotiation by experienced counsel and in mediation under the guidance of mediator Randall Wulff of Wulff Quinby Sochynsky, consistent with and in compliance with all applicable requirements of Illinois State law, the United States Constitution (including the Due Process Clause), the Illinois State Constitution, and any other applicable law, and in the best interests of Plaintiffs, Defendants and the Settlement Class Members.

8. Having considered the sole objection to the Settlement submitted by Tho Truong, as well as Plaintiffs' response to the objection, the Court overrules the objection on the merits. As set forth in his objection, Mr. Truong believes that his FACTA claim has no value. Thus, his

objection does not call into question the fairness, reasonableness, or adequacy of the Settlement. Further, Mr. Truong's objection takes no issue with the class notice or administration procedures, the notice or administration expenses, or the requested Service Awards or Fee Award. Accordingly, the Court overrules Mr. Truong's objection to the Settlement.

9. The Settlement is fair, reasonable, adequate and satisfies the requirements under Illinois State law, the United States Constitution (including the Due Process Clause), the Illinois State Constitution, and any other applicable law. Therefore, each Settlement Class Member will be bound by the Settlement Agreement, including the Release and the covenant not to sue set forth in Sections 8 and 9 of the Settlement Agreement.

10. The Class Notice and the notice methodology implemented pursuant to the Settlement Agreement: (i) constituted the best practicable notice; (ii) constituted notice that was concise, clear and in plain, easily understood language and was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action, the claims, issues and defenses of the Settlement Class, the definition of the Settlement Class certified, their right to be excluded from the Settlement Class, their right to object to the proposed Settlement, their right to appear at the Final Approval Hearing, through counsel if desired, and the binding effect of a judgment on Settlement Class Members; (iii) were reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) met all applicable requirements of Illinois law, the United States Constitution (including the Due Process Clause), the Illinois State Constitution, and any other applicable law.

11. The Court finds that those individuals identified in Exhibit A have excluded themselves from the Settlement, are not bound by the Settlement Agreement, and are therefore excluded from the Settlement Class.

12. The terms of the Settlement Agreement and this Final Approval Order and Judgment are binding on the Representative Plaintiffs and all other Settlement Class Members, as well as their heirs, executors and administrators, successors and assigns.

13. The terms of the Settlement Agreement and this Final Approval Order and

Judgment shall have *res judicata*, collateral estoppel and all other preclusive effect in any and all claims for relief, causes of action, suits, petitions, demands in law or equity, or any allegations of liability, damages, debts, contracts, agreements, obligations, promises, attorneys' fees, costs, interests, or expenses which are based on or in any way related to any and all claims for relief, causes of action, suits, petitions, demands in law or equity, or any allegations of liability, damages, debts, contracts, agreements, obligations, promises, attorneys' fees, costs, interest, or expenses which were asserted in the Action.

14. The Representative Plaintiffs, Defendants, and their respective counsel are ordered to implement and to consummate the Settlement Agreement according to its terms and provisions.

15. All claims against Defendants asserted in this Action, are hereby dismissed on the merits and with prejudice, without fees or costs to any party except as provided in the Settlement Agreement and set forth herein and any other order issued by the Court awarding a Fee Award and Service Awards.

16. The releases set forth in Section 8 of the Settlement Agreement are incorporated by reference and provides, inter alia, that for and in consideration of the Settlement Shares, the Released Claims, and the mutual promises contained in the Settlement Agreement, Representative Plaintiffs and the Settlement Class Members, on behalf of themselves and their respective assigns, heirs, executors, administrators, successors, and agents, and representatives, fully and finally release, as of the date the Final Approval Order and Judgment becomes Final, Defendant, its counsel, and the other Released Parties from any and all claims, liabilities, demands, causes of action, or lawsuits of the Releasing Parties, whether known or unknown, whether legal, statutory, equitable, or of any other type or form, whether under federal, state, or local law, and whether brought in an individual, representative, or any other capacity, of every nature and description whatsoever that were or could have been brought in the Action or Related Actions relating in any way to violations of 15 U.S.C. § 1692(c)(g) (or any comparable state law) or the printing of customer-copy transaction receipts that displayed a four-digit number in a field labeled "BIN" in connection with Everi Payments' quasi-cash or manual cash disbursement services.

