

SETTLEMENT AGREEMENT

Hood, et al. v. Santa Barbara Bank & Trust, et al.

Santa Barbara County Superior Court, Case No. 1156354

This Settlement Agreement (the “**Agreement**”) is entered into by and between plaintiffs Canieva Hood (“**Hood**”) and Tyree Bowman (“**Bowman**”) (together, “**Plaintiffs**”), individually and as representatives of the Settlement Class (as defined below), on the one hand, and defendants Pacific Capital Bank, N.A., and its division, Santa Barbara Bank & Trust (“**Santa Barbara**”), and Jackson Hewitt Tax Service, Inc., a Delaware corporation, Jackson Hewitt, Inc. a Virginia corporation, Tax Services of America, Inc. a Delaware corporation, d.b.a. Jackson Hewitt Tax Service (collectively, “**Jackson Hewitt**” and together with Santa Barbara, “**Defendants**”) and cross-defendants Household Bank, F.S.B., individually and as successor in interest to Beneficial National Bank; HSBC Taxpayer Financial Services, formerly known as Household Tax Masters, Inc.; JPMorgan Chase Bank, N.A. successor by merger to Bank One, N.A. (Ohio); First Bank of Delaware, aka Republic First Bank of Delaware; Republic First Bank dba First Republic Bank of Philadelphia, Pennsylvania; First Security Bank of Mackinaw, Illinois; Republic Bank & Trust Company; and River City Bank, Inc., aka River City Bank (collectively, “**Cross- Defendants**”), on the other.

I. INTRODUCTION

A. On March 18, 2003, Hood filed a proposed class action complaint against Defendants in the Superior Court of the State of California, San Francisco County, alleging violations of the Consumer Legal Remedies Act, Civil Code section 1750 *et seq.* (“**CLRA**”), the Unfair Competition Law, Business and Professions Code section 17200 *et seq.* (“**UCL**”), the Robbins-Rosenthal Act, Civil Code section 1788 *et seq.*, and the torts of aiding and abetting and conversion (“**the Action**”). At that time, the Congress of California Seniors also was a plaintiff, but was subsequently dismissed.

B. On December 18, 2003, Hood filed a proposed class action against Jackson Hewitt in the Montgomery County Court of County Pleas in the State of Ohio, Case No. 2003 CV 9160 (the “**Ohio Action**”).

C. On March 15, 2004, the Action was transferred to Santa Barbara County (the “**Court**”). Hood filed her Second Amended Complaint on June 21, 2004. On August 6, 2004, Defendants demurred to the Second Amended Complaint on multiple grounds, and, on September 24, 2004, the Court overruled the demurrers in large part.

D. On October 12, 2004, Santa Barbara filed a cross-complaint (on Plaintiff’s Third Amended Complaint, filed September 9, 2004) against Cross-Defendants.

E. On March 14, 2005, Santa Barbara and Cross-Defendants filed a motion for judgment on the pleadings or, in the alternative, for summary adjudication based solely on the affirmative defense of preemption. The Court granted the motion for judgment on the pleadings on May 4, 2005. That decision was appealed to the Second District Court of Appeal and was reversed and remanded to the Court on September 28, 2006.

F. On June 15, 2007, Hood filed her Fifth Amended Complaint and Defendants demurred on July 2, 2007. On August 8, 2007, the Court sustained Santa Barbara's demurrer to the First Cause of Action for violation of the CLRA without leave to amend. Hood's subsequent Petition for Writ of Mandate and Petition for Review regarding that order were unsuccessful.

G. On May 9, 2008, Hood filed her Motion for Leave to Amend the Fifth Amended Complaint to add an additional plaintiff, Tyree Bowman. The Court granted Hood's motion on June 4, 2008, and Plaintiffs filed a Sixth Amended Complaint on June 6, 2008, the operative complaint for purposes of this Settlement Agreement.

H. On July 30, 2008, and again on September 19, 2008, the parties held two JAMS mediation sessions conducted by former Chief Magistrate Judge of the United States District Court, Northern District of California, Edward A. Infante, at the conclusion of which the parties agreed to settle this Action.

