

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.

**STIPULATION AND SETTLEMENT AGREEMENT**

**I. PREAMBLE**

WHEREAS, Plaintiff Matthew Perlow brought this class action against Defendants ABC Financial Services, Inc. and Seas & Associates, LLC on November 22, 2016;

WHEREAS, the Action alleges that Defendants violated G.L. c. 93A by engaging in unlawful 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);

WHEREAS, Defendants have denied any wrongdoing and contend Plaintiff's claims are without merit;

WHEREAS, Plaintiff moved to certify two classes as follows: As to both Seas and ABC, Plaintiff had moved to certify a class of “All Massachusetts consumers from whom Seas attempted to or did collect a purported debt between May 1, 2013 through August 5, 2014 and January 1, 2016 through December 31, 2016”, and as to ABC a separate class of “All Massachusetts consumers between November 22, 2012 and entry of final judgment in this case 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”;

WHEREAS, Defendants opposed Plaintiff’s Motion for Class Certification;

WHEREAS, Defendants filed a Motion for Summary Judgment requesting the Court to grant them summary judgment against Plaintiff on all claims, which Plaintiff opposed;

WHEREAS, the Parties engaged in a full-day mediation session with Attorney John Ryan in an attempt to resolve the Action, and the Parties had additional settlement negotiations through Attorney Ryan following the mediation;

WHEREAS, the Parties’ mediation efforts resulted in an agreement, which was executed by the parties on June 6, 2018, to settle the Action using a “High-Low Agreement” that would be determined by the Court’s resolution of the Defendants’ Motion for Summary Judgment and Plaintiff’s Motion for Class Certification, which agreement is attached hereto as Exhibit 1;

WHEREAS, the Court held a hearing on Plaintiff’s Motion for Class Certification and on Defendants’ Motion for Summary Judgment on June 7, 2018;

WHEREAS, on June 15, 2018, the Court allowed Defendants’ Motion for Summary Judgment and denied Plaintiff’s Motion for Class Certification;

WHEREAS, the Court’s rulings on summary judgment and class certification have triggered the Parties’ agreement to settle this Action for \$1,800,000 under the High-Low

Agreement;

WHEREAS, the Parties have agreed to resolve the claims in the Action on a class-wide basis;

WHEREAS, Plaintiff and his counsel believe that the Settlement of the Action on the terms reflected in this Settlement Agreement is fair, reasonable, adequate and in the best interest of the putative Settlement Class; and

WHEREAS, Defendants, without admitting any liability, have concluded that it is desirable that the claims against them be settled and dismissed on the terms reflected in this Settlement Agreement;

NOW THEREFORE, it is hereby stipulated and agreed by and between Plaintiff, individually and on behalf of the Settlement Class, and Defendants that in consideration of the agreements, promises and covenants set forth herein, and subject to the approval of the Court pursuant to G.L. c. 93A, § 9 and Mass. R. Civ. P. 23, this Action shall be fully and finally resolved on the following terms and conditions:

## II. DEFINITIONS

1. As used in this Agreement and the related documents attached hereto as exhibits, the following terms shall have the meanings set forth below:

- a. "ABC" means ABC Financial Services, Inc.
- b. "Action" means the civil action entitled *Matthew Perlow v. ABC Financial Services, Inc. and Seas & Associates, LLC*, C.A. No. 1684-cv-03611-BLS2 (Mass. Super. Ct.).
- c. "Class Counsel" means the law firm Shapiro Haber & Urmy LLP.

- d. "Court" means the Superior Court of the Commonwealth of Massachusetts for Suffolk County.
- e. "Defendants" means ABC and Seas.
- f. "Defense Counsel" means Peabody & Arnold LLP.
- g. "Effective Date" means the date on which the Final Order and Judgment becomes Final.
- h. "Fee Application" means the application to the Court by Class Counsel for an award of attorneys' fees and expenses.
- i. "Fee Award" means the amount awarded by the Court to Class Counsel for attorneys' fees and expenses, to be paid from the Settlement Fund pursuant to paragraph 7 below.
- j. "Final" with respect to a judgment or order means the judgment or order as entered on the docket by the Court in this Action, which has not been reversed, stayed, modified, or amended, and as to which (1) the time to appeal under the Massachusetts Rules of Civil Procedure has expired and no appeal, further appeal or motion to extend the time for filing an appeal has been timely filed, or (2) any appeal has been resolved by the highest court to which it was appealed upholding or affirming the judgment.
- k. "Final Approval Hearing" means the hearing at which the Court shall: (1) determine whether to grant final approval to this Settlement Agreement; (2) consider any timely objections to this Settlement Agreement and all responses to objections by the Parties; and (3) rule on the Fee Application and Service Award.

