

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MARY JANE BEAUREGARD, on behalf	)	
of herself and all others	)	
similarly situated,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	1:07CV785
	)	
SMART ONLINE, INC., DENNIS	)	
MICHAEL NOURI, REEZA ERIC	)	
NOURI, et al.,	)	
	)	
Defendants.	)	

**ORDER**

**WHEREAS**, a class action is pending before the court entitled Beauregard v. Smart Online, Inc., Civil No. 1:07CV785 (the "Action");

**WHEREAS**, the court has received the Corrected Stipulation and Agreement of Partial Class Settlement with Defendant Sherb dated as of November 26, 2012 (the "Stipulation"), that has been entered into by the Lead Plaintiff and Defendant Sherb, and the court has reviewed the Stipulation and its attached Exhibits;

**WHEREAS**, the parties having made application, pursuant to Federal Rules of Civil Procedure 23(e) for an order preliminarily approving the settlement between Lead Plaintiff on

behalf of the Class and Defendant Sherb ("Second Partial Settlement") of the Action, in accordance with the Stipulation which, together with the Exhibits annexed, sets forth the terms and conditions for a proposed partial settlement of the Action and for dismissal of the Action solely as to Defendant Sherb with prejudice upon the terms and conditions set forth therein; and the court having read and considered the Stipulation and the Exhibits annexed thereto; and

**WHEREAS**, all defined terms contained herein shall have the same meanings as set forth in the Stipulation;

**NOW, THEREFORE, IT IS HEREBY ORDERED:**

1. The court does hereby preliminarily approve the Stipulation and the Second Partial Settlement set forth therein, subject to further consideration at the Settlement Hearing described below.

2. A hearing (the "Settlement Hearing") shall be held before this court on March 19, 2013, at 9:30 a.m., at the United States Courthouse, United States District Court, Middle District of North Carolina, 324 West Market Street, Greensboro, North Carolina, to determine whether the proposed Second Partial Settlement of the Action on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate to the

Settlement Class and should be approved by the court; whether Judgment as provided in ¶ 1.20 of the Stipulation should be entered herein; and whether the proposed Plan of Allocation should be approved. The court may adjourn the Settlement Hearing without further notice to Members of the Settlement Class.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the court certifies, for settlement purposes only with respect to this Second Partial Settlement, a Settlement Class of all Persons who purchased or otherwise acquired publicly traded securities of Smart Online between May 2, 2005 and September 28, 2007. Excluded from the Settlement Class are Defendants; any officers and directors of Smart Online, Sherb & Co., Jesup & Lamont and Maxim Group; any corporation, trust or other entity in which any Defendant has a controlling interest; and the members of the immediate families of the individual Defendants and their legal representatives, heirs and assigns. Also excluded from the Settlement Class are those Persons who timely and validly requested exclusion from the Settlement Class as provided in the Final Judgment and Order of Partial Dismissal entered on July 1, 2011, in connection with the First Partial

Settlement, and those Persons who timely and validly requested exclusion from the Settlement Class as directed herein.

4. With respect to the Settlement Class, this court preliminarily finds for purposes of effectuating this Second Partial Settlement that (a) the Members of the Settlement Class are so numerous that joinder of all Settlement Class Members in the Action is impracticable; (b) there are questions of law and fact common to the Settlement Class which predominate over any individual questions; (c) the claims of the Lead Plaintiff are typical of the claims of the Settlement Class; (d) the Lead Plaintiff and Lead Plaintiff's counsel have fairly and adequately represented and protected the interests of all of the Settlement Class Members; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy, considering: (i) the interests of the Members of the Settlement Class in individually controlling the prosecution of the separate actions; (ii) the extent and nature of any litigation concerning the controversy already commenced by Members of the Settlement Class; (iii) the desirability or undesirability of continuing the litigation of these claims in this particular forum; and (iv) the difficulties likely to be encountered in the management of the Action.

5. The court approves, as to form and content, the Notice of Pendency, Proposed Second Partial Settlement of Class Action (the "Notice"), the long-form Proof of Claim and Release for Second Partial Settlement form (the "Proof of Claim"), the short-form Release and Summary Notice - Second Partial Settlement for publication annexed as Exhibits A-1, A-2 and A-3 hereto, and finds that the mailing and distribution of the Notice and publishing of the Summary Notice substantially in the manner and form set forth in ¶¶ 6-7 of this Order meet the requirements of Federal Rule of Civil Procedure 23 and due process, is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all Persons entitled thereto.