I. Plaintiffs and Plaintiffs' Counsel (as defined below) have agreed to settle this Action, and Hood and Ohio Counsel (as defined below) have agreed to dismiss the Ohio Action with prejudice, pursuant to the provisions of this Agreement, considering, among other things: (1) the substantial benefits available to Plaintiffs and the Settlement Class under the terms of this Agreement; (2) the attendant risks and uncertainties of litigation, especially in complex litigation such as this Action and the Ohio Action, as well as the difficulties and delays inherent in such litigation; and (3) the desirability of consummating this Agreement promptly to provide effective monetary and other relief to the Class.

J. Defendants and Cross-Defendants expressly have denied and continue to deny all charges of wrongdoing or liability against them arising out of or relating to any of the conduct alleged in this Action and the Ohio Action. Nonetheless, Defendants and Cross-Defendants have agreed to enter this Agreement in order to avoid the costs, risks, uncertainties and inconvenience of litigation with Plaintiffs in this Action and the Ohio Action.

K. The Parties (as defined below) make the promises contained in this Agreement for good and valuable consideration, the adequacy of which is hereby acknowledged.

II. DEFINITIONS

A. As used in this Agreement and the attached Exhibits, which are an integral part of the Agreement and are incorporated in their entirety by reference, the following terms have the meanings specified below:

1. “**Action**” means and refers to *Hood, et al. v. Santa Barbara Bank & Trust, et al.*, Santa Barbara Superior Court Case No. 1156354.

2. “**Allocation Agreement**” means the separate agreement between the Defendants and Cross-Defendants setting forth the Defendants' and Cross-Defendants' obligations and releases with respect to each other in relation the settlement of the Action.

3. “**Class Member**” means a person who falls within the Settlement Class (as defined below) and who fails to exclude himself or herself within forty-five (45) days after the date of the Class Notice (as defined below).

4. “**Class Notice**” means the written explanation of the settlement that will be mailed to the Settlement Class by the Settlement Administrator (as defined below), the proposed form of which is attached hereto as Exhibit 2.

5. “**Class Period**” means the period from March 18, 1999 through September 1, 2008, inclusive.

6. “**Cross-Defendants' Counsel**” means collectively, Julia Strickland and Stephen Newman of Stroock & Stroock & Lavan LLP, Michael Hirn of Dinsmore & Shohl LLP, Christopher Kearney of Kecker & Van Nest and Michael Heumann of Nossaman, Gunther, Knox & Elliott, LLP.

7. “**Cross-Collection**” means the collection by Santa Barbara or a Cross-Defendant of Class Members' tax refunds or portions thereof to repay a prior RAL debt or other debt allegedly owed to a Cross-Defendant other than the Cross-Defendant collecting the tax refund.

8. “**Cross-Defendants**” means Household Bank, F.S.B.; Beneficial National Bank; Household Tax Masters, Inc., now known as HSBC Taxpayer Financial Services; Bank One, N.A. (Ohio), now known as JPMorgan Chase Bank, N.A.; First Bank of Delaware, aka Republic First Bank of Delaware; Republic First Bank dba First Republic Bank of Philadelphia, Pennsylvania; First Security Bank of Mackinaw, Illinois; Republic Bank & Trust Company; and River City Bank, Inc., aka River City Bank.

9. “**Defendants**” means Pacific Capital Bank, N.A., and its division, Santa Barbara Bank & Trust, Jackson Hewitt Tax Service, Inc., a Delaware corporation, Jackson Hewitt, Inc., a Virginia corporation, and Tax Services of America, Inc. a Delaware corporation, d.b.a. Jackson Hewitt Tax Service.

10. “**Defendants' Counsel**” means collectively, Ronald Ryland of Sheppard Mullin Richter & Hampton, LLP and John F. Dienelt of DLA Piper LLP (US).

11. “**Effective Date**” means the date when each and all of the following conditions have occurred:

- a. This Agreement has been signed by Plaintiffs, Defendants, Cross-Defendants, Plaintiffs' Counsel, Defendants' Counsel and Cross-Defendants' Counsel;
- b. The Preliminary Approval Order has been entered;
- c. The Court-approved Class Notice has been duly provided as ordered by the Court;

d. The Court has entered the Final Order and Judgment, substantially in the form attached hereto as Exhibit 4;

e. The Ohio Action has been dismissed with prejudice after all pertinent procedural requirements for dismissal, with prejudice, of a proposed class action have been met; and

f. The Final Order and Judgment in this Action have become Final.

