

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
C.A. NO.1684-CV-03611-BLS2

MATTHEW PERLOW, on behalf of himself
and others similarly situated,

Plaintiff,

v.

ABC FINANCIAL SERVICES, INC. and
SEAS & ASSOCIATES, LLC,

Defendants.

**PLAINTIFF'S UNOPPOSED MOTION FOR
ENTRY OF PRELIMINARY APPROVAL ORDER**

Plaintiff Matthew Perlow respectfully moves the Court for entry of the [proposed] Preliminary Approval Order, submitted herewith as Exhibit 1. Defendants do not oppose this motion.

The proposed Order (1) conditionally certifies the proposed Settlement Class for settlement purposes only, (2) preliminarily approves the proposed Settlement set forth in the Stipulation and Settlement Agreement filed herewith, (3) approves the method of giving notice to the Settlement Class Members, and (4) schedules a hearing to consider final approval of the Settlement.

The grounds for this motion are set forth in the accompanying Memorandum in Support of Plaintiff's Unopposed Motion for Entry of Preliminary Approval Order.

Dated: July 25, 2018

Respectfully submitted,

PLAINTIFF MATTHEW PERLOW

By his attorneys,



Edward F. Haber (BBO# 215620)

Michelle H. Blauner (BBO# 549049)

Adam M. Stewart (BBO #661090)

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Certificate of Service

I hereby certify that a true copy of the above document was served upon counsel of record for Defendants by e-mail on July 25, 2018.



Adam M. Stewart

Exhibit 1

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
C.A. NO.1684-CV-03611-BLS2

MATTHEW PERLOW, on behalf of himself
and others similarly situated,

Plaintiff,

v.

ABC FINANCIAL SERVICES, INC. and
SEAS & ASSOCIATES, LLC,

Defendants.

[PROPOSED] PRELIMINARY APPROVAL ORDER

The Court having reviewed Plaintiff's Unopposed Motion for Preliminary Approval of the Settlement of this Action as well as the Stipulation and Settlement Agreement dated July 25, 2018 (the "Settlement Agreement") between Plaintiff Matthew Perlow, individually and on behalf of the Settlement Class ("Plaintiff"), and Defendants ABC Financial Services, Inc. and Seas & Associates, LLC (collectively "Defendants") and good cause appearing therefore, IT IS HEREBY ORDERED AS FOLLOWS:

1. For purposes of this Order, the Court adopts all the defined terms that are used in the Settlement Agreement, and incorporates those terms by reference in this Order.
2. The Court preliminarily approves the Settlement of this Action that is set forth in the Settlement Agreement. Subject to any further submissions that may be made at or prior to the

Final Approval Hearing described below, the Court finds that the Settlement is fair, just, reasonable and adequate to the certified Classes and its members.

3. On June 15, 2018, this Court issued its Memorandum and Order granting Defendants' motion for summary judgment and denying Plaintiff's motion for class certification. See Paper No. 16.

4. The Court hereby approves the form of Notice and Summary Notice attached hereto as Exhibits A and B. The Court finds that the Notice and Summary Notice are reasonably and practicably calculated to apprise the Settlement Class of the proposed Settlement, and their rights and obligations thereunder, including, *inter alia*, their rights to object to the Settlement and to attend the Final Approval Hearing.

5. The Court approves the plan of notice set forth in Paragraph 13 of the Settlement Agreement is appropriate and is reasonably and practicably calculated to apprise the Settlement Class of the proposed Settlement, and their rights and obligations thereunder, including, *inter alia*, their rights to object to the Settlement and to attend the Final Approval Hearing.

6. No later than October 12, 2018, Defendants shall provide Class Counsel and the Settlement Administrator (in electronic excel format) with the Class List (as set forth in Paragraph 12 of the Settlement Agreement), which shall contain the names and the most recent mailing addresses and email addresses of all members of the Settlement Class. The Class List shall also include each date upon which a member of the Settlement Class received an LD0 letter, each date of each payment a member made after receiving an LD0 letter, and the amount of each payment a member made after receiving an LD0 Letter. The Class List will include all Massachusetts consumers from whom ABC attempted to or did collect a purported debt between

November 22, 2012 and the date of the Settlement Agreement but exclude any individuals who paid the alleged debt within five days of ABC's initial communication to them.