17. If the Settlement Agreement is terminated or is not consummated for any reason whatsoever, the certification of the Settlement Class shall be void, and Plaintiffs and Defendants shall be deemed to have reserved all of their rights as set forth in the Settlement Agreement, including but not limited to the issues related to all claims, defenses, and issues under 735 ILCS 5/2-801.

II. THE SETTLEMENT FUND

18. The Court approves the establishment of the Settlement Fund as set forth in the Settlement Agreement.

19. Defendants shall deposit the Settlement Fund of fourteen million and 00/100 dollars (\$14,000,000.00) per the timelines and terms of the Settlement Agreement. The Settlement Fund will be maintained by the Settlement Administrator for the benefit of the Settlement Class, Class Counsel, and Class Representatives and will be disbursed to the Settlement Class, Class Counsel, and Class Representatives by the Settlement Administrator pursuant to the terms of the Settlement Agreement and as set forth herein. All of the monies deposited by Defendants into the Settlement Fund shall be placed in an interest-bearing escrow account established and maintained by the Settlement Administrator pursuant to the terms of the Settlement Agreement. The interest generated, if any, will accrue to the benefit of the Settlement Class and is to be added into the Settlement Fund. Defendants shall make deposits into the Settlement Fund in accordance with the following schedule and pursuant to the terms of the Settlement Agreement:

a. To the extent that additional Settlement Administration Costs are incurred after in excess of the initial payment of \$250,000 previously disbursed by Defendants to the Settlement Administrator prior to the Effective Date, the Settlement Administrator will bill, and Defendants shall pay, such additional costs. For any additional costs of Settlement Administration that are paid by Defendants, Defendants shall receive a credit against the amounts required to be paid into the Settlement Fund.

b. All Settlement Administration Costs will be drawn from the Settlement Fund by the Settlement Administrator, subject to the written approval of Defendants (via their counsel) and

Class Counsel, and pursuant to the terms of the Settlement Agreement.

20. The Settlement Fund constitutes Defendants' exclusive payment obligation under the Settlement Agreement and will be used to pay: (a) Settlement Shares paid to Settlement Class Members, as prescribed by the Settlement Agreement and pursuant to the timetable set forth in the Settlement Agreement; (b) the Fee Award to Class Counsel, as set forth herein and pursuant to the timetable set forth in the Settlement Agreement; and (c) Service Awards to the Class Representatives, as set forth herein and pursuant to the timetable set forth in the Settlement Agreement; (d) Settlement Administration Costs, including costs of notice, pursuant to the timetable set forth in the Settlement Agreement. No portion of the Settlement Fund will be returned to Defendants, except as provided in Section 12 ("Termination of the Agreement") of the Settlement Agreement.

21. Any distribution of the Settlement Fund to the Settlement Class or any other person, shall be made by the Settlement Administrator and shall commence only after the Effective Date, pursuant to the terms of the Settlement Agreement. The Settlement Administrator shall pay the Aggregate Fees, Costs, and Expenses from the Settlement Fund prior to any distribution of Settlement Shares to the Settlement Class, as set forth herein and pursuant to the terms of the Settlement Agreement. The remainder of the Settlement Fund shall be used to pay Settlement Shares in accordance with the provisions of the Settlement Agreement and as set forth herein.

22. Within the time period and manner set forth in the Settlement Agreement, and after the Fee Award to Class Counsel, all Service Awards paid to the Representative Plaintiffs, and all Settlement Administration Expenses have been paid out of the Settlement Fund, the Settlement Administrator shall calculate the pro rata Settlement Share Amount of the remaining Settlement Funds that each of the Class Members who submitted a valid Claim Form (i.e., each Approved Claimant) is entitled to receive, and the Settlement Administrator will disburse such pro rata payments (i.e., Benefit Checks) to such Class Members in the manner and pursuant to the timetable set forth in the Settlement Agreement.

23. The Benefit Checks shall state that they are invalid after 180 calendar days. If any

amounts remain in the Settlement Fund because Approved Claimants fail to negotiate their respective Benefit Checks within that that period of time or because a Benefit Check is undeliverable after two attempts at delivery pursuant to the provisions of the Settlement Agreement, the total amount of such unclaimed or undeliverable Settlement Shares shall be redistributed on a pro rata basis (net any necessary Settlement Administration Costs) to those Approved Claimants who previously received and negotiated the Benefit Checks they were sent during the initial distribution, but only to the extent that the amount of each Benefit Check (after all Settlement Administration Costs necessary to facilitate any such subsequent distribution are first deducted from the total amount of such unclaimed or undeliverable funds) would be at least \$5.00. Additional subsequent distributions shall thereafter continue to be made using the same process so long as the amount of each Benefit Check (after all Settlement Administration Costs necessary to facilitate any such subsequent distribution are first deducted from the total amount of such unclaimed or undeliverable funds) would be at least \$5.00 in any such additional subsequent distribution of unclaimed or undeliverable funds.