12. “**Final**” means the later of: (i) the date on which the judgment entered by the Court in connection with this settlement becomes final, *i.e.*, sixty-one (61) days after the entry of the judgment if no appeal by a Class Member is filed; (ii) if an appeal is taken, the date of final affirmance of the Final Judgment on such appeal, the rejection of any petition for review (including certiorari) or the expiration of the time for the filing of a petition for review or certiorari in the highest appellate court to which an appeal is or can be taken and, if review is granted, the date of final affirmance following review; or (iii) the final dismissal or filing of a notice of abandonment of any such appeal or of any proceedings on review or certiorari to the highest appellate court to which an appeal is or can be taken. Any appeal relating solely to Plaintiffs' incentive payments or Plaintiffs' Counsels' attorneys' fees shall not affect the finality of the settlement.

13. “**Fairness Hearing**” means the hearing at or after which the Court will decide whether to grant final approval of this Agreement as fair, reasonable and adequate.

14. “**Final Order and Judgment**” means the order granting final approval of this Agreement and the judgment entered pursuant to that order.

15. “**Liaison Counsel**” means Julia Strickland and Stephen Newman of Stroock & Stroock & Lavan LLP.

16. “**Ohio Counsel**” means Equal Justice Foundation, Graham & Graham, and the Law Office of Ronald L. Burge.

17. “**Ohio Action**” means *Hood v. Jackson Hewitt, Inc. et al.*, Case No. 2003 CV 9160, pending in the Montgomery County Court of County Pleas in the State of Ohio.

18. “**Parties**” means and refers to Plaintiffs, Defendants and Cross-Defendants.

19. “**Plaintiffs' Counsel**” means collectively: The Sturdevant Law Firm and the National Consumer Law Center.

20. “**Preliminary Approval Order**” means and refers to the Order to be entered by the Court in connection with the preliminary approval hearing on the settlement, the proposed form of which is attached hereto as Exhibit 3.

21. “**Refund Anticipation Loan**” or “**RAL**” means a short-term loan secured by a consumer's anticipated federal income tax refund.

22. **“Releasees”** means and refers to Defendants and Cross-Defendants and each of their past, present and future parents (including intermediate and ultimate parents), subsidiaries, predecessors, franchisees, successors and assigns, and each of their respective past, present and future officers, directors, employees, representatives, attorneys, heirs, administrators, executors, insurers, predecessors, successors and assigns, or any person or entity acting on their behalf or at the direction of them.

23. **“Settlement Administrator”** means the third party retained by Plaintiffs' Counsel to administer the Settlement.

24. **“Settlement Class”** means: All persons nationwide who, at any time from March 18, 1999 to September 1, 2008, satisfy all of the following criteria: (1) they have applied for a RAL from Santa Barbara through Jackson Hewitt; (2) they have had their RAL applications denied; and (3) they have had any portion of their tax refunds collected by Santa Barbara to repay a debt allegedly owed to a Cross-Defendant or to Jackson Hewitt.

25. **“Third-Party Creditor”** means an entity for whom Santa Barbara has collected an alleged prior RAL debt or other debt from a consumer, specifically, Cross-Defendants or Jackson Hewitt.

III. CLASS CERTIFICATION

The Parties stipulate to certification, for settlement purposes only, and stipulate to Canieva Hood and Tyree Bowman as class representatives of the Settlement Class. If the Court does not approve this Agreement or the Settlement, certification of the Settlement Class will be vacated without prejudice to any party's position on the issue of class certification and the Parties will be returned to their positions status quo ante as if this Agreement had not been entered into. In such event, none of the Parties will assert any doctrine of waiver, estoppel or preclusion in any litigated certification proceedings in any of the Actions based on the Court's certification of the Settlement Class through the Agreement and/or the Settlement.