7. The Settlement Administrator shall implement the plan of Notice and Summary Notice in accordance with Paragraph 13 of the Settlement Agreement. The Court finds that dissemination of the Notice, Summary Notice and plan of Notice described in Paragraph 13 of the Settlement Agreement constitutes the best notice practicable, and that it is reasonably calculated, under all the circumstances, to apprise the Settlement Class Members of the terms of the Settlement and afford them an opportunity to present objections, or otherwise avail themselves of their rights under the Settlement.

8. The Court further finds that the plan of Notice and Summary Notice meets the requirements of M.G.L. c. 93A, §9, the Massachusetts Rules of Civil Procedure and the requirements of Due Process of the Constitutions of the United States and the Commonwealth of Massachusetts, as well as any other applicable law and that such Notice and Summary Notice constitutes due and sufficient notice to all persons entitled thereto.

9. Not later than five (5) days before the Final Approval Hearing described below, Class Counsel shall file an affidavit or declaration from the Settlement Administrator attesting to compliance with and completion of the plan of Notice and Summary Notice set forth in the Settlement Agreement.

10. The Final Approval Hearing shall be held at _____ m. on _____, 20__, in Courtroom 1017, Suffolk Superior Court, 3 Pemberton Square, Boston, Massachusetts, to determine whether the proposed Settlement of the Action, as set forth in the Settlement Agreement, should be approved as fair, reasonable and adequate to the Settlement Class and its members, and whether the Final Order and Judgment approving the Settlement should be

entered. At the Final Approval Hearing, the Court also will determine whether Class Counsel's Fee Application and request for a Service Award to the Plaintiff should be approved. At that hearing the Court will also consider any timely objections to the Settlement Agreement, the Fee Application or the Service Award, and all responses to said objections by the Parties.

11. Twenty-one (21) days after the Notice and Summary Notice are mailed to the Settlement Class, Plaintiff shall file with the Court and serve on Defense Counsel, his motion for final approval of the Settlement, Class Counsel's Fee Application, and any supporting materials.

12. Any Settlement Class Member wishing to object to the approval of this Settlement Agreement, the Service Award or the Fee Application shall inform the Court and the Parties in writing of his or her objection by following the procedures and objection deadlines set forth in the Notice. Any Settlement Class member who fails to object to the Settlement, the Service Award or the Fee Application in the manner described in the Notice and Summary Notice shall be deemed to have waived any such objection, shall not be permitted to object to any terms or approval of the Settlement, the Service Award or the Fee Application at the Fairness Hearing, and shall be foreclosed from seeking any review of the Settlement, the Service Award or Fee Application by appeal or other means. As set forth in the Notice and Summary Notice, any and all objections must be submitted no later than thirty-five (35) days after Notice is mailed to the Settlement Class and be sent to Class Counsel, Defense Counsel and the Court. Any Party may file a response to any objection no later than five (5) days prior to the Final Approval Hearing.

13. The Court hereby directs the Parties, Class Counsel and Defense Counsel to proceed in accordance with the terms of the Settlement Agreement, and hereby authorizes them to take all acts reasonably necessary to implement this Preliminary Approval Order.

14. The Court may, for good cause, change the date of the Final Approval Hearing or extend any of the deadlines set forth in this Order without further notice to the Settlement Class Members.

IT IS HEREBY ORDERED.

Dated: _____, 2018

Justice of the Superior Court

Exhibit A

NOTICE OF CLASS ACTION SETTLEMENT

Matthew Perlow v. ABC Financial Services, Inc. and Seas & Associates, LLC
Massachusetts Superior Court, Civil Action No. 1684-CV-03611-BLS2

THIS NOTICE ADVISES YOU OF A CLASS ACTION SETTLEMENT REGARDING ABC FINANCIAL SERVICES, INC. (ABC) AND SEAS & ASSOCIATES LLC (SEAS). THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS. PLEASE READ IT CAREFULLY.

ABC's records indicate that you are: a Massachusetts consumer from whom ABC attempted to or collected a purported debt between November 22, 2012 and July 25, 2018, and you did not pay the alleged debt within five days of ABC's initial communication to you.

