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9 *Attorneys for Plaintiffs and the Putative Classes*

10
11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 **NICHOLAS C. SMITH-WASHINGTON,** Case No. 3:23-CV-830-VC
14 **JOYCE MAHONEY, JONATHAN AMES,**
15 **MATTHEW HARTZ, and JENNY LEWIS** Assigned for all purposes to Hon. Vince
on behalf of themselves and all others similarly)
situated,) Chhabria

16 Plaintiffs,

17 vs.

18 **TAXACT, INC.,** an Iowa corporation,
19 Defendant.

) **DECLARATION OF POLINA**
) **BRANDLER IN SUPPORT OF**
) **PLAINTIFFS' MOTION FOR FINAL**
) **APPROVAL OF CLASS ACTION**
) **SETTLEMENT**

) Courtroom: 4, 17th Floor
) Hearing Date: November 21, 2024
) Hearing Time: 2:00 p.m.
)

1 I, Polina Brandler, declare as follows:

2 1. I am an attorney at HammondLaw, P.C. (“HammondLaw”). HammondLaw, along with
3 Keller Postman LLC (“Keller Postman”) is Class Counsel for Plaintiffs and the Settlement Classes in
4 the above-captioned matter. I submit this declaration in support of Plaintiffs’ Motion for Final
5 Approval of Class Action Settlement.

6 2. I make this declaration based on personal knowledge and, if called as a witness, I could
7 and would testify competently to the matters set forth herein.

8 3. Eighteen (18) individuals have communicated directly with our firm, via telephone
9 and/or email, about the Settlement. I was largely responsible for communicating with these individuals,
10 and Ms. Christina Tusan, a partner at HammondLaw, P.C., handled some of the communications alone
11 and/or together with me.

12 4. We responded to all but three (3) of the 18 individuals who contacted us. We were not
13 able to respond to three (3) of the individuals despite repeated attempts, because they did not return our
14 calls and/or voicemails. For one of these three (3) individuals, we could not leave a voicemail because
15 his voicemailbox was full.

16 5. Most of the communications concerned questions about how to file a Claim Form
17 without a Class Member ID, whether the Notice of Settlement they received was a scam, whether the
18 settlement awards would be taxed, whether their personal information would be available on the
19 internet if they submitted a Claim Form, and general questions about the terms of Settlement, including
20 the expected monetary relief that each Class Member would receive, questions regarding the allocation
21 of settlement funds among the California and non-California Class Members, and the nature of the
22 claims asserted by the Plaintiffs.

23 6. One Class Member complained that his antivirus software alerted him of malware on
24 the case settlement website. Ms. Tusan and I, together, responded to this Class Member the same day,
25 and explained that we did not believe the settlement website had a virus and that we would immediately
26 notify the Settlement Administration regarding his concern. Ms. Tusan notified Kroll of this Class
27 Member’s concern the same day, copying Defendant’s Counsel. Defendant’s Counsel wrote back
28 stating that the same individual also contacted TaxAct with the same concern, and Defendant’s Counsel

1 had asked the Settlement Administrator to look into this issue already. Kroll confirmed that they ran
2 and have continued to run advanced corporate anti-virus software, which has not flagged any issues.
3 Kroll advised that they believed the individual’s software was mistakenly flagging the website. On
4 request of the parties, Kroll also followed up directly with this Class Member and informed him that
5 all websites maintained by Kroll are penetration tested prior to going live, and that, in addition, manual
6 penetration testers were employed upon receiving his concern, and no issues were found. Kroll
7 explained to this Class Member that they believed the alert was a false positive and that the issue was
8 reported to AVG AntiVirus Free software, which is the software the Class Member stated he was using.
9 Finally, the Settlement Administrator offered for the individual to submit a paper Claim Form, which
10 was attached to the email, if he continued to have concerns regarding the website.

11 7. As this Court is aware, Class Counsel was also contacted by an individual by the name
12 of George Dillman. Mr. Dillman, who is *not* a Class Member, complained that he could not complete
13 a Claim Form on the settlement website because he did not have a Class Member ID required to access
14 the claims portal on the settlement website. I responded to Mr. Dillman the same day and advised him
15 (after checking with Kroll) that his name did not appear on the Class list and that he could, nevertheless,
16 submit a Claim Form which can be downloaded under the “Documents” tab on the case website. In my
17 email, I provided Mr. Dillman with a direct link to the Claim Form. Thereafter, Mr. Dillman and I
18 continued to exchange communications, the full detail of which is set out in my declaration, filed with
19 the Court on August 29, 2024 (Dkt. 138). The full history of communications between Mr. Dillman
20 and Kroll is set out in the Declaration of Scott M. Fenwick, filed with the Court on August 29, 2024
21 (Dkt. 137). Mr. Dillman ultimately submitted a Claim Form on August 26, 2024. Once again, Kroll has
22 determined that Mr. Dillman is *not* a Class Member.

23 8. We have promptly and diligently responded to and/or have attempted to respond to all
24 Class Members and individuals who contacted us regarding this Settlement. We provided responses in
25 the evenings and on the weekends, and, whenever appropriate, promptly communicated any issues or
26 concerns voiced by the Class Members to Kroll for Kroll to address. I believe that the notice
27 administration process has been handled smoothly and, given the Class size of over 10.6 million, a
28

1 handful of concerns expressed by Class and non-Class Members, and addressed promptly by Class
2 Counsel and/or the Settlement Administrator, should not present a concern.

3
4 I declare under penalty of perjury under the laws of the United States of America that the
5 foregoing is true and correct. Executed on October 11, 2024.

6 /s/ Polina Brandler
7 Polina Brandler
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