IV. SETTLEMENT RELIEF

A. Business Practices to Be Followed

1. Defendant Santa Barbara and Cross-Defendants agree not to engage in Cross-Collection during the 2009 calendar year and to provide Plaintiffs' Counsel with verification of the cessation of such by January 1, 2009. The verification will be in the form of a written confirmation from counsel for Defendant Santa Barbara and Cross-Defendants.

2. For future years in which Cross-Collection may occur, Defendants agree to provide a notice to Jackson Hewitt customers regarding collection of taxpayer refunds to pay RAL debts from prior years. The form of notice is attached hereto as Exhibit 1. Plaintiffs and Defendants agree that this form of notice complies with all applicable law. Defendants will notify Plaintiffs' Counsel of any proposed change in the form of notice for 2010 and any subsequent year at least 60 days prior to the intended effective date of such change, except that, if Defendants are required by a court or other governmental authority to change the proposed form of notice, effective in less than 60 days, Defendants will advise Plaintiffs' Counsel of the

required change as promptly as reasonably possible. If Plaintiffs and Defendants are not able to agree as to the proposed change, Plaintiffs and Defendants agree that such dispute shall be mediated by a mutually agreed upon mediator.

3. Jackson Hewitt has previously discontinued seeking to collect debts owed by customers for prior year tax preparation on a system-wide basis. Each individual Jackson Hewitt operator will continue to seek to collect debts owed by customers for prior year tax preparation to such operator by any lawful means available to it.

B. Monetary Relief

Defendant Santa Barbara's records show that there are over 100,000 members of the Class. Defendants and Cross-Defendants will pay a total of \$8,500,000 pursuant to the Allocation Agreement amongst Defendants and Cross-Defendants. The obligation of each Defendant and Cross-Defendant is several, not joint, and moreover no Defendant or Cross-Defendant has any obligation to pay more than the amount set forth in the separate Allocation Agreement, which payments yield a total sum of \$8,500,000 (the "**Class Settlement Fund**"). No Defendant or Cross-Defendant shall be responsible for any other Defendant's or Cross-Defendant's failure to satisfy its payment obligations. Within thirty (30) days of entry of the Preliminary Approval Order, simple, non-compound interest will begin to accrue on the Class Settlement Fund (less any payment to The Sturdevant Law Firm pursuant to Section IV(B)(4)) at the 60-day Treasury Bill rate as of the date of entry. Within ten (10) days of the Effective Date, the Class Settlement Fund, or such lesser sum as there may be by reason of a payment to The Sturdevant Law Firm pursuant to Section IV(B)(4), will be transferred to the Settlement Administrator. Any Defendant or Cross-Defendant, at its sole discretion, may terminate its obligation to pay further accruing interest by delivering to the Settlement Administrator, in cash or cash equivalent, all sums then owed pursuant to the Allocation Agreement.

1. Settlement Administration

Plaintiffs' Counsel will retain a Settlement Administrator to manage the distribution of the class monetary relief. All costs of administering the settlement will be paid from the Class Settlement Fund.

2. Class Monetary Relief

Each Class Member will receive, from the Class Settlement Fund, \$30.00, which reflects the average amount of fees paid by Class Members to Santa Barbara relating to the RAL application process. In addition, each Class Member will receive a minimum of 5.5% of the total amount of his or her tax refund that was collected by Santa Barbara and paid to a Third-Party Creditor. Within twenty (20) days of the Effective Date, distribution of these amounts from the Class Settlement Fund will be made by the Settlement Administrator.

3. Class Representatives

a. Hood will receive \$15,000 as an incentive payment which will be paid from the Class Settlement Fund. Within twenty (20) days of the Effective Date, distribution of this amount from the Class Settlement Fund will be made by the Settlement Administrator.

b. Bowman will receive \$10,000 as an incentive payment which will be paid from the Class Settlement Fund. Within twenty (20) days of the Effective Date, distribution of this amount from the Class Settlement Fund will be made by the Settlement Administrator.