- l. “Final Order and Judgment” means the Final Order and Judgment substantially in the form attached hereto as Exhibit 3, in which the Court grants final approval of this Agreement and authorizes the entry of a final judgment and dismissal of the Action.
- m. “Net Settlement Amount” means the amount to be paid from the Settlement Amount to the Settlement Class Members after deduction for the Settlement Costs, the Notice and Distribution Costs, the Fee Award and the Service Award, and as set forth in paragraph 23 below.
- n. “Notice” means the notice of class action settlement attached hereto as Exhibit 2-A.
- o. “Notice and Distribution Costs” means all costs of giving Notice or Summary Notice to the Settlement Class and distributing the Net Settlement Amount to the Settlement Class.
- p. “Plaintiff” means Plaintiff Matthew Perlow.
- q. “Parties” means Plaintiff Matthew Perlow, individually and as representative of the Settlement Class, and Defendants ABC and Seas.
- r. “Party” means either Plaintiff Matthew Perlow, individually and as representative of the Settlement Class or Defendant ABC or Defendant Seas.
- s. “Preliminary Approval Order” means the order, substantially in the form of Exhibit 2 hereto, in which the Court grants its preliminary approval of this Agreement, and authorizes dissemination of notice to the Settlement Class.
- t. “Released Claims” means and is limited to any claims actually asserted in the Action by Plaintiff for economic damages related to 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).

- u. "Released Parties" means Defendants, Defendants' 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.
- v. "Releasing Parties" means Plaintiff and each member of Settlement Class.
- w. "Seas" means Defendant Seas & Associates, LLC.
- x. "Service Award" means a service award of up to \$10,000 to be paid out of the Settlement Amount to Plaintiff, as may be approved by the Court.
- y. "Settlement Administrator" means the settlement administrator selected by Class Counsel to provide notice to the Settlement Class and distribute the Net Settlement Amount to the Settlement Class.
- z. "Settlement Agreement," "Settlement" or "Agreement" means this Settlement Agreement, including attached Exhibits.
- aa. "Settlement Amount" means the \$1,800,000 to be paid by Defendants to resolve this Action.

- bb. "Settlement Class" means all Massachusetts consumers from whom ABC attempted to or did collect a purported debt between November 22, 2012 and the date of this Agreement and who did not pay the alleged debt within five days of ABC's initial communication to them.
- cc. "Settlement Costs" means the costs incurred by the qualified settlement fund into which the Settlement Amount will be deposited, including taxes, tax preparation fees, bank fees and accounting fees.
- dd. "Summary Notice" means the summary postcard notice of class action settlement attached hereto as Exhibit 2-B.

### **III. CLASS RECOVERY**

2. In full satisfaction of any claims that were asserted in this Action by the Plaintiff and the Settlement Class, Defendants will pay the sum of \$1,800,000, which amount shall constitute the Settlement Amount.

3. Defendants will pay the Settlement Amount to Class Counsel, who agree to provide Defense Counsel with a W-9 form, no later than thirty (30) days after the date on which the Court enters the Preliminary Approval Order.

4. The Settlement Amount shall remain in an escrow account until such time as the Court enters the Final Order and Judgment.

5. If the Settlement is not approved by the Court, Class Counsel shall return the Settlement Amount to Defendants within fourteen (14) days of the Court's order not granting approval to the Settlement.

### **IV. THE FEE AWARD**

6. Class Counsel intend to submit a Fee Application to the Court for approval seeking an award of attorneys fees of up to 33 1/3 % of the Settlement Amount and reimbursement of expenses for any legal services rendered in this Action.

7. The Fee Application shall be subject to approval of the Court and the Fee Award, as approved by the Court, shall be paid to Class Counsel out of the Settlement Amount.

8. Defendants shall not object to any Fee Application for an award of attorneys' fees and expenses up to the amount set forth in paragraph 6 to be paid out to Class Counsel out of the Settlement Amount.

#### V. THE SERVICE AWARD

9. Class Counsel intend to apply for a Service Award of up to \$10,000 to be paid to Plaintiff out of the Settlement Amount.

10. Any application for a Service Award to be paid out of the Settlement Fund to Plaintiff shall be subject to approval of the Court.

11. Defendants shall not object to any application for a Service Award up to the amount set forth in paragraph 9 to be paid out of the Settlement Amount to Plaintiff.

#### VI. NOTICE

12. No later than October 12, 2018, Defendants shall provide Class Counsel and the Settlement Administrator (in electronic excel format) the "Class List" which shall contain the first and last names and the most recent mailing addresses and email addresses of the 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 this agreement but exclude any individuals who paid the alleged debt within five days of ABC's initial communication to them. This data will be marked Confidential and Class Counsel and the Settlement Administrator shall agree to treat the data pursuant to the terms of the Agreed Confidentiality Order entered in this Action.

13. Within twenty-one (21) days of entry of the Preliminary Approval Order or Defendants' providing the Class List, whichever is later, the Settlement Administrator shall send the Notice substantially in the form attached hereto as Exhibit 2-A or the Summary Notice substantially in the form attached hereto as Exhibit 2-B to the Settlement Class Members as follows:

- a. For each Settlement Class Member for whom an email address is provided, the Settlement Administrator will send the Notice by email.
- b. For each Settlement Class Member for whom only a mailing address is provided, the Settlement Administrator will send the Summary Notice by first class mail. A copy of the Notice will be posted on Class Counsel's website or a website established by the Settlement Administrator for the Settlement.

14. The Settlement Administrator shall check to determine whether a more current mailing address for each Settlement Class Member is available through the National Change of Address ("NCOA") database, and if a more recent address is obtained, the Settlement Administrator shall use such address.

15. If a mailed Summary Notice is returned as undeliverable, and a forwarding address is provided by the U.S. Postal Service, the Settlement Administrator shall, within seven

(7) days after being notified that the mailed Summary Notice was undeliverable, re-mail the Summary Notice to such forwarding address.

