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22 *Attorneys for Plaintiffs & the Class*

23 UNITED STATES DISTRICT COURT  
24 NORTHERN DISTRICT OF CALIFORNIA  
25 SAN FRANCISCO/OAKLAND DIVISION

26 CAROL FOSTER and THEO FOREMAN,  
27 on behalf of themselves, individually, and on  
28 behalf of all others similarly situated,

Plaintiffs,

v.

ADAMS AND ASSOCIATES, INC., ROY  
A. ADAMS, LESLIE G. ADAMS, DANIEL  
B. NOREM, JOY CURRY NOREM and THE  
DANIEL NOREM REVOCABLE TRUST  
DATED JANUARY 9, 2002,

Defendants.

Case No. 18-cv-02723-JSC

POST-DISTRIBUTION ACCOUNTING BY  
CLASS COUNSEL

1 Pursuant to the Final Approval Order (ECF No. 244) and the requirements of the  
2 Procedural Guidance for Class Action Settlements of the Northern District of California, Class  
3 Counsel submit this status update regarding distribution of the Settlement Fund to Class  
4 Members and Post-Distribution Accounting. Class Counsel, through the Settlement  
5 Administrator, have caused the distribution to be issued to all Class Members for which Class  
6 Counsel (or the Settlement Administrator) have the unilateral ability to cause such payments to  
7 be issued. For the remaining Class Members, Defendant Adams and Associates, Inc. (“AAI”),  
8 which is the Plan Administrator, has prevented the Settlement Administrator from transferring  
9 the remaining Settlement Funds to the AAI 401k Plan (as provided under the Settlement  
10 Agreement) and as a result, those funds have not been distributed to those Class Members.  
11 Despite Class Counsel’s best efforts, Defendants’ counsel has still not resolved this issue. As  
12 such, pursuant to Paragraph 4 of the Final Judgment Order (ECF No. 246), Defendants should be  
13 ordered to provide the wire instructions so that these Settlement Funds can be distributed to the  
14 remaining Class Members by allocating these funds to those Class Members’ accounts in the  
15 AAI 401k Plan.

16 **I. Status of Distribution**

17 The Court entered an Order granting final approval of the Settlement on behalf of the  
18 Class on February 11, 2022. ECF No. 244. The Court entered final judgment on March 14, 2022.  
19 ECF No. 246. As no appeal was filed within thirty days, the Settlement became non-appealable  
20 on April 13, 2022. On May 31, 2022, for Class Members who were eligible for an immediate  
21 distribution from the ESOP or the AAI 401(k) Plan and timely submitted an Election Form, the  
22 Settlement Administrator, with the authorization of Class Counsel, issued and mailed distribution  
23 checks payable to the Class Member or to a retirement account of the Class Member’s choice if  
24 he or she elected to take a rollover.

25 For Class Members who were not eligible for an immediate distribution or who were  
26 eligible but did not submit an Election Form requesting an immediate distribution (“Remaining  
27 Class Members”), the Settlement Agreement provides that distributions of their allocations from  
28 the Settlement Fund will be transferred to the Class Member’s existing account in the AAI

1 401(k) Plan or, if the Class Member does not have an existing account, to a newly established  
2 account in the Plan. ECF No. 230 at 15 of 39. The Settlement Agreement requires that such  
3 transfers be completed and any new accounts be established within the later of (a) 30 days of the  
4 Final Approval Order becoming non-appealable (i.e., May 13, 2022) or (b) 30 days “after the  
5 Plan Administrator [i.e. AAI] has received amounts from the Settlement Fund and a direction  
6 from the Settlement Administrator (or Class Counsel) regarding the allocation of any portion of  
7 the net proceeds of the Settlement Fund.” *Id.* The Settlement Administrator informed the Plan  
8 Administrator between April 11, 2022 and April 20, 2022 that the Settlement Administrator is  
9 prepared to provide allocation direction, but Defendant AAI has apparently prevented the  
10 Settlement Administrator from transferring the funds. As a result, the funds have not been  
11 transferred to the AAI 401k Plan and have not been allocated to the accounts of the Remaining  
12 Class Members.

13 The Settlement Administrator requested wire instructions from Principal, the third-party  
14 administrator/recordkeeper of the AAI 401(k) Plan, on April 20, 2022, to transfer funds to be  
15 allocated to the Remaining Class Members’ AAI 401(k) Plan accounts. But Principal did not  
16 provide the requested information because, according to the Settlement Administrator, the Plan  
17 Administrator AAI had not provided authorization to Principal to receive the funds and to  
18 allocate the settlement payments to the Remaining Class Members via the AAI 401(k) Plan.  
19 Class Counsel informed Defendants’ counsel about this issue on May 25, 2022 and also provided  
20 a copy of this report in advance of filing. To date, more than 60 days after the Final Approval  
21 Order became non-appealable on April 13, 2022 and more than 60 days after the Plan  
22 Administrator was requested to provide wire instructions on April 20, 2022, the Plan  
23 Administrator still has not provided the requested information so that the settlement proceeds can  
24 be distributed to Remaining Class Members (through allocations to their AAI 401k Plan  
25 accounts). As such, Defendant AAI has failed to fulfill its obligations under the Settlement  
26 Agreement and violated its terms. Pursuant to Paragraph 4 of the Final Judgment (ECF No. 246),  
27 Defendant AAI should be ordered by a date certain to provide the wire transfer instructions (or  
28

1 provide Principal authority to provide those instructions) or be ordered to show cause as to why  
 2 the settlement allocations for these Class Members have not been transferred to their accounts in  
 3 the AAI 401(k) Plan.