4. Attorneys' Fees and Expenses

Plaintiffs' Counsel may move, as part of the motion for a Preliminary Approval Order, for an award of attorneys' fees from the sums otherwise payable to the Settlement Class. Defendants and Cross-Defendants agree not to oppose a request by Plaintiffs' counsel to receive up to \$2.5 million from the Class Settlement Fund, subject to Court approval. A portion of this amount will be used to pay the attorneys' fees and expenses of Ohio Counsel representing Hood in the Ohio Action. Except as specified herein, the Parties shall bear their own costs and fees. The attorneys' fees, costs, and expenses provided for under this Section shall be paid in lieu of any applicable fee-shifting statute. Plaintiffs and Plaintiffs' Counsel hereby waive and release any entitlement to attorneys' fees and costs from Defendants or Cross-Defendants other than that specified in this Agreement.

Attorneys' fees and expenses will be paid sixty-one (61) days after the entry of the Final Order and Judgment, whether or not an appeal is filed, provided that the Defendants and Cross-Defendants receive a Letter of Credit in the amount of \$2.6 million, in form and substance satisfactory to them, from an issuer satisfactory to them and the Court, and provided that the Notice And Stipulation of Settlement And Order Of Dismissal With Prejudice, in the form attached as Exhibit 5, has been approved and signed by the court in the Ohio Action and entered as an Order. The Letter of Credit from the financial institution will ensure the repayment of any sums paid to The Sturdevant Law Firm, including interest at the 60-day Treasury Bill Rate at the time of the Letter of Credit, if any appeal is timely filed and the settlement approval, the award of attorneys fees and costs, or both, is reversed on appeal. If the Letter of Credit is not honored when presented or the issuer fails to perform in accordance with its terms, the Sturdevant Law Firm is immediately obligated to repay to Defendants and Cross-Defendants any sums paid to the Sturdevant Law Firm, including interest as set forth above, without recourse to the Letter of Credit. If no Letter of Credit is obtained, the Attorneys' fees and expenses will be paid through distribution from the Class Settlement Fund by the Settlement Administrator within twenty (20) days of the Effective Date.

5. Cy Pres

Any unexpended or unclaimed funds in the Class Settlement Fund shall be distributed pursuant to Code of Civil Procedure section 384.

V. CLASS NOTICE

A. Defendant Santa Barbara shall provide to the Settlement Administrator, within fifteen (15) days of the entry of the Court's Preliminary Approval Order: the full name, social security number, and mailing address, as well as telephone numbers and email addresses to the extent that Defendant Santa Barbara has this information in unique data fields that permit automated retrieval, and the amount of any payments made to a Third-Party Creditor during the

Class Period, of each member of the Settlement Class. The Settlement Administrator will treat this information as confidential and will not disclose this information to any third party, including Plaintiffs and Plaintiffs' Counsel, except that the information may be disclosed to Plaintiffs' Counsel if the administration requires such disclosure, and the information is used solely in the administration of the Settlement. The information shall be provided by Defendant Santa Barbara to the Settlement Administrator in an easily accessible electronic format.

B. The Settlement Administrator shall mail the Class Notice to the Settlement Class by First Class mail within twenty (20) days of receiving the necessary data from Defendant Santa Barbara.

C. A Fairness Hearing shall be scheduled for no later than seventy-five (75) days after the Class Notice is initially mailed to Class Members.

D. Payments required to the Settlement Class shall be made within twenty (20) days of the Effective Date. Class Members must cash any checks issued for payments with respect to this Settlement within ninety (90) days of mailing by the Settlement Administrator. If they fail to cash the checks within 90 days, the checks shall become void, the Class Members will not be eligible for any further relief, and such Class Members shall remain bound in all respects by the Final Order and Judgment.

VI. EXCLUSIONS FROM AND OBJECTIONS TO SETTLEMENT

A. Each Class Member who wishes to exclude himself/herself from the settlement must submit an appropriate written request for exclusion, including his/her name, address and telephone number, to the Settlement Administrator as specified in the Class Notice, that is postmarked within forty-five (45) days of the date of the Class Notice. No Class Member, or any person acting on behalf of that Class Member, may exclude any other Class Member from the Class. The request for exclusion shall be filed with the Court by Plaintiffs' Counsel at or before the Fairness Hearing. If the proposed settlement is approved, any and all Class Members who have not submitted a timely, written request for exclusion from the settlement shall be bound by all proceedings, orders and judgments in this Action.