16. No later than seven (7) days before the Final Approval Hearing, the Settlement Administrator will provide Class Counsel and Defense Counsel with an affidavit or declaration attesting that the Notice and Summary Notice have been disseminated in accordance with the Preliminary Approval Order. Class Counsel shall file the affidavit or declaration with the Court no later than five (5) days prior to the Final Approval Hearing.

17. No later than thirty (30) days after the entry of the Preliminary Approval Order, Class Counsel or the Settlement Administrator shall establish a website page that will contain, *inter alia*, the Settlement Agreement and Exhibits; the Motion for Preliminary Approval of the Settlement and all documents filed in support thereof; the Preliminary Approval Order; the Notice; Class Counsel's memorandum in support of Final Approval and Class Counsel's Fee Application. The website shall remain open and accessible until ninety (90) days after the Effective Date.

18. Other than as set forth herein, Defendants will play no part in selection of the Settlement Administrator or in the Notice process and will have no responsibility for payment of any portion of the costs of Notice or Summary Notice, which shall be paid for out of the Settlement Amount.

## VII. DISTRIBUTION

19. The distribution of the Settlement Amount shall be made pursuant to the following plan of distribution, subject to the approval of the Court.

20. The Settlement Amount shall be distributed by the Settlement Administrator, at the direction of Class Counsel, and subject to the approval of the Court, as follows:

- a. First, to pay the Fee Award to Class Counsel;
- b. Second, to pay Settlement Costs;
- c. Third, to pay Notice and Distribution Costs;
- d. Fourth, to pay for the Service Award to Plaintiff; and
- e. Fifth, to pay the Settlement Class Members.

21. The amount available for distribution to the Settlement Class after payment of the Settlement Costs, the Notice and Distribution Costs, the Fee Award and the Service Award is referred to the "Net Settlement Amount".

22. Membership in the Settlement Class will be determined from the records of ABC. The Net Settlement Amount shall be distributed to the members of the Settlement Class as determined from the records of ABC without the need for Settlement Class Members to submit a proof of claim.

23. The Net Settlement Amount shall be distributed in a manner such that each Settlement Class Member who made a payment to ABC and received an LDO letter will be entitled to a pro rata share of the Net Settlement Amount in proportion to the number of LDO letters they received in relation to the total number of LDO letters received by all Settlement Class Members.

24. There shall 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, shall not receive a Settlement payment because the cost of administration and processing of such payments would not be economical.

25. Each Settlement Class Members' pro rata share of the Net Settlement Amount, if any, shall be distributed, subject to the *de minimis* threshold, by check to such Settlement Class Member at the most recent mailing addresses, as updated by the Settlement Administrator in accordance with paragraph 14 above.

26. After the Final Order and Judgment becomes Final, under no circumstances shall any portion of the Settlement Amount revert to Defendants, or any of the Released Parties.

27. Any portion of the Settlement Amount that shall remain undistributed to Settlement Class Members shall be distributed in the manner determined by the Court in accordance with Mass. R. Civ. P. 23(e).

28. Within twenty-one (21) days of entry of the Preliminary Approval Order or Defendants' providing the Class List, whichever is later, Class Counsel shall give notice to the Massachusetts IOLTA Committee pursuant to Mass. R. Civ. P. 23(e)(3), for the limited purpose of allowing the committee to be heard on whether it ought to be a recipient of any or all residual funds.

29. Other than as set forth herein, Defendants will play no part in the distribution process and will have no responsibility for payment of any portion of the costs of distribution, which shall be paid out of the Settlement Amount.

#### VIII. RELEASE

30. On the Effective Date, the Releasing Parties shall be bound by this Settlement Agreement and shall have recourse exclusively to the benefits, rights and remedies provided hereunder. No other action, demand, suit or other claim may be pursued by the Releasing Parties against the Released Parties with respect to the Released Claims.

31. On the Effective Date, the Releasing Parties shall be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally and forever released, relinquished and discharged the Released Parties from any and all of the Released Claims.

**IX. COURT APPROVAL OF SETTLEMENT**

32. The Parties, Class Counsel and Defense Counsel shall use their respective best efforts to obtain Court approval of this Settlement. The process for obtaining Court approval of this Settlement shall be as follows:

- a. Preliminary Approval. No later than fourteen (14) days after the execution of this Settlement Agreement, Plaintiff shall move the Court for entry of a Preliminary Approval Order substantially in the form of Exhibit 2 attached hereto. That motion will not be opposed by Defendants.
- b. Notice. Following entry of the Preliminary Approval Order, Plaintiff shall cause notice to be given to the Settlement Class Members in the manner directed by the Court in the Preliminary Approval Order.
- c. Final Approval. On the date set forth in the Preliminary Approval Order, or on such other date as may be set by the Court, the Court shall conduct a Final Approval Hearing in order to: (1) determine whether to grant final approval to this Settlement Agreement; (2) consider any timely objections to this Settlement and all responses to objections by the Parties; (3) rule on the Fee Application and Fee Award; and (4) rule on the Service Award. At the Final Approval Hearing, Plaintiff shall ask the Court to give final approval to the Settlement, the Fee Application, and the Service Award request, and to enter a Final Order and Judgment substantially in the form attached hereto as Exhibit

3, which will not be opposed by Defendants. The Final Approval Hearing shall be held no earlier than sixty (60) days after the Notice and the Summary Notice are mailed to the Settlement Class Members.

