

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

BUDICAK, INC., BLUE MARLIN
ARBITRAGE, LLC, and PRIME TRADING,
LLC, individually and on behalf of others
similarly situated,

Plaintiffs,

v.

LANSING TRADE GROUP, LLC,
CASCADE COMMODITY CONSULTING,
LLC, and JOHN DOES NOS. 6-10,

Defendants.

Case No. 2:19-cv-02449

District Judge Toby Crouse

Magistrate Judge Angel D. Mitchell

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION
FOR ENTRY OF AN ORDER APPROVING DISTRIBUTION
OF THE NET SETTLEMENT FUND TO AUTHORIZED CLAIMANTS**

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Plaintiffs Budicak, Inc., Blue Martin Arbitrage, LLC, and Prime Trading, LLC (collectively, “Plaintiffs”), by and through their undersigned counsel, Lowey Dannenberg, P.C. and Cafferty Clobes Meriwether & Sprengel LLP (together, “Class Counsel”), respectfully submit this memorandum of law and the accompanying Declaration of Jack Ewashko (the “Ewashko Decl.”) in support of their motion seeking approval of the proposed distribution of the Net Settlement Fund.¹

INTRODUCTION

Class Counsel is pleased to submit this motion seeking distribution of the settlement proceeds to Authorized Claimants impacted by the alleged manipulation of the prices of CBOT Wheat Futures or Options.² The Court-appointed Settlement Administrator, A.B. Data, Ltd. (“A.B. Data”) and Class Counsel have worked diligently to process Proofs of Claim and Release (“Claims”), answer questions, and implement the Distribution Plan approved by the Court in this Action. *See* ECF No. 379 ¶ 19. After a thorough review of all Claims, A.B. Data determined that 415 Claims are eligible to receive a payment from the Net Settlement Fund. Ewashko Decl. ¶ 17. Following the Court’s entry of the accompanying Distribution Order, each Authorized Claimant will receive its *pro rata* share of the Net Settlement Fund based on its Net Artificiality Paid Transactions and Net Loss Transactions.

¹ “Net Settlement Fund” means the Settlement Fund less Court-approved disbursements, including: (i) notice, claims administration and escrow costs; (ii) any attorneys’ fees and/or expenses awarded by the Court; (iii) any Incentive Award(s) awarded by the Court; and (iv) all other expenses, costs, taxes and other charges approved by the Court. As of August 31, 2025, the Net Settlement Fund (including interest) totals \$12,072,933.72. Interest will continue to accrue on the Net Settlement Fund until the time of distribution.

² “CBOT Wheat Futures or Options” means wheat futures and options contracts that trade on the Chicago Board of Trade.

A.B. Data proposes distributing the Net Settlement Fund in two phases. In the first phase (the “Primary Distribution”), each Authorized Claimant whose *pro rata* share of the Net Settlement Fund (the “Distribution Amount”) is less than \$100,000.00 will receive the full Distribution Amount. Ewashko Decl. ¶ 44. The remaining Authorized Claimants whose Distribution Amount is greater than or equal to \$100,000.00 will receive ninety-five percent (95%) of their Distribution Amount from the Primary Distribution. *Id.* The remaining five percent (5%) of the Distribution Amounts will be held in reserve for contingencies and later distribution. *Id.*; *see e.g., Ramah Navajo Chapter v. Jewell*, 167 F. Supp. 3d 1217, 1233 n.19 (D.N.M. 2016) (allocating \$4 million in reserve account to pay for costs associated with distribution with any residual to be paid to Class Members, *see* ECF No. 1306-1, Final Settlement Agreement § VIII.C.5, *Ramah Navajo Chapter v. Jewell*, No. 1:90-CV-00957 (D.N.M. Sept. 16, 2015)); *Been v. O.K. Indus., Inc.*, No. CIV-02-285-RAW, 2011 WL 4478766, at *2 (E.D. Okla. Aug. 16, 2011), *report and recommendation adopted*, No. CIV-02-285-RAW, 2011 WL 4475291 (E.D. Okla. Sept. 26, 2011) (approving use of a reserve for administrator and other expenses). The remaining reserve plus any amount of the Primary Distribution that has gone unclaimed by Authorized Claimants will be reallocated *pro rata* during the Secondary Distribution to those Authorized Claimants that had a portion of their Distribution Amounts held in reserve.

Importantly, there are no objections to A.B. Data’s determinations.

I. CLAIMS ADMINISTRATION PROCESS

The sections below summarize A.B. Data’s efforts to: (a) identify eligible Claims; (b) advise Claimants of A.B. Data’s deficiency findings and final dispositions concerning their Claims; (c) audit Claims; and (d) complete a quality assurance review. A summary of A.B. Data’s determinations is also provided.

A. Identification of Eligible Claims and Transactions

A.B. Data reviewed each Claim to determine whether it was eligible on both the claim-level and the transaction-level. Ewashko Decl. ¶¶ 19-25. To be eligible, a Claim had to include:

- at least one eligible CBOT Wheat Futures or Options transaction during the Class Period and related data; and
- valid documentation to support the CBOT Wheat Futures or Options transactions included in the Claim.