B. Any Class Member who has not filed a timely written request for exclusion and who wishes to object to the fairness, reasonableness or adequacy of this proposed settlement, must file with the Court a statement of his/her objection that is postmarked within forty-five (45) days of the date of the notice. That statement must include each and every specific reason(s), if any, for each objection, including all legal support the Class Member wishes to bring to the Court's attention and any evidence the Class Member wishes to introduce in support of the objection. A copy of the statement must also be mailed to Plaintiffs' Counsel, Defendants' Counsel and Liaison Counsel for Cross-Defendants. Class Members may so object either on their own or through an attorney hired at their own expense.

C. If a Class Member or objector hires an attorney to represent him/her, the attorney must file and serve upon Plaintiffs' Counsel, Defendants' Counsel and Liaison Counsel a notice of appearance no later than twenty (20) days prior to the Fairness Hearing.

VII. RELEASE AND ORDER OF DISMISSAL

A. The Parties agree to the following release, which shall take effect upon entry of the Final Order and Judgment:

1. As of the Effective Date and in exchange for the consideration set forth in this Agreement, Plaintiffs and each member of the Settlement Class that has not been properly excluded from the Class, and their heirs, administrators, executors, assigns, spouses, agents, affiliates, and successors, shall be deemed to have jointly and severally released and discharged each of the Releasees from any and all claims arising out of the same factual predicate as the settled conduct and that occurred prior to December 19, 2008. Releasees shall have the right to enforce this release against the Plaintiffs individually and against each Class Member and their heirs, administrators, executors, assigns, spouses, agents, affiliates, and successors. Excluded from the release are any claims based solely on allegations that a tax preparer failed to properly prepare a return.

2. This release extends to all unknown or unsuspected claims arising out of the same factual predicate as the settled conduct and that occurred prior to December 19, 2008. To this end, the rights provided under California Civil Code section 1542 and similar statutes in other states are expressly waived. Section 1542 reads as follows:

**SECTION 1542. GENERAL RELEASES; EXTENT. A
GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT
TO EXIST IN HIS OR HER FAVOR AT THE TIME OF
EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM
OR HER MUST HAVE MATERIALLY AFFECTED HIS OR
HER SETTLEMENT WITH THE DEBTOR.**

The Parties acknowledge that the waiver of rights under Section 1542 pertains only to claims that are directly related to Cross-Collection or collection of debts owed to a Third-Party Creditor and that arose out of the same factual predicate as the settled conduct and that occurred prior to December 19, 2008.

3. As of the Effective Date and in exchange for the consideration set forth in this Agreement, Defendants and Cross-Defendants hereby expressly agree that they shall release and discharge Plaintiffs and all Class Members and their attorneys, heirs, administrators, executors, assigns, spouses, agents, affiliates, and successors from any and all actions, causes of action, suits, obligations, costs, expenses, damages, losses, claims, rights, liabilities, and demands, to the date hereof, arising out of, relating to, or in connection with, any claims arising out of this Action or the Ohio Action.

B. As a condition of this settlement, Hood will dismiss the Ohio Action with prejudice and the Court in that Action will have issued all orders necessary to ensure that pertinent procedural requirements for dismissal with prejudice of a proposed class action have been met.

C. Defendants and Cross-Defendants warrant that the payment status of the cross-collected debt of Class Members shall not be affected by any consideration received pursuant to this settlement. None of the consideration received by Class Members shall be considered as a refund of monies cross-collected or shall in any way authorize or allow collection of the cross-collected debt from any Class Member to any extent more than such debt was subject to collection before the consideration was paid to the Class Members. To the extent the Class Members owe, as of the Effective Date of this Settlement, any existing debt to any Defendant or Cross-Defendant, this Settlement does not extinguish such debt, and such debt may be collected by any means, including without limitation in connection with a RAL application (or application for any other tax-related product) made to the Defendants or Cross-Defendants to whom the debt is owed, to the extent lawful.

D. The Parties will seek from the Court a Final Order and Judgment that shall, among other things: (1) approve this Agreement as fair, reasonable, and adequate; and (2) dismiss this Action with prejudice.