33. Twenty-one (21) days after the Notice and the 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.

34. Any Settlement Class Member wishing to object to the approval of this Settlement, and/or to oppose the Fee Application or the Service Award, 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 and Summary Notice. Any Settlement Class Member who fails to object to the Settlement 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 Fee Application or the Service Award request at the Final Approval Hearing, and shall be foreclosed from seeking any review of the Settlement or Fee Application by appeal or other means. All objections must be served upon Class Counsel and Defense Counsel and filed with the Court no later than thirty-five (35) days after the Notice and Summary Notice are mailed to the Settlement Class. Any Party may file a response to any objection no later than five (5) days prior to the Final Approval Hearing.

#### **X. FINAL ORDER AND JUDGMENT**

35. In order to effectuate the approval of the Settlement, the Court must enter a Final Order and Judgment substantially in the form as attached hereto as Exhibit 3. In order for the Court to enter Final Order and Judgment, the Court will need to vacate its earlier final judgment of June 15, 2018, which was entered on the docket on June 20, 2018 (Paper No. 17).

36. The Parties stipulate and agree that, if the Court approves the Settlement, the Court should vacate its earlier final judgment of June 15, 2018, which was entered on the docket on June 20, 2018 (Paper No. 17). The Final Order and Judgment pursuant to the Settlement shall supersede and replace the Court's prior final judgment.

37. To effectuate approval of the Settlement, the Parties agree that Plaintiff will file a Notice of Appeal and the Parties also will file a joint motion to stay assembly of the record for the appeal so that the Court may maintain jurisdiction to consider and approve the Settlement while preserving Plaintiff's rights to appeal should the Court ultimately not approve the Settlement.

#### **XI. EFFECTIVE DATE, TERMINATION OR MODIFICATION**

38. The Settlement shall become effective on the Effective Date.

39. If, for any reason, the Court fails to grant final approval to this Settlement or to enter the Final Order and Judgment, or if the Final Order and Judgment is reversed or rendered void in any material respect as a result of an appeal or does not otherwise become Final, then either Party, at its sole discretion, may terminate this Settlement Agreement by providing written notice of that Party's intent to terminate the Settlement to the other Party within fourteen (14) days after such triggering event.

40. If as a condition of preliminary approval or final approval of the Settlement Agreement the Court orders any material modification to the Settlement Agreement that has not been previously agreed to by the Parties, then the Parties, and each of them, shall have the option to terminate the Settlement Agreement if they are not willing to accept any such modification, by providing written notice of the Party's intent to terminate the Settlement to the other Party within fourteen (14) days after such triggering event.

41. Notwithstanding the foregoing, the failure of the Court to approve the Fee Award requested by Class Counsel, or the Service Award, or any modification of the Fee Award or the Services Award, shall not delay the Effective Date, or be a basis for either Party to terminate the Settlement. If the Settlement is terminated by either Party pursuant to the provisions of this Agreement, then the Settlement Agreement shall be null and void and of no force and effect, and all Parties to this Settlement Agreement shall be returned to the status quo ante, and stand in the same position, without prejudice, as if the Settlement Agreement had neither been entered into nor filed with the Court, with all rights that existed prior to entering the Settlement Agreement being preserved, including the right to appeal from the order granting summary judgment to Defendants.

## **XII. MISCELLANEOUS PROVISIONS**

42. This Agreement shall be binding upon and inure to the benefit of the Parties and the Settlement Class Members and their respective heirs, trustees, executors, successors (including, but not limited to, ABC Financial Services, LLC) and assigns.

43. The Parties, Class Counsel and Defense Counsel agree that the terms and conditions of this Settlement Agreement are the result of arms-length negotiations between the Parties and that this Agreement shall not be construed in favor or against any of the Parties by reason of the extent to which any of the Parties, or their counsel, participated in the drafting of this Agreement.

44. This Agreement, and any amendments hereto, may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument.



45. Construction and interpretation of the Agreement shall be determined in accordance with the laws of the Commonwealth of Massachusetts, irrespective of the Commonwealth of Massachusetts' choice of law principles.

46. This Agreement, including the Exhibits referred to herein, which form an integral part hereof, contains the entire understanding of the Parties, Class Counsel and Defense Counsel, in respect of the subject matter contained herein. There are no promises, representations, warranties, covenants or undertakings governing the subject matter of this Agreement other than those expressly set forth in this Agreement. This Agreement incorporates the parties' High-Low Agreement but otherwise supersedes all prior agreements and understandings among the Parties, Class Counsel and Defense Counsel, with respect to the settlement of this Action. This Agreement may not be changed, altered or modified, except in a writing signed by the Parties, Class Counsel and Defense Counsel, and approved by the Court.

47. After entry of the Final Order and Judgment, the Court shall retain jurisdiction with respect to enforcement of the terms of this Settlement, and all Parties, their counsel and Settlement Class Members shall be deemed to have submitted to the exclusive jurisdiction of the Court with respect to the enforcement of any dispute with respect thereto.

48. The signatories hereto hereby represent that they are fully authorized to enter into this Agreement and to bind the Parties to the terms and conditions hereof.

