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15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**
17 **WESTERN DIVISION**

18 IN RE WOODBRIDGE
19 INVESTMENTS LITIGATION

20 Case No. 2:18-CV-00103-DMG (MRWx)

21 **REPLY IN SUPPORT OF**
22 **PLAINTIFFS’ UNOPPOSED**
23 **MOTION FOR FINAL SETTLEMENT**
24 **APPROVAL; REPLY IN SUPPORT**
25 **OF PLAINTIFFS’ APPLICATION**
26 **FOR ATTORNEYS’ FEES AND**
27 **REIMBURSEMENT OF EXPENSES**
28 **AND PAYMENT OF INCENTIVE**
AWARDS

Date: December 17, 2021

Time: 10:00 a.m.

Courtroom: 8C, Eighth Floor

Judge: Honorable Dolly M. Gee

PLAINTIFFS’ REPLY IN SUPPORT OF MOTION FOR FINAL APPROVAL AND
APPLICATION FOR ATTORNEYS’ FEES AND REIMBURSEMENT OF EXPENSES
AND PAYMENT OF INCENTIVE AWARDS
Case No. 2:18-CV-00103-DMG (MRWx)

1 **I. INTRODUCTION**

2 Plaintiffs respectfully submit this reply in support of their Motion for Final
3 Settlement Approval, filed on October 8, 2021 [Doc. # 199], and their Motion for
4 Attorneys’ Fees, Costs, and Service Awards, also filed on October 8, 2021 [Doc. # 200],
5 to update the Court on the response of Class members to the Notice of Proposed Class
6 Action Settlement (the “Notice”).

7 On September 3, 2021, after carefully considering the proposed settlement and the
8 Notice, and ordering several revisions to the Notice, the Court granted preliminary
9 approval to the proposed settlement of this action against Comerica Bank for allegedly
10 aiding and abetting the Woodbridge Ponzi scheme. [Doc. # 192]. Comerica will pay
11 \$54.5 million to settle the case and a related case against Comerica brought by the
12 Woodbridge Liquidation Trust.¹ The Notice was sent by first-class mail to all Non-
13 Contributing Claimant² class members, and the Notice and Plaintiffs’ moving papers in
14 support of preliminary approval, final approval, and the application for attorneys’ fees
15 were posted to the Trust’s website contemporaneously with their filing. Class Counsel
16 received 125 inquiries from Class members about the settlement, but no opt outs or
17 objections. The absence of opt outs or objections to the Settlement and requested fee
18 supports the determination that the Settlement is fair, reasonable, and adequate. The
19 Court should now approve the Settlement, and grant the application for attorneys’ fees,
20 reimbursement of expenses, and service awards, thereby bringing this litigation to a
21 close.

22
23
24 ¹ See *Michael I. Goldberg as Trustee for the Woodbridge Liquidation Trust v. Comerica*
25 *Bank*, Adv. Proc. No. 20-50452 (JKS), pending in the United States Bankruptcy Court for
26 the District of Delaware per this Court’s February 5, 2020 transfer order (No. 19-cv-
3439, Doc. # 44).

27 ² Unless otherwise noted, capitalized terms have the meaning ascribed to them in the
28 Settlement Agreement. [Doc. # 188-1].

1 **II. ARGUMENT**

2 **A. The Response of Class Members to the Settlement Confirms the**
 3 **Fairness of the Settlement.**

4 The feedback from class members has been positive, and many class members
 5 have expressed their appreciation for the results achieved by this Settlement. No class
 6 member objected or requested exclusion. *See* Declaration of Makenna Cox (“Cox
 7 Decl.”), ¶ 9. Settlement Class Counsel received 73 emails and 52 phone calls from class
 8 members, typically to confirm their membership in the Class, that they did not need to
 9 submit a claim, and to know when they could expect payment. *Id.*, ¶¶ 7-8. The
 10 favorable reaction of the class and the absence of objections support approval. *See, e.g.,*
 11 *Johnson v. Quantum Learning Network, Inc.*, No. 15-CV-05013-LHK, 2017 WL
 12 747462, at *2 (N.D. Cal. Feb. 27, 2017) (“The lack of objections and the low rate of
 13 opt-outs (less than 1%) are ‘indicia of the approval of the class.’”) (citations omitted);
 14 *Pan v. Qualcomm Inc.*, No. 16-CV-01885-JLS-DHB, 2017 WL 3252212, at *13 (S.D.
 15 Cal. July 31, 2017) (“[N]otably, no Class Member objected to the requested award of
 16 attorney fees. This near-unanimous class approval and absence of fee-specific
 17 objections also weighs in favor of settlement.”). These inquiries were promptly and to
 18 our knowledge, satisfactorily responded to in all cases. Cox Decl. ¶¶ 7-8.