VIII. PRELIMINARY APPROVAL AND FINAL ORDER AND JUDGMENT

A. Immediately upon the execution of this Agreement, the Parties will submit the Agreement to the Court and apply for a Preliminary Approval Order.

B. Plaintiffs will not request exclusion from the Settlement Class in this Action or from any class that may be certified in the Ohio Action, will not object to the proposed settlement, and will not file an appeal from or seek review of any order approving the proposed settlement in its current form.

C. Defendants and Cross-Defendants will not object to the proposed settlement and will not file an appeal from or seek review of any order approving the proposed settlement in its current form.

D. Upon final approval of this Agreement, the parties shall be entitled to obtain entry of final judgment. It is a condition of the settlement that the Court enter a Final Order and Judgment as substantially similar to the Proposed Final Order and Judgment attached hereto as Exhibit 4.

IX. SCOPE AND ENFORCEABILITY OF THE AGREEMENT

A. Governing Law

The Agreement and any other documents referred to herein shall be governed by, construed, and enforced in accordance with the law of the State of California, as it applies to contracts made in California and wholly performed in California by California domiciliaries. This Agreement shall be enforceable pursuant to Civil Procedure Code section 664.6.

B. Construction

All Parties and their counsel have reviewed and revised the Agreement, and the normal rule of construction, embodied in Civil Code section 1654, providing that any

ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Agreement. The Agreement shall be construed as prepared jointly by the Parties.

C. Continuing Jurisdiction

The Santa Barbara Superior Court will have continuing jurisdiction over this Action and this Agreement until all pending matters are resolved.

D. Entire Agreement

All agreements, covenants, representations and warranties, express and implied, oral and written, of the Parties hereto concerning the subject matter hereof are contained or referred to herein. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by any Party hereto to any other Party concerning the subject matter hereof. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties concerning the subject matter hereof other than those referred to herein are merged herein.

E. Non-Disparagement

The Parties and their counsel shall refrain from disparaging each other publicly or taking any action designed to harm the public perception of each other regarding any issue related to the cases settled herein.

F. Modification and Termination

1. The terms and provisions of this Agreement may be amended, modified or expanded only by written agreement of the Parties and their respective attorneys.

2. If, for any reason, this Agreement fails to become effective pursuant to paragraph II(A)(11), the Parties will be returned to their positions status quo ante with respect to the Actions as if this Agreement had never been entered into.

3. To the extent that the Court makes immaterial changes to the terms of the Settlement and/or related documentation, the Parties shall nonetheless be bound to proceed with the Settlement. To the extent that the Court makes material changes, each of the Parties shall have the right to withdraw from this Agreement. In such event, the Parties will be returned to their positions status quo ante as if this Agreement had not been entered into.

4. In the event more than 1500 Class Members have excluded themselves from the settlement, Defendants and Cross-Defendants may terminate the Agreement by written notice to Plaintiffs' Counsel no later than thirty (30) days following notice of the total exclusions.

5. The terminating party must exercise the option to withdraw from and terminate the Agreement by written notice no later than thirty (30) days after receiving notice of the event prompting the termination.

6. If an option to withdraw from and terminate the Agreement arises, neither Defendants, Cross-Defendants nor Plaintiffs are required for any reason or under any circumstance, to exercise their option.

7. If the Agreement is terminated, then:

a. This Agreement shall be null and void and shall have no force or effect, and no party to this Agreement shall be bound by any of its terms;

b. This Agreement, all of its provisions, and all negotiations, statements and proceedings relating to it shall be without prejudice to the rights of Defendants, Cross-Defendants, Plaintiffs or any other Class Member, all of whom shall be restored to their respective positions (regarding the provisions of this Agreement) existing immediately before the execution of the Agreement; and

c. Neither this Agreement, nor the fact of its having been made, shall be admissible or entered into evidence for any purpose whatsoever.