24. In the event the amount of any unclaimed or undeliverable funds does not allow for a subsequent distribution of Benefit Checks in the amounts of at least \$5.00 (on a pro rata basis) to each Approved Claimant who cashed a check in the prior distribution, after Settlement Administration Costs are first deducted from the total amount of such unclaimed or undeliverable funds, or in the event a subsequent distribution of such unclaimed or undeliverable funds is otherwise infeasible, then the remaining unclaimed or undeliverable funds shall be distributed to one or more charitable organization(s) selected by the Parties and approved by the Court. The Court sets a hearing on **October 4, 2021** at **10:30 a.m.** (by which time it is expected that the checks initially distributed will have expired) to determine if a cy pres award is necessary. The Parties shall submit a joint status report to the Court concerning the amount of any uncashed and undeliverable check funds at least fourteen (14) days prior to the hearing and, if appropriate pursuant to the terms of paragraphs 23 and 24 of this Order, shall at such time request that the Court approve one or more charitable organization(s), jointly proposed by the Parties, as

recipient(s) of such uncashed and undeliverable funds.

25. The Court hereby approves the Representative Plaintiffs' application for Service Awards. The Court finds that the Representative Plaintiffs have devoted substantial time, effort, and risk in undertaking their responsibilities as representatives of the Settlement Class. The Settlement Administrator shall pay each of the Representative Plaintiffs the amount of \$2,000 as a reasonable Service Award, in the manner specified in the Settlement Agreement. The Service Awards to the Representative Plaintiffs shall be paid out of the Settlement Fund within the time period and manner set forth in the Settlement Agreement.

26. The Court hereby approves Class Counsel's Fee and Cost Application. The Court finds that Class Counsel devoted substantial time and advanced significant expenses in prosecuting this litigation on behalf of the Settlement Class. The Court has concluded that: (a) Class Counsel achieved a favorable result for the Settlement Class by obtaining the Defendant's agreement to make significant funds available to Settlement Class Members; (b) Class Counsel devoted substantial effort to pre- and post-filing investigation, legal analysis, litigation, and settlement negotiations; (c) Class Counsel prosecuted the Settlement Class's claims on a purely contingent basis, investing significant time and accumulating costs with no guarantee that they would receive compensation for their services or recover their expenses; (d) Class Counsel employed their knowledge of and experience with class action litigation to achieve a valuable settlement for the Settlement Class, in spite of the Defendants' potentially meritorious legal defenses and its highly experienced and capable counsel; (e) the Class Notice informed Settlement Class Members of the amount and nature of Class Counsel's fee and cost request under the Settlement Agreement, and Class Counsel filed with the Court and posted on the Settlement Website their Fee and Cost Application in time for Settlement Class Members to make a meaningful decision whether to object to the Class Counsel's fee request. The Settlement Administrator shall pay Class Counsel the amount of \$5,600,000 as a reasonable Fee Award, inclusive of the award of reasonable costs incurred in litigating this Action, in the manner specified in the Settlement Agreement. The Fee Award to Class Counsel shall be paid out of the Settlement Fund within the time period and manner

set forth in the Settlement Agreement.

27. If the Effective Date does not occur, no payments or distributions of any kind shall be made, other than payments to the Settlement Administrator for services rendered and costs incurred.

28. The Court finds that the Settlement Fund is a “qualified settlement fund” as defined in Section 1.468B-1 of the Treasury Regulations in that it satisfies each of the following requirements:

(a) The escrow account for the Settlement Fund is established pursuant to this Order and is subject to the continuing jurisdiction of this Court;

(b) The escrow account for the Settlement Fund is established to resolve or satisfy one or more Approved Claims that have resulted or may result from an event that has occurred and that has given rise to at least one Approved Claim asserting liability arising out of an alleged violation of law; and

(c) The assets of the escrow account for the Settlement Fund shall be the only assets in the escrow account of the Defendants, the transferors of the payment to the Settlement Fund.