6. Pursuant to Rule 53(c) of the Federal Rules of Civil Procedure, the court appoints the firm of The Garden City Group, Inc. ("Claims Administrator") to administer, under the supervision of Lead Plaintiff's counsel, the notice procedure as well as the processing of claims as more fully set forth below:

(a) Not later than February 13, 2013 (the "Notice Date"), Lead Plaintiff's counsel shall cause a copy of the Notice, the Proof of Claim and short-form Release, substantially in the forms annexed as Exhibits A-1, A-2 and A-3 hereto, to be

mailed by first class mail to all Settlement Class Members who can be identified with reasonable effort;

(b) Not later than February 13, 2013, Lead Plaintiff's counsel shall cause the Summary Notice to be published on a national newswire, such as Business Wire or PR Newswire; and

(c) At least seven (7) calendar days prior to the Settlement Hearing, Lead Plaintiff's counsel shall cause to be served on Settling Defendant's counsel and filed with the court proof, by affidavit or declaration, of such mailing and publishing.

7. Nominees who purchased or acquired Smart Online securities during the period beginning May 2, 2005 through September 28, 2007, inclusive, shall send the Notice and the Proof of Claim to all beneficial owners of such Smart Online securities within ten (10) days after receipt thereof, or send a list of the names and addresses of such beneficial owners to the Claims Administrator within ten (10) days of receipt thereof, in which event the Claims Administrator shall promptly mail the Notice and Proof of Claim to such beneficial owners. Lead Plaintiff's counsel shall, if requested, reimburse banks, brokerage houses, or other nominees solely for their reasonable

out-of-pocket expenses incurred in providing notice to beneficial owners who are Settlement Class Members out of the Class Notice and Administration Fund, which expenses would not have been incurred except for the sending of such notice, subject to further order of this court with respect to any dispute concerning such compensation.

8. All Members of the Settlement Class shall be bound by all determinations and judgments in the Action concerning the Second Partial Settlement, whether favorable or unfavorable to the Settlement Class.

9. Settlement Class Members who wish to participate in the Second Partial Settlement who have previously submitted a timely, valid and complete Proof of Claim and Release form in connection with the First Partial Settlement shall submit a timely, valid and complete short form Release to the Claims Administrator no later than February 25, 2013. Settlement Class Members who did not previously submit a timely, valid and complete Proof of Claim and Release form in connection with the First Partial Settlement must submit a timely, valid and complete Proof of Claim in the form attached hereto as Exhibit A-2 to the Claims Administrator no later than February 25, 2013. Settlement Class Members who do not timely submit a Proof of

Claim or the short-form Release, as applicable, within the time provided for, shall be barred from sharing in the distribution of the proceeds of the Second Partial Settlement, unless otherwise ordered by the court.

10. Any Person who desires to request exclusion from the Settlement Class must send a letter by mail clearly stating that he, she or it wants to be excluded from Beauregard v. Smart Online, Inc., Case No. 1:07CV785, and include his, her or its name, address, telephone number, signature, the number and type of Smart Online securities purchased or acquired between May 2, 2005 and September 28, 2007, the number and type of securities sold during this time period, if any, and the dates of such purchases and sales, and mail such letter, postmarked no later than February 25, 2013, to: Smart Online Securities Litigation-Second Partial Settlement, c/o The Garden City Group, P.O. Box 9349, Dublin, OH 43017-4249. Settlement Class Members cannot exclude themselves on the telephone or by e-mail. If a Settlement Class Member timely and properly requests exclusion from the Settlement Class, such person or entity shall not be eligible to get any settlement payment, shall have no rights under the Stipulation and cannot object to the Second Partial Settlement, the Plan of Allocation and/or Lead Plaintiff's



counsel's request for reimbursement of their unreimbursed out-of-pocket expenses incurred in the prosecution of the Action, and shall not be bound by the Stipulation or the judgment concerning Defendant Sherb entered in the Action.

11. Any Member of the Settlement Class may enter an appearance in the Action, at their own expense, individually or through counsel of their own choice. If they do not enter an appearance, they will be represented by Lead Plaintiff's counsel.