49. To the extent permitted under applicable law, any failure of any of the Parties, Class Counsel or Defense Counsel to comply with any obligation, covenant, agreement or condition set forth herein may be expressly waived in writing, by the person or entity entitled to the benefit of such obligation, covenant, agreement or condition. A waiver or failure to insist

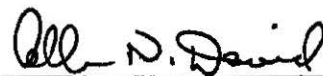
upon strict compliance with any representation, warranty, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

50. Any notice to a Party that is required under this Settlement Agreement, or the Exhibits hereto, must be provided in writing as follows:

- a. If to Plaintiff or Class Counsel, by giving notice to Shapiro Haber & Urmy LLP, 2 Seaport Lane, Boston, MA 02210.
- b. If to Defendants or Defense Counsel, by giving notice to Peabody & Arnold LLP, Federal Reserve Plaza, 600 Atlantic Avenue, Boston, MA 02210.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS SETTLEMENT AGREEMENT ON THE DATE LAST SET FORTH BELOW:

The Defendants,  
ABC FINANCIAL SERVICES, INC. and  
SEAS & ASSOCIATES, LLC  
By their attorneys,



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Allen N. David, BBO #115000  
Catherine M. Scott, BBO# 691867  
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PLAINTIFF MATTHEW PERLOW  
By his attorneys,



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Dated: July 25, 2018

# **Exhibit 1**

## HIGH-LOW AGREEMENT

WHEREAS, this High-Low Agreement is entered into as of June 6, 2018, by and among Plaintiff Matthew Perlow (“Plaintiff” or “Perlow”), individually and on behalf of two putative classes, and Defendants ABC Financial Services, Inc. (“ABC”) and Seas & Associates, LLC (“Seas”) (collectively Perlow, ABC and Seas shall be referred to as “Parties”), the parties to the putative class action pending in Massachusetts Superior Court, Business Litigation 2 Session (the “Court”) captioned *Matthew Perlow v. ABC Financial Services, Inc. and Seas & Associates, LLC*, C.A. No. 1684-cv-03611-BLS1 (the “Action”);

WHEREAS, the Action alleges that ABC and Seas (collectively “Defendants”) violated G.L. c. 93A by engaging in unlawful 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);

WHEREAS, Plaintiff has moved to certify two classes: As to both Seas and ABC, Plaintiff has moved to certify a class of “All Massachusetts consumers from whom Seas attempted to or did collect a purported debt between May 1, 2013 through August 5, 2014 and January 1, 2016 through December 31, 2016” (the “Unlicensed Debt Collection Class”), and as to ABC a separate class of “All Massachusetts consumers between November 22, 2012 and entry of final judgment in this case 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" (the "Unlawful Disclosure Class") (collectively the "Classes");

WHEREAS, Defendants deny any wrongdoing and contend Plaintiff's claims are without merit;

WHEREAS, Plaintiff has moved for certification of both of the Classes and Defendants have opposed Plaintiff's Motion for Class Certification and contend that that the Classes should not be certified;

WHEREAS, Defendants have moved the Court to grant them summary judgment against Plaintiff on all claims, which Plaintiff has opposed;

WHEREAS, the Court has scheduled a hearing on Plaintiff's Motion for Class Certification and on Defendants' Motion for Summary Judgment on June 7, 2018;

WHEREAS, the Parties have agreed to resolve the claims in the Action on a class-wide basis;

WHEREAS, the Parties engaged in a full-day mediation session with Attorney John Ryan in an attempt to resolve the Action, and the parties had additional settlement negotiations through Attorney Ryan following the mediation;

WHEREAS, the Parties' mediation efforts have resulted in an agreement to settle the Action using a "high/low" agreement that is to be determined by the Court's resolution of the Defendants' Motion for Summary Judgment and Plaintiff's Motion for Class Certification as set forth in Paragraphs 1-4 below and Exhibit A hereto, which is fully incorporated herein;

WHEREAS, Plaintiff and his counsel believe that the Settlement of the Action on the terms reflected in this High-Low Agreement is fair, reasonable, adequate and in the best interest of the putative Classes;

WHEREAS, Defendants, without admitting any liability, have concluded that it is desirable that the claims against them be settled and dismissed on the terms reflected in this High-Low Agreement;

WHEREAS, the Parties intend to be bound by this High-Low Agreement, and agree to enter into a final Settlement Agreement that will memorialize the full terms of the Settlement consistent with the terms of this High-Low Agreement, after the contingencies that will determine the Settlement Amount and the Settlement Class or Classes have occurred, and consistent with the other terms typically contained in class action settlement agreements;

WHEREAS, the Parties agree and recognize that the Settlement Agreement that will memorialize the full terms of the Settlement, consistent with the terms of this High-Low Agreement, will be subject to Court approval pursuant to G.L. c. 93A, §9, and Mass. R. Civ. P. 23;

NOW THEREFORE, the Parties to the Action have agreed as follows:

1. **Settlement Amount.** The agreement is structured as a “high/low” agreement. The Settlement Amount is to be determined by the Settlement Event as set forth in Paragraph 4 and Exhibit A hereto which is fully incorporated herein.
  - a. If the Settlement Event is Low, as defined in Paragraph 4 and Column N of Exhibit A, the Settlement Amount will be \$1,800,000.
  - b. If the Settlement Event is High, as defined in Paragraph 4 and Column N of Exhibit A, the Settlement Amount will be \$3,500,000.
  - c. If the Settlement Event is Neutral, as defined in Paragraph 4 and Column N of Exhibit A, the parties agree to resume mediation with attorney John Ryan within 45 days of the date of the order or orders constituting the Settlement

Event, and will attempt to reach an agreement on a new Settlement Amount that will not be less than \$1,800,000 and will not be greater than \$3,500,000.