19 The record confirms that the Settlement is fair, reasonable, and adequate and in
 20 the best interest of class members. *See, e.g., Black v. T-Mobile USA, Inc.*, 2019 WL
 21 3323087, at *2 (N.D. Cal. July 24, 2019) (finding that “no facts that would affect these
 22 requirements have changed since the Court preliminarily approved the class”). The
 23 Settlement here is the result of hard-fought negotiations under Judge Furgeson’s
 24 supervision, reached on a developed record. *See* Doc. # 188-11, Declaration of Hon.
 25 Royal Furgeson (Ret.) in Support of Motion for Preliminary Settlement Approval; Doc.
 26 # 201, Declaration of Daniel C. Girard in Support of Plaintiffs’ Motion for Final
 27 Settlement Approval and Plaintiffs’ Application for Attorneys’ Fees and
 28

1 Reimbursement of Expenses (“Girard Decl.”), at ¶ 30-36. The Settlement Class
2 Representatives and the Trustee support the Settlement. Girard Decl., ¶ 69; Doc. # 202,
3 Declaration of Michael I. Goldberg in Support of Plaintiffs’ Motion for Final Settlement
4 Approval and Application for Attorneys’ Fees and Reimbursement of Expenses
5 (“Goldberg Decl.”), ¶ 9.

6 The settlement is supported by all interested parties and represents a win for the
7 class. The settlement amount recoups a substantial portion of the class’s maximum
8 recoverable damages and exceeds Comerica’s available insurance limits. Girard Decl., ¶
9 39. Absent the Settlement, Plaintiffs would face the considerable risks described in the
10 motions. In short, the Settlement merits approval.

11 **B. The Motion for Attorneys’ Fees, Costs, and Service Awards Should Be**
12 **Granted.**

13 Plaintiffs timely submitted their motion for attorneys’ fees, expense
14 reimbursement, and service awards. [Doc. # 200, 201]. Class members were given
15 notice and an opportunity to object to the requests, and none objected—which “supports
16 granting the requested fees.” *Cheng Jiangchen v. Rentech, Inc.*, No. CV 17-1490-GW
17 (FFMx), 2019 WL 5173771, at *10 (C.D. Cal. Oct. 10, 2019); *see also Ruiz v. XPO*
18 *Last Mile, Inc.*, No. 5-CV-2125 JLS (KSC), 2017 WL 6513962, at *7 (S.D. Cal. Dec.
19 20, 2017) (“Not one Class Member objected to the requested award of attorney fees.
20 This . . . absence of fee-specific objections weighs in favor of the Court approving the
21 Fee”); *Ridge v. Infinity Sales Grp., LLC*, No. CV 12-6985-GW (SHx), 2014 WL
22 12589629, at *7 (C.D. Cal. July 24, 2014) (“[T]he Court is cognizant of the fact that the
23 class had access to Plaintiff’s counsel’s fee application, yet proffered no objections.”).

24 Class Counsel respectfully submit that they have earned their fee against a
25 sophisticated and well-represented defendant. Class Counsel were only able to achieve
26 the Settlement after taking 18 depositions, defending nine Plaintiff depositions,
27 reviewing approximately 2 million pages of documents, negotiating subpoenas with
28

1 several non-parties, nearly completing fact discovery, opposing Defendant’s motion to
 2 dismiss, and fully briefing class certification, all at considerable expense and despite
 3 substantial risk of non-payment. *See generally* Girard Declaration, Doc. # 201.

4 Class Counsel requests an award of attorneys’ fees equal to 25% of the settlement
 5 fund. Girard Decl., ¶ 47-48. The 25% benchmark fee is within “the usual range” of “20-
 6 30%” in common fund cases. *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th
 7 Cir. 2002). In the Ninth Circuit, “[t]wenty-five percent is the ‘benchmark’ that district
 8 courts should award in common fund cases.” *In re Pac. Enterprises Sec. Litig.*, 47 F.3d
 9 373, 379 (9th Cir. 1995); *see, e.g., Good Morning to You Prods. Corp. v.*
 10 *Warner/Chappell Music, Inc.*, No. CV134460-GHK-MRWx, 2016 WL 6156076, at *2
 11 (C.D. Cal. Aug. 16, 2016). A lodestar cross-check also confirms the reasonableness of a
 12 25% fee—the fee request represents a modest multiplier of 1.5 on Class Counsel’s
 13 lodestar of nearly \$9 million and falls well within the standard range. *See* Plaintiffs’
 14 Motion for Attorneys’ Fees, Costs, and Service Awards [Doc. # 200] at 15-16.

15 Finally, the requested service awards—\$15,000 for individual Settlement Class
 16 Representatives and \$20,000 for married Settlement Class Representatives—are within
 17 the customary range and will not meaningfully reduce the Settlement Fund. *See In re*
 18 *Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 947-48 (9th Cir. 2015); *Reyes v.*
 19 *Experian Info. Sols., Inc.*, No. 8:16-cv-00563-SVW-AFM, 2020 WL 5172713, at *5
 20 (C.D. Cal. July 30, 2020). The Settlement Class Representatives diligently pursued this
 21 litigation for over three years on behalf of the class and responded to substantial
 22 discovery, including sitting for lengthy depositions. Girard Decl., ¶¶ 69-70. No Class
 23 member objected to these awards, which are reasonable and should be approved. Cox
 24 Decl., ¶ 9.

25 **III. CONCLUSION**

26 For the reasons set forth above and in their motions, Plaintiffs respectfully request
 27 that the Court grant final approval of the settlement, enter final judgment dismissing
 28

1 Plaintiffs' claims, and award the requested attorneys' fees, expenses, and service awards.

2
3 Respectfully submitted,

4
5 Dated: November 18, 2021

By: /s/ Daniel C. Girard

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