➤ **What is the case about?**

Plaintiff brought this class action against ABC and Seas & Associates, LLC (Seas), alleging that ABC and Seas engaged in unlawful debt collection practices that violated the Massachusetts consumer protection law, claiming that (i) ABC attempted to collect debts from Massachusetts consumers without making timely disclosure of the amount of the debt, and (ii) at times, Seas attempted to collect alleged debts from Massachusetts consumers without a debt collection license. ABC and Seas deny any wrongdoing.

➤ **Am I a class member?**

The Settlement Class is all Massachusetts consumers between November 22, 2012 and July 25, 2018, from whom ABC attempted to or did collect a purported debt and who did not pay the alleged debt within five days of ABC's initial communication to them.

➤ **What are the terms of the Settlement?**

Under the proposed Settlement, Defendants have agreed to pay \$1,800,000 to resolve this action (the "Settlement Amount").

If the Settlement is approved, Settlement Class Members will be prevented from bringing any further claims against Defendants (as well as their present and former subsidiaries, parents, affiliates, successors, predecessors and insurers and each of their present, former, or future officers, directors, employees, representatives, agents, or principals), for economic damages related to the claims actually asserted in the Action by Plaintiff on behalf of the Settlement Class relating to Defendants' debt collection practices in Massachusetts, including allegations that (i) Seas attempted to collect alleged debts from him and other Massachusetts consumers without a debt collection license between May 1, 2013 through August 5, 2014 and from January 1, 2016 through December 31, 2016 in violation of G.L. c. 93, §24A, (ii) ABC facilitated and participated in Seas' unlicensed debt collection activities, and (iii) ABC separately attempted to collect the alleged debts from him and other consumers in Massachusetts without making the mandatory disclosures required by 940 C.M.R. §7.08(1) and/or 209 C.M.R. §18.18(1).

➤ **How is the Settlement Amount being distributed?**

The lawyers for the Class will ask the Court to award them attorneys' fees and expenses of not to exceed \$600,000 from the Settlement Amount. Class Counsel will also ask the Court to award \$10,000 to the plaintiff who brought this lawsuit to compensate him for his efforts in the case, including responding to discovery and giving a deposition, to be paid out of the Settlement Amount. Class Counsel will also ask the Court to allow the costs of providing notice and administering the Settlement to be paid out of the Settlement Amount.

The remaining amount available to be paid to the Settlement Class Members (the "Net Settlement Amount") will be distributed to the Settlement Class Members who made a payment to ABC and received a letter from ABC which did not disclose the amount of the alleged debt. Each Settlement Class Member's share of the Net Settlement Amount will be determined by the number of such letters each Settlement Class Member received in proportion to the number of such letters received by all other Settlement Class Members.

There will be a *de minimis* threshold of \$10 for any payments to the Settlement Class Members under the Settlement. Any Settlement Class Member whose pro rata share results in a distribution amount from the Net Settlement Amount of less than \$10, will not receive a Settlement payment because the cost of administration and processing of such payments would not be economical.

If after distribution of the aforementioned items, as approved by the Court, there is money left over, the Court will decide how to distribute those undistributed funds.

➤ **How can I get my share of the Class Recovery?**

If the Settlement is approved by the Court, your pro rata share of the Net Settlement Amount, if any, will be sent by check to your most recent mailing address. **If you have a more current address, please notify the Settlement Administrator.**

➤ **What if I do not want to be part of the Class?**

Under Massachusetts law, class members do not have the right to exclude themselves from the Settlement Class.

➤ **Who represents the Settlement Class in this case?**

Plaintiff Matthew Perlow and the Settlement Class have been represented throughout this case by the Boston law firm of Shapiro Haber & Urmy LLP ("Class Counsel").

➤ **How will the lawyers be paid?**

Since this case was filed almost two years ago, Class Counsel has not received any payment for any of their legal services they have provided or any reimbursement of any of the out-of-pocket expenses they have incurred in the case. Class Counsel plan to ask the Court to award them up to \$600,000 in attorneys' fees and expenses out of the Settlement Amount.

➤ **Will the Court review the fairness of the Settlement and Class Counsel's fee request?**

The Court will hold a Final Approval Hearing on _____, 20__ at 2:00 p.m. in Courtroom 1017 at Suffolk Superior Court, 3 Pemberton Square, Boston, MA 02108. The Court may re-schedule the hearing without further notice. At the hearing, the Court will consider whether: (a) the Settlement is fair, reasonable and adequate; (b) the Court should approve payment of a \$10,000 service award to

Plaintiff Matthew Perlow; and (c) the Court should approve Class Counsel' request for attorneys' fees and expenses of up to \$600,000 to be paid out of the Settlement Amount.