- d. If the Parties are unable to reach an agreement on the Settlement Amount within 30 days of resuming the mediation, the parties agree that Attorney John Ryan shall make a final binding mediator's proposal, which shall not be less than \$1,800,000 or greater than \$3,500,000, and which the Parties agree that they will accept and be bound.

2. **Settlement Class.** The Settlement Amount shall be distributed to the Settlement Class or Settlement Classes set forth in Column O of Exhibit A.

- a. As used herein, the "Unlawful Disclosure Class" is the same as the "Unlawful Disclosure Class" set forth in Plaintiffs' Motion for Class Certification.
- b. As used herein, the "Unlicensed Debt Collection Class" is the same as the "Unlicensed Debt Collection Class" set forth in Plaintiff's Motion for Class Certification.
- c. If the Court, in ruling on Plaintiff's Motion for Class Certification, certifies the Unlawful Disclosure Class but makes material modifications to the Class Period or the Class Definition of the Unlawful Disclosure Class, then the Settlement Event and Settlement Class shall be determined as set forth in Columns I, N and O of Exhibit A.
- d. If the Court, in ruling on Plaintiff's Motion for Class Certification certifies the Unlawful Disclosure Class, but makes non-material modifications to the Class Period or the Class Definition of the Unlawful Disclosure Class, then the



Settlement Event and Settlement Class shall be determined as set forth in Columns H, N and O of Exhibit A.

- e. The Parties agree that the following modifications to the Class Period or the Class Definition of the Unlawful Disclosure Class shall be considered a non-material modifications:
  - i. The parties disagree as to the duration of the Class Period for the Unlawful Disclosure Class. The Plaintiff argues that the Unlawful Disclosure Class Period should extend to the date of judgment and the Defendants argue that the Unlawful Disclosure Class Period should end on the date the Action was commenced – November 22, 2016. The termination date of the Class Period for the Unlawful Disclosure Class as certified by the Court, whether the date the Action was commenced or the date of judgment, or some date in between, shall be a non-material modification.
  - ii. Any modification of the Class Definition and/or the Class Period of the Unlawful Disclosure Class which has the effect of decreasing the class size of the Unlawful Disclosure Class to 202,500 or more individuals shall be a non-material modification.
  - iii. Any modification of the Class Definition or the Class Period of the Unlicensed Debt Collection Class shall be a non-material modification.
- f. The Parties agree that any modifications of the Class Definition and/or the Class Period of the Unlawful Disclosure Class that has the effect of decreasing

the class size to fewer than 202,500 individuals shall be considered a material modification of the Unlawful Disclosure Class.

g. The Parties agree if the Court, in ruling on Plaintiff's Motion for Class Certification, modifies the Unlawful Disclosure Class or the Unlicensed Debt Collection Class in any way, then the Settlement Amount shall be distributed to the appropriate Settlement Class as so modified by the Court as set forth in Column O of Exhibit A; provided, however, that for the purposes of the Settlement, the class period shall extend until the date the final Settlement Agreement is executed.

3. **Asserted Claims.** As used herein:

a. The "Unlawful Disclosure Claim" is the claim asserted by Mr. Perlow against ABC which alleges that ABC violated G.L. c. 93A, by failing to comply with 940 C.M.R. §7.08(1) and/or 209 C.M.R. §18.18(1) in collecting or attempting debts from the Unlawful Disclosure Class.

b. The "Unlicensed Debt Collection Claim" is the claim asserted by Mr. Perlow against both ABC and Seas which alleges that ABC and Seas violated G.L. c. 93A, by reason of Seas' operations as a debt collector without a license from May 1, 2013 through August 5, 2014 and from January 1, 2016 through December 31, 2016 in violation of GL. c. 93, §24A.

4. **Settlement Events.** The Settlement Events are determined by the Court's orders and rulings on the Defendants' Motion for Summary Judgment and the Plaintiff's Motion for Class Certification. The chart attached hereto as Exhibit A, which is fully incorporated herein, contains the Settlement Event possibilities, and outcomes.

5. **Settlement Agreement.**

- a. The Parties intend to be bound by this High-Low Agreement, which reflects all the material terms of the Parties' agreement. After the contingencies set forth herein occur, the Parties will attempt in good faith to promptly execute a final Settlement Agreement, consistent with the terms of this High-Low Agreement (the "Settlement Agreement"), which shall include such terms and other documentation as may be required to obtain final approval of the Settlement.
- b. The Settlement Agreement shall be subject to the approval of the Court, pursuant to Mass. R. Civ. P. 23 and G.L. c. 93A, §9.
- c. The Settlement Agreement, shall, subject to the approval of the Court, provide:
  - i. for an agreement regarding the form and manner of notice of the Settlement to the Settlement Class;
  - ii. that the Attorneys' Fee Award and the Service Award, as approved by the Court and the Service Award, all costs of administering the Settlement, and all costs of giving notice to the Settlement Class members and of distributing funds to the class members, will be paid for out of the Settlement Fund.. The amount available for distribution to the Settlement Class or Settlement Classes after payment of the foregoing fees and expenses out of the Settlement Fund are referred to herein as the "Net Settlement Amount".;