G. Representations and Warranties

1. Subject to approval by the Court, Plaintiffs' Counsel in this Action and Ohio Counsel represent and warrant that they are authorized to enter into this Agreement on behalf of Plaintiffs in this Action and the Ohio Action and all Class Members in this Action and the Ohio Action, that the settlement herein fully resolves all claims that were or could have been made on behalf of class members in this Action and/or the Ohio Action and that the Agreement is in the best interests of Plaintiffs and those Classes.

2. Defendants' Counsel represents and warrants that they are authorized to enter into this Agreement on behalf of their respective clients in the Action.

3. Cross-Defendants' Counsel represents and warrants that they are authorized to enter into this Agreement on behalf of their respective clients in the Action.

4. Defendants warrant that information provided to Plaintiffs during discovery and mediation is accurate to the best of Defendants' knowledge, information and belief.

H. Cooperation

The Parties agree to cooperate and execute any documents or take any action to effectuate this Settlement in a timely and expeditious manner. The Parties agree to cooperate in obtaining Court approval of the settlement, giving notice of the settlement to the Class and completing the terms of this Agreement in a timely and expeditious manner. The Parties agree that a joint or unopposed Motion for Preliminary Approval of the Settlement will be filed with the Court no later than December 23, 2008.

I. Independent Advice of Counsel

The Parties represent and declare that in executing the Agreement they relied solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently selected counsel, concerning the nature, extent and duration of their rights and claims, and that they have not been influenced to any extent whatsoever in executing the same by any representations or statements not expressly contained or referred to in the Agreement.

J. Sole Consideration

The Parties agree that the consideration recited in the Agreement is the sole and only consideration for the Agreement and no representations, promises or inducements have been made by the Parties, other than the terms of the Agreement.

K. Counterparts

The Agreement may be executed in counterparts. Counterparts may be made by facsimile. When each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and each counterpart taken together shall constitute one and the same Agreement. The Agreement shall be deemed duly executed, effective, and binding, upon the signing and delivery of the last counterpart by the Parties hereto.

SIGNATURES OF THE PARTIES

DATED: _____

CANIEVA HOOD

DATED: _____

TYREE BOWMAN

DATED: _____

PACIFIC CAPITAL BANK, N.A. and its
SANTA BARBARA BANK & TRUST
division

By: _____

Its: _____

DATED: _____

JACKSON HEWITT, INC.

By: _____

Its: _____

DATED: _____

TAX SERVICES OF AMERICA, dba
JACKSON HEWITT, TAX SERVICE

By: _____

Its: _____

DATED: _____

JACKSON HEWITT TAX SERVICE, INC.

By: _____

Its: _____

DATED: _____

HSBC TAXPAYER FINANCIAL
SERVICES, INC. formerly known as
HOUSEHOLD TAX MASTERS, INC.

By: _____

Its: _____

DATED: _____

HOUSEHOLD BANK, F.S.B., individually
and as successor in interest to BENEFICIAL
NATIONAL BANK

By: _____

Its: _____

DATED: _____

JPMORGAN CHASE BANK, N.A.,
successor by merger to BANK ONE, N.A.
(OHIO)

By: _____

Its: _____

DATED: _____

FIRST BANK OF DELAWARE

By: _____

Its: _____

DATED: _____

REPUBLIC FIRST BANK, INC.

By: _____

Its: _____

DATED: _____

FIRST SECURITY BANK OF
MACKINAW, ILLINOIS

By: _____

Its: _____

DATED: _____

REPUBLIC BANK & TRUST COMPANY

By: _____

Its: _____

DATED: _____

RIVER CITY BANK

By: _____

Its: _____

APPROVED AS TO FORM:

ATTORNEYS FOR PLAINTIFFS:

THE STURDEVANT LAW FIRM

By _____
JAMES C. STURDEVANT

THE NATIONAL CONSUMER LAW CENTER

By _____
STUART ROSSMAN

ATTORNEYS FOR HOOD IN THE OHIO ACTION:

THE EQUAL JUSTICE FOUNDATION

By _____
RACHEL K. ROBINSON

GRAHAM & GRAHAM

By _____
AMY GULLIFER

LAW OFFICE OF RONALD L. BURGE

By _____
RONALD L. BURGE

ATTORNEYS FOR DEFENDANTS AND CROSS-DEFENDANTS:

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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