12. Any Member of the Settlement Class may appear and show cause, if he, she or it has any reason why the proposed Second Partial Settlement of the Action should or should not be approved as fair, reasonable and adequate, why a judgment should or should not be entered thereon, or why the Plan of Allocation should or should not be approved; provided, however, that no Settlement Class Member or any other Person shall be heard or entitled to contest the approval of the terms and conditions of the proposed Second Partial Settlement, or, if approved, the judgment to be entered thereon approving the same, the order approving the Plan of Allocation, and/or Lead Plaintiff's counsel's request for reimbursement of out-of-pocket expenses incurred in the prosecution of the Action, unless that Person

has delivered by hand, sent by first-class mail, written or transmitted by email and filed on the court's ECF electronic filing system (a) a sworn statement that include his, her or its name, address, telephone number, signature, the number and type of Smart Online securities purchased or acquired between May 2, 2005 and September 28, 2007, the number and type of securities sold during this time period, if any, and the dates of such purchases and sales; (b) a statement of the reason and basis of the objection, and (c) any and all papers, briefs or other materials that such Settlement Class Member wishes the court to consider in connection with such objection. All such objections and supporting material must be delivered by a Settlement Class Member wishing to object in such a manner as to be received on or before February 25, 2013, by: Brower Piven, A Professional Corporation, David A.P. Brower, 475 Park Avenue South, 33rd Floor, New York, NY 10016, and Jones Hirsch Connors Miller & Bull P.C., Alan Gelb, One Battery Park Plaza, 28th Floor, New York, NY 10004, and by the Clerk of the United States District Court for the Middle District of North Carolina, on or before February 25, 2013. Any Settlement Class Member who does not make his, her or its objection in the manner provided shall be deemed to have waived such objection and shall forever be

foreclosed from making any objection to the fairness or adequacy of the proposed Second Partial Settlement as set forth in the Stipulation, to the Plan of Allocation, or reimbursement of Lead Plaintiff's counsel's unreimbursed expenses unless otherwise ordered by the court.

13. All funds held by the Escrow Agent shall be deemed and considered to be in custodia legis of the court, and shall remain subject to the jurisdiction of the court, until such time as such funds shall be distributed pursuant to the Stipulation and/or further order(s) of the court.

14. All papers in support of the Second Partial Settlement and the Plan of Allocation shall be filed by Defendant Sherb's counsel and Lead Plaintiff's counsel, on or before January 26, 2013; and responses to those papers shall be filed on or before February 25, 2013; and any replies to those papers shall be filed on or before March 4, 2013. Lead Plaintiff's counsel may submit supplemental papers to report to the court any events that occur after March 4, 2013, 2013, or respond to any objections received after the February 25, 2013 deadline for such objections anytime within seven (7) calendar days before the Settlement Hearing.

15. All reasonable expenses incurred in identifying and notifying Settlement Class Members, as well as administering the proceeds of the Second Partial Settlement, shall be paid as set forth in the Stipulation. In the event the Second Partial Settlement is not approved by the court, or otherwise fails to become effective, neither the Lead Plaintiff nor Lead Plaintiff's counsel shall have any obligation to repay any amounts actually, and properly incurred or disbursed in connection with providing notice to the Settlement Class Members as directed herein or administering the Second Partial Settlement.

16. Neither Defendant Sherb nor its respective Released Parties shall have any responsibility for or liability with respect to the Plan of Allocation or Lead Plaintiff's counsel's out-of-pocket expenses, and such matters will be considered separately from the fairness, reasonableness, and adequacy of the Second Partial Settlement.

17. At or after the Settlement Hearing, the court shall determine whether the Plan of Allocation proposed by Lead Plaintiff's counsel shall be approved.

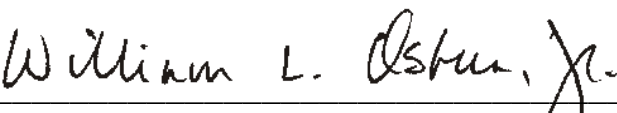
18. At or after the Settlement Hearing, the court shall determine whether Lead Plaintiff's counsel's request for

reimbursement of their unreimbursed expenses incurred in prosecuting the Action shall be approved.

19. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by Defendant Sherb or its respective Released Parties of the truth of any of the allegations in the Actions, or of any liability, fault, or wrongdoing of any kind.

20. The court reserves the right to adjourn the date of the Settlement Hearing without further notice to the Members of the Settlement Class, and retains jurisdiction to consider all further applications arising out of or connected with the proposed Second Partial Settlement. The court may approve the Second Partial Settlement, with such modifications as may be agreed to by the Settling Parties, if appropriate, without further notice to Settlement Class Members.

This the 3rd day of December, 2012.

  
United States District Judge