- iii. The Net Settlement Amount shall be distributed to the members of the Settlement Class or Settlement Classes, in accordance with the plan of allocation determined by Plaintiff and Plaintiff's Counsel, and based on the records of ABC and Seas, without the need to for Settlement Class members to submit a proof of claim;
- iv. that under no circumstances shall any portion of the Settlement Amount revert back to Defendants once the Settlement becomes effective;
- v. for mutual, class wide releases, concerning the claims alleged in the Action once the Settlement becomes effective;
- vi. that Plaintiff's counsel may request that the Court approve an award of attorneys' fees of up to 33 1/3% of the Settlement Amount, and reimbursement of expenses that will be paid from the Settlement Amount;
- vii. that Plaintiff and his counsel may request the Court to approve a Service Award of up to \$10,000 to be paid to Plaintiff from the Settlement Amount;
- viii. for an agreement on the procedure for obtaining preliminary and final approval of the Settlement;
- ix. for the dismissal with prejudice of the Action if the Settlement is approved and becomes effective;
- x. that the Settlement will become effective when the order and judgment approving the Settlement final and is no longer subject to appeal;

xi. that the Parties each have a unilateral right to terminate the Settlement if all material terms are not approved by the Court or the Settlement does not become effective.

d. While the parties anticipate that they will be able to reach an agreement on the language of the Settlement Agreement, and related documents, if the Parties are unable to reach an agreement regarding any of the specific terms of the Settlement Agreement, the parties shall mediate their dispute with Attorney John Ryan. If the parties are unable to resolve the dispute concerning the terms and language of the Settlement Agreement within 30 days of submitting it to Attorney Ryan for mediation, the Parties agreed that Attorney John Ryan, shall make a binding mediators proposal, consistent with the terms of this High-Low Agreement, which the Parties agree that they will accept and be bound.

6. **Legal Effect.** This High-Low Agreement shall be null and void and of no force and effect, unless otherwise agreed to by the parties pursuant to the terms hereof, if the Settlement does not obtain final approval by the Court for any reason. In the event that this High-Low Agreement becomes null and void, this High-Low Agreement shall not be deemed to prejudice in any way the respective positions of the parties with respect to the Action. In such event, and consistent with the applicable evidentiary rules, neither the existence of this High-Low Agreement nor its contents shall be admissible in evidence or shall be referred to for any purpose in the Action or in any other proceeding, except in order to enforce this High-Low Agreement.

7. **Authority.** This High-Low Agreement will be executed by counsel for the parties to the Action, each of whom represents and warrants that they have the authority from their client(s) to enter into this High-Low Agreement and bind their client(s) thereto.

8. **Reservation of Rights.** The provisions contained in this High-Low Agreement shall not be deemed a presumption, concession, or admission by any party of any fault, liability, or wrongdoing, or lack of merit as to any facts or claims or defenses alleged or asserted in the Action or in any other action or proceeding, and shall not be interpreted, construed, deemed, invoked, offered, or received into evidence or otherwise used by any person in the Action or in any other action or proceeding, whether civil, criminal, or administrative.

9. **Choice of Law.** This High Low Agreement, the Settlement Agreement and the Settlement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to Massachusetts' principles governing choice of law.

10. **Amendments.** This High-Low Agreement (and exhibits annexed hereto) may be modified or amended only by a writing, signed by all of the signatories hereto, that refers specifically to this High-Low Agreement.

11. **Execution.** This High-Low Agreement may be executed in any number of actual or copied counterparts and by each of the different parties on several counterparts, each of which when so executed and delivered will be an original. The executed signature page(s) from each actual or copied counterpart may be joined together and attached and will constitute one and the same instrument.

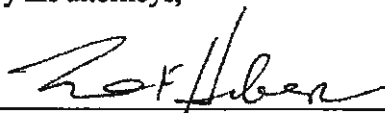
[Signatures to follow]

The Defendants,  
ABC FINANCIAL SERVICES, INC. and  
SEAS & ASSOCIATES, LLC  
By their attorneys,



Allen N. David, BBO #115000  
Catherine M. Scott, BBO# 691867  
PEABODY & ARNOLD LLP  
Federal Reserve Plaza  
600 Atlantic Avenue  
Boston, MA 02210  
(617) 951-2100  
adavid@peabodyarnold.com  
cscott@peabodyarnold.com

PLAINTIFF MATTHEW PERLOW  
By his attorneys,



Edward F. Haber (BBO# 215620)  
Michelle H. Blauner (BBO# 549049)  
Adam M. Stewart (BBO #661090)  
SHAPIRO HABER & URMY LLP  
2 Seaport Lane  
Boston, MA 02210  
(617) 439-3939  
ehaber@shulaw.com  
mblauner@shulaw.com  
astewart@shulaw.com

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
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EXHIBIT A



# **Exhibit 2**

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 & Army 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 & Army 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]

**THIS SUMMARY 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.

Plaintiff brought this class action against Defendants ABC and 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.

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].