Id. ¶¶ 21-22. In addition, each Claim needed to remain in good standing, meaning that the Claim was not withdrawn, replaced, or duplicative of another Claim. *Id.* ¶ 23. Additionally, A.B. Data separately determined whether each transaction submitted as part of a Claim was individually eligible under the Distribution Plan. Transaction-level deficiencies included: (a) the transaction was not a CBOT Wheat Future or Option; (b) the transaction occurred outside of the Class Period; (c) the transaction reflected internal transfers within the Claimant's organization; (d) the maturity date preceded the transaction date of the CBOT Wheat Futures or Options transaction; and (e) the claim had missing or incomplete transaction data. *Id.* ¶ 25.

B. Deficiency and Final Disposition Letters

After reviewing all filed Claims, A.B. Data notified each Claimant of the final disposition of the Claim and further identified any Claim-level or transaction-level deficiencies. Ewashko Decl. ¶ 26. If the Claim was rejected in part or in whole, the reason(s) for the rejection was referenced, and the Claimant was provided an opportunity to cure the deficiency. *Id.* ¶ 27. The final disposition information also provided the Net Artificiality Paid and/or Net Loss calculation(s) pursuant to the Distribution Plan (if applicable) for each Authorized Claimant whose Claim was accepted. *Id.* ¶ 26. For claimants that provided additional information in response to the deficiency

notice, an updated final disposition was provided to the extent that the claimant's response resolved the noted deficiency. *Id.* ¶ 29.

A.B. Data's correspondence also advised claimants of their right to object to A.B. Data's determination. *Id.* ¶ 30. A claimant seeking to object to A.B. Data's determination was required to submit a written statement requesting additional review of their Claim and setting forth the basis for the objection. *Id.* Pursuant to the Distribution Plan (ECF No. 351-7 at 9), A.B. Data's correspondence further advised claimants of their right to contest the rejection of their Claims or certain transaction(s) in their Claims by requesting Court review of A.B. Data's administrative determination of deficiencies or ineligibility. A.B. Data also provided instructions on how to submit corrections (if applicable) or contest the rejection, and specified what supporting documentation should be provided. Ewashko Decl. ¶ 26. As of this filing, A.B. Data has not received any objections or requests for Court review of its administrative determination. *Id.* ¶¶ 32-33.

C. Claims Auditing

A.B. Data also performed targeted audits of transactions from certain Claims. Audited claimants were asked to provide broker/custodian statements, confirmation slips or other transaction-specific documentation supporting the specific sample transaction(s) selected by A.B. Data for audit. Ewashko Decl. ¶¶ 34-36. These targeted audits helped to ensure that transaction data supplied by Claimants did not contain false or inaccurate information. *Id.* ¶ 35. The following Claims were selected to submit their underlying confirmations and other documentation for audit included:

- Large Claims: A.B. Data requested supporting documentation from the Claimants comprising the top 19% of the Net Artificiality Paid and Net Loss under the Distribution Plan. *Id.* ¶ 35.
- Bulk Filer Claims: Certain Claims submitted by (a) financial institutions on behalf of multiple customers and (b) agents such as claims aggregators and law firms on behalf of their customers/clients (collectively, “Bulk Filer Claims”) were also selected to be included in the audit. *Id.*

A.B. Data sent an e-mail to each auditee (the “Audit Letter”), asking that these Claimants provide the requested documentation or data. *Id.* ¶ 36. Each Claimant was advised that failing to timely respond and provide the requested information within a specified time period would result in the Claim’s rejection. *Id.* In total, A.B. Data audited 5 Claims (the “Audited Claims”). All 5 Claimants responded to the Audit Letter. *Id.* ¶¶ 37-38.

Upon receiving data from the Audited Claims, A.B. Data’s Electronic Claim Filing Team evaluated all transaction-level data provided to confirm the eligibility of each audited transaction. *Id.* ¶ 38. As a result of the audit, all of the Audited Claims passed with no rejections or adjustments. *Id.* ¶ 39. These Claims are included in either **Exhibit A** (Timely Eligible Claims) or **Exhibit B** (Late But Otherwise Eligible Claims).

D. Quality Assurance Review

A.B. Data’s Quality Assurance Department operated as an independent auditor to ensure that the settlement administration followed the Distribution Plan and commonly accepted claims administration practices. Ewashko Decl. ¶ 40. The department performed a quality assurance review of the Claims during which A.B. Data: (a) verified that all Claims were signed by authorized individuals; (b) verified that true duplicate Claims were identified and rejected; (c)

verified that persons and entities excluded from the Class did not file Claims and, if such persons or entities did file Claims, that their Claims were rejected or properly excluded from the *pro rata* allocation of the Net Settlement Fund; (d) audited Claims and all supporting documentation to ensure completeness of Claims; (e) reviewed Claims flagged as deficient or invalid; (f) confirmed all Claimants that were to receive a deficiency and/or rejection notice were sent such notification; (g) performed additional reviews of Claims with a high *pro rata* share of the Net Settlement Fund; (h) audited Claims whose Net Artificiality Paid and/or Net Loss calculation(s) equaled zero; (i) audited the approved calculation specifications based on the Distribution Plan; and (j) re-tested the accuracy of the program that calculated the allocation from Net Settlement Fund. *Id.* A.B. Data also confirmed that it compared the claimant list against its list of known questionable claim filers. *Id.* ¶ 41.