29. Under the “relation back” rule provided under Section 1.468B-1(j)(2)(i) of the Treasury Regulations, the Court finds that:

(a) The escrow account for the Settlement Fund meets the requirements of paragraphs 28(b) and 28(c) of this Order prior to the date of this Order approving the establishment of the Settlement Fund subject to the continued jurisdiction of this Court; and

(b) Defendants and the Settlement Administrator may jointly elect to treat the escrow account for the Settlement Fund as coming into existence as a “qualified settlement fund” on the later of the date the escrow account for the Settlement Fund met the requirements of paragraph 28 of this Order or January 1 of the calendar year in which all of the requirements of paragraph 28 of this Order are met. If such a relation-back election is made, the assets held by the Settlement Fund on such date shall be treated as having been transferred to the escrow account on that date.

III. RESPONSIBILITIES OF SETTLEMENT ADMINISTRATOR

30. The Court appoints Angeion Group, LLC as the Settlement Administrator. The responsibilities of the Settlement Administrator in effectuating the remainder of the Settlement shall include the following: (a) obtaining complete address information for Settlement Class Members (where possible) and new addresses for returned e-mails and mail; (b) establishing and maintaining a Settlement Website, from which Settlement Class Members can access copies of the Complaint, the Settlement Agreement, the Short Form Notice, the Long Form Notice, Class Counsel's Fee and Cost Application and an application for Services Awards, the Preliminary Approval Order, this Final Approval Order and other important documents and information about the Settlement; (c) establishing and maintaining a toll-free telephone number and fielding telephone inquiries about the Settlement; (d) reviewing, processing and approving Claims; (e) acting as a liaison between Settlement Class Members and the Parties; (f) directing the mailing of Benefit Checks to Settlement Class Members; (g) disbursing the Fee Award to Class Counsel and the Service Awards to Class Representatives; and (h) performing any other tasks reasonably required to effectuate the Settlement.

V. OTHER PROVISIONS

31. Any information received by the Settlement Administrator in connection with the Settlement Class that pertains to a particular Settlement Class Member, or information submitted in conjunction with a Request for Exclusion (other than the identity of the entity requesting exclusion), shall not be disclosed to any other person or entity other than Class Counsel, Defendants' Counsel, and the Court, or as otherwise provided in the Settlement Agreement.

32. If the Settlement does not become effective, the order certifying the Settlement Class and all preliminary and/or final findings or stipulations regarding certification of the Settlement Class shall be automatically vacated, voided and treated as if never filed, and the parties will retain and reserve all positions with respect to the litigation, and the litigation shall proceed as if no settlement had been reached.

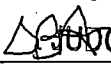
33. The Court finds that Defendants have made no admissions of liability or

wrongdoing of any kind associated with the alleged claims in the operative Complaint. Defendants have made no admission of liability or wrongdoing regarding each and every material factual allegation and all claims asserted against it in the Action. Nothing herein will constitute an admission of wrongdoing or liability, or of the truth of any allegations in the Action. Nothing herein will constitute an admission by Defendants that the Action is properly brought on a class or representative basis, or that class(es) may be certified, other than for settlement purposes. The Court further finds that the Settlement of the Action, the negotiation and execution of this Settlement, and all acts performed or documents executed pursuant to or in furtherance of the Settlement: (i) are not and will not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendants or of the truth of any allegations in the Action or Related Actions; (ii) are not and will not be deemed to be, and may not be used as an admission or evidence of any fault or omission on the part of Defendants in any civil, criminal, or administrative proceeding in any court, arbitration forum, administrative agency, or other tribunal; and (iii) are not and will not be deemed to be and may not be used as an admission of the appropriateness of these or similar claims for class certification.

34. Without affecting the finality of the Final Approval Order and Judgment, the Court shall retain continuing jurisdiction over the Action, the Parties, and the administration and enforcement of the Settlement Agreement. Any disputes or controversies arising with respect to the interpretation, administration, implementation, effectuation, and enforcement of the Settlement Agreement shall be presented by motion to the Court, provided, however, that nothing in this paragraph shall restrict the ability of the Parties to exercise their rights, as set forth above and in the Settlement Agreement.

35. The Court finds that there is no just reason to delay, and therefore directs the Clerk of Court to enter this Final Approval Order and Judgment as the judgment of the Court forthwith.

DATED: _____

 JUDGE DAVID B. ATKINS
Hon. David B. Atkins
Circuit Court Judge **DEC 03 2020**
Circuit Court-1879