➤ **What should I do if I object to the Settlement?**

If you are a Settlement Class Member, you may object to any aspect of the Settlement, including the applications for a Service Award to Plaintiff Matthew Perlow and the award of attorneys' fees and expenses to Class Counsel. In order to object, you must, **on or before _____, 2018:**

- Submit a written notice to the Suffolk Superior Court, 3 Pemberton Square, Boston, MA 02108, which contains: (a) the case name and number, (b) your name, address and telephone number, (c) a statement setting out your objections and the basis for them, along with any documentation you intend to rely on at the Final Approval Hearing, (d) a statement of whether you intend to appear at the Final Approval Hearing, and (e) a statement indicating the number of times in the past three years you and/or your counsel have objected to a class action settlement, listing each one by name of case, jurisdiction, docket number and outcome of the objection.
- Send copies of all of these materials by first-class mail to counsel at:

Class Counsel

Edward F. Haber
Shapiro Haber & Urmy LLP
2 Seaport Lane
Boston, MA 02210

Defendants' Counsel

Allen N. David
Peabody & Arnold LLP
600 Atlantic Avenue
Boston, MA 02210

➤ **How can a Settlement Class Member get more information?**

This Notice is a summary and does not describe all the details of the Settlement. You are encouraged to read the Settlement Agreement, the Preliminary Approval Order, and other documents. You may obtain a copy of these documents online at [insert website], or you may obtain further information regarding the Settlement by calling the Settlement Administrator toll-free at _____, or by emailing questions to the Settlement Administrator at _____.

You may also contact Class Counsel with any questions by mail at Shapiro Haber & Urmy LLP, 2 Seaport Lane, Boston, MA 02210, by toll-free telephone at (800) 287-8119, or by email at shu@shulaw.com.

PLEASE DO NOT CALL OR WRITE THE COURT FOR INFORMATION OR LEGAL ADVICE.

Exhibit B

**NOTICE OF CLASS ACTION
SETTLEMENT**

[ADMINISTRATOR RETURN ADDRESS]

MATTHEW PERLOW v.

ABC FINANCIAL SERVICES, INC. AND SEAS
& ASSOCIATES, LLC

C.A. NO. 1684-CV-03611-BLS2 (MASS. SUPER. CT.)

Postal Service: Please Do Not Barcode

[ADMINISTRATOR BARCODE AND CLASS MEMBER
ADDRESS]

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Under the proposed Settlement, Defendants have agreed to pay \$1,800,000 to resolve this action (the "Settlement Amount"). If the Settlement is approved, Class Counsel (Shapiro Haber & Urmy LLP) will ask the Court to award them attorneys' fees and expenses of not to exceed \$600,000 from the Settlement Amount. Class Counsel will also ask the Court to award \$10,000 to the plaintiff to compensate him for his efforts in the case to be paid out of the Settlement Amount. Class Counsel will also ask the Court to allow the costs of notice and administering the Settlement to be paid out of the Settlement Amount.

The remaining amount available to be paid to the Settlement Class Members (the "Net Settlement Amount") will be distributed to Settlement Class Members who made a payment to ABC and received a letter from ABC which did not disclose the amount of the alleged debt. Your share of the Net Settlement Amount will be determined by the number of such letters you received in proportion to the number of such letters received by other class members. Any share of less than \$10 will not be paid out because the cost of administration and processing of such payments would not be economical. If you are eligible to receive a payment, your allocation will be determined from ABC's records, and your payment, if any, will be sent by check to your most recent mailing address. **If you have a more current address, please notify the Settlement Administrator.**

The Court will hold a Final Approval Hearing on _____, 20__, at 2:00 p.m. in Courtroom 1017 at Suffolk Superior Court, 3 Pemberton Square, Boston, MA 02108. If you wish to object to any aspect of the Settlement, you must, on or before _____, 2018, send your written objection to the Court, the Settlement Administrator, Class Counsel and Defendants' Counsel.

This Notice is a summary of the Settlement. A more detailed notice is available at [insert website]. For more information about the case and the settlement, visit [insert website], or contact the Settlement Administrator at [telephone] or [email address].