## 4 **II. Post-Distribution Accounting**

5 The following chart summarizes the distribution of the Settlement Fund to date and other  
 6 accounting information pursuant to the Procedural Guidance for Class Action Settlements of the  
 7 Northern District of California:

8	Total Settlement Fund	\$3,000,000.00
9	Total Number of Class Members	3,561
10	Total Number of Class Member to Whom Notice Was Sent and not Returned as undeliverable	435 – The Settlement Administrator found updated addresses for and remailed the Notice to 375 of these 435 Class Members.
11	Number and Percentage of Claim Forms Submitted	None – No claim form is required for Class Members to receive payment. All participants in the ESOP will receive payment.
12	Percentage of Opt-Outs	None – The Court granted class certification under Rule 23(b)(1) and (b)(2), which does not allow opt- outs.
13	Number and Percentage of Objections	None
14	Average and Median Recovery Per Class Member	Average: \$516.77 Median: \$317.08
15	Largest and Smallest Amounts Paid to Class Members	Largest: \$8,609.40 Smallest: \$0.52
16	Method(s) of Notice	U.S. mail and email
17	Method(s) of Payment to Class Members	For Class Members who were eligible for an immediate distribution from the ESOP or the Adams and Associates, Inc. 401(k) Profits Sharing Plan and submitted an Election Form: <ul style="list-style-type: none"> <li>• By check payable to Class Members who elected to receive payment directly – Completed on May 31, 2022</li> <li>• By rollover to retirement accounts chosen by Class Members who elected to receive payment through a rollover – Completed on May 31, 2022</li> </ul> For Class Members who were not eligible for an immediate distribution or were eligible but did not submit an Election Form:

	<ul style="list-style-type: none"> <li>Through the Adams and Associates, Inc. 401(k) Profits Sharing Plan into the Class Member's existing account in the Plan or, if he or she does not have such account, into a newly established account – Not completed yet</li> </ul>
Number and Value of Checks Not Cashed	Unknown at this time
Amounts Distributed to Each Cy Per Recipient	None at this time. Any cy pre amount will occur after expiration of check cashing deadline.
Administrative Costs	No administrative costs have been charged to the Settlement Fund. All administrative costs – which are approximately \$40,000 – will be paid by the non-AAI Defendants.
Attorneys' Fees and Costs	Fees: \$1,000,000.00 Costs: \$149,978.03
Attorneys' Fees in Terms of Percentage of Settlement Fund	One third or 33.33%
Attorneys' Fees Multiplier, If Any	None
Benefit of Any Injunctive and/or Non-Monetary Relief Conferred on the Class	AAI is prohibited from paying for any portion of the Settlement or indemnifying any of the Defendants.  AAI was required to issue a revised summary plan description ("SPD") of the ESOP that correctly identifies the Plan Administrator of the ESOP. A revised SPD was provided to Class Counsel on January 13, 2022 and was supposed to be issued by AAI to all ESOP participants within 30 days after the Final Approval Order became Non-Appealable (i.e. by May 13, 2022). AAI was also required to file an affidavit that it had done by no later than June 13, 2022.

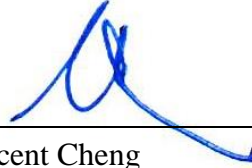
### III. Conclusion

Class Counsel, through the Settlement Administrator, have caused the distribution to be issued to all Class Members for whom Class Counsel (or the Settlement Administrator) have the ability to cause such payments to be issued. For the Remaining Class Members, Defendant AAI (which is the Plan Administrator) has prevented the transfer of the remaining Settlement Funds so that remaining Settlement Funds can be allocated to those Class Members. Additionally, AAI has not verified that it has provided the revised SPD. Pursuant to Paragraph 4 of the Final Judgment (ECF No. 246), Defendant AAI should be ordered by a date certain to (1) provide the

1 wire transfer instructions (or provide Principal authority to provide those instructions) or to be  
2 ordered to show cause as to why the settlement allocations for these Class Members have not  
3 been transferred to their accounts in the AAI 401(k) Plan and (2) filing an affidavit stating  
4 whether the revised SPD has been provide to all ESOP participants and if it has not been, ordered  
5 to show cause why the revised SPD has not been provided.

6  
7 Dated: June 21, 2022

Respectfully submitted,

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