# Exhibit 3

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] FINAL ORDER AND JUDGMENT**

WHEREAS, on \_\_\_\_\_, 2018, this Court entered a Preliminary Approval Order, which preliminarily approved the class action settlement set forth in 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

WHEREAS, pursuant to the plan of Notice approved by the Court, the Settlement Class Members were notified of the terms of the proposed Settlement by e-mail or first-class mail and that at the Final Approval Hearing the Court would determine, *inter alia*: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable and adequate; (2) whether judgment should enter dismissing this Action with prejudice; (3) whether Class Counsel's Fee

Application should be approved, and (4) whether the Service Award to Plaintiff should be approved;

WHEREAS, the Court finds that the plan of Notice described in the Settlement Agreement and approved by the Court in the Preliminary Approval Order constitutes the best practicable notice, and was fair, reasonable and adequate;

WHEREAS, the Court now finds that notice was given to the Settlement Class Members in the manner ordered by the Court; and

WHEREAS, on \_\_\_\_\_, 20\_\_, this Court held a Final Approval Hearing at which the Court considered all of the submissions presented to it with respect to the Settlement.

IT IS HEREBY ORDERED THAT:

1. For purposes of this Order and Judgment, the Court, now adopts all defined terms as set forth in the Settlement Agreement, which are incorporated herein by reference.
2. The Court has jurisdiction over the subject matter of this Action and over all claims raised herein and all Parties hereto, including the Settlement Class.
3. On \_\_\_\_\_, 2018, Class Counsel filed with the Court an affidavit from the Settlement Administrator attesting to compliance with and completion of the plan of Notice set forth in the Settlement Agreement.
4. The Court finds that the plan of Notice as described in Paragraph 13 of the Settlement Agreement, including the use of email and first-class mail constituted the best notice practicable under the circumstances and constituted due and sufficient notice to the Settlement Class. The Court further finds the plan of Notice satisfied the requirements of G.L. c. 93A, §9, the Massachusetts Rules of Civil Procedure and the requirements of Due Process of the Constitution of the United States and the Commonwealth of Massachusetts and any other



applicable law, and that such plan provided due and sufficient notice to all persons entitled thereto.

5. The Settlement set forth in the Settlement Agreement is in all respects fair, reasonable, adequate and in the best interests of the Settlement Class. This Settlement was negotiated at arms'-length by experienced counsel who were fully informed of the legal and factual issues in this Action along with the assistance of mediator John Ryan. The Settlement is hereby approved.

6. The Parties, Class Counsel and Defense Counsel shall effectuate the Settlement Agreement according to its terms. The Settlement Agreement and every term and provision thereof shall be deemed incorporated herein as if explicitly set forth herein and shall have the full force of an Order of this Court.

7. On the Effective Date, the Releasing Parties shall be bound by the Settlement Agreement and shall have recourse exclusively to the benefits, rights and remedies provided thereunder. No other action, demand, suit or other claim may be pursued against the Released Parties with respect to the Released Claims by the Releasing Parties.

8. Upon the Effective Date, the Releasing Parties shall be deemed to have, and by operation of this Final Order and Judgment, shall have fully, and finally and forever released, relinquished and discharged the Released Parties from any and all of the Released Claims.

9. The Court hereby awards Class Counsel attorneys' fees, costs and expenses in the amount of \$\_\_\_\_\_ to be paid from the Settlement Amount in accordance with the terms of the Settlement Agreement. The Court concludes that the Fee Award is fully justified by, among other things, the papers submitted in support of the Fee Application as well as the exceptional work performed by Class Counsel during the pendency of this Action, the fact that

they have to date received no compensation for that work or any reimbursement of any of the out of pocket expenses that they have made in support of the claims of the Plaintiff and the Settlement Class.

10. The Court hereby approves the payment of a Service Award in the amount of \$\_\_\_\_\_ to Plaintiff Matthew Perlow to be paid out of the Settlement Amount as provided in the Settlement Agreement. The Court concludes this Service Award is justified in light of the time and effort spent by Plaintiff in the prosecution of this Action, including responding to discovery, conferring with Class Counsel and sitting for his deposition.

11. Without further order of the Court, the Parties may agree to reasonably necessary extensions of time to carry out any of the provisions of the Settlement Agreement.

12. As stipulated between the parties, the Court hereby vacates its earlier final judgment of June 15, 2018, which was entered on the docket on June 20, 2018 (Paper No. 17). This Final Order and Judgment shall supersede and replace that prior final judgment.

13. This Final Order and Judgment shall be effective upon its entry. In the event that this Final Order and Judgment is reversed or vacated pursuant to an appeal or the Settlement Agreement is terminated pursuant to its terms, all orders and Releases delivered in connection herewith shall be null and void, and the Parties shall be returned to their status quo ante.

14. This Action is hereby dismissed in its entirety with prejudice. Except as otherwise provided in this Order, the Parties shall bear their own costs and attorneys' fees.

15. Without affecting the finality of the Order and Judgment hereby entered, the Court reserves jurisdiction over the construction, interpretation, consummation, implementation and enforcement of the Settlement Agreement, including jurisdiction to enter such further orders as may be necessary or appropriate.

16. The Clerk of the Court is expressly directed to enter this Final Order and Judgment pursuant to Rule 54 of the Massachusetts Rules of Civil Procedure.

IT IS HEREBY ORDERED.

Dated: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Justice of the Superior Court