A.B. Data's Quality Assurance Department also conducted a comprehensive review of Claimant documentation that was received in PDF format to ensure the accuracy and integrity of data that A.B. Data extracted and converted into a format suitable for processing. *Id.* ¶ 8.

E. A.B. Data's Claim Determinations

A total of 470 Claims were submitted on or before the Claim deadline of July 10, 2023, of which 360 were determined by A.B. Data to have eligible CBOT Wheat Futures or Options transactions ("Timely Eligible Claims"). Ewashko Decl. ¶ 15.

A total of 79 Claims were submitted after the July 10, 2023 Claim submission deadline ("Late Claims"). *Id.* ¶16. Of those, 55 were determined by A.B. Data to have eligible CBOT Wheat Futures or Options transactions ("Late But Otherwise Eligible Claims"). *Id.* These Late But Otherwise Eligible Claims are recommended for payment because the late submission did not

delay the distribution of the Net Settlement Fund. *Id.* Twenty-four Late Claims were ineligible for reasons other than timeliness. *Id.*

In total, there are 415 Claims with eligible CBOT Wheat Futures or Options transactions that may receive their Distribution Amount pursuant to the Distribution Plan. *Id.* ¶ 17.

A.B. Data further recommends that the Court reject the remaining 134 Claims, which include Claims that: were withdrawn (1), replaced (35), submitted in duplicate (8), did not have eligible transactions or failed to provide acceptable data or documentation concerning the transactions (32), or did not calculate to a Net Artificiality Paid and/or a Net Loss pursuant to the Distribution Plan (58). *Id.* ¶ 18. Finally, A.B. Data also recommends that any order approving the proposed distribution provide that no Claim received after May 15, 2025 be eligible for payment from the Net Settlement Fund for this Settlement for any reason whatsoever and that no further adjustments or corrections to Claims submitted after May 15, 2025 may be accepted. *Id.* ¶ 43.

II. DISTRIBUTION PROCEDURE FOR THE NET SETTLEMENT FUND

A.B. Data proposes that the *pro rata* distribution of the Net Settlement Fund occur in two phases, starting with the Primary Distribution and followed by the Secondary Distribution involving any remaining funds. The proposed *pro rata* distribution of the Settlement Fund is fair and consistent with distribution plans approved in price-fixing litigation. *See, e.g., In re Urethane Antitrust Litig.*, No. 04-1616-JWL, 2013 WL 3879264, at *2-3 (D. Kan. July 26, 2013), *aff'd*, 768 F.3d 1245 (10th Cir. 2014) (approving *pro rata* distribution to class members).

A. Claimants Receiving the \$500.00 Minimum Payment

All Authorized Claimants whose Distribution Amount is less than \$500.00 will receive a minimum payment of \$500.00 (“Minimum Payment”) during the Primary Distribution (the “Minimum Payment Claims”). Ewashko Decl. ¶ 44. Awarding a Minimum Payment ensures these Authorized Claimants will receive a meaningful payment without substantially reallocating the

Net Settlement Fund. The implementation of a payment floor also provides administrative savings that ensures the cost to administer these Claims does not exceed their value under the Distribution Plan. *Id.* A total of 205 Authorized Claimants will receive the Minimum Payment, which totals 0.848% of the Net Settlement Fund. *Id.* If these Minimum Payment Claims received their *pro rata* share of the Net Settlement Fund, 0.146% of the Net Settlement Fund would be distributed. *Id.* The Minimum Payment, which reallocates 0.70% of the Net Settlement Fund, is within the range of minimum payments accepted by courts. *See, e.g., Hapka v. CareCentrix, Inc.*, No. 2:16-CV-02372-KGG, 2018 WL 1871449, at *3-4 (D. Kan. Feb. 15, 2018) (overruling objections to \$200 minimum payment); *Thompson v. Qwest Corp.*, No. 17-CV-1745-WJM-KMT, 2018 WL 2183988, at *3 (D. Colo. May 11, 2018) (approving \$500 minimum payment).

B. Claimants Receiving Their Full *Pro Rata* Distribution Amount during the Primary Distribution

All Authorized Claimants whose *pro rata* Distribution Amount is between \$500.00 and less than \$100,000.00 will receive their full Distribution Amount in the Primary Distribution. Ewashko Decl. ¶ 44. There are 182 Authorized Claimants whose Distribution Amount is between \$500.00 and less than \$100,000.00 based on their *pro rata* share calculation. *Id.* ¶ 44. Paying these Authorized Claimants in full during the Primary Distribution means fewer Authorized Claimants will need to be included in any subsequent distributions, reducing the administrative costs associated with such an effort.

C. Claimants Receiving 95% of Their Distribution Amount in the Primary Distribution

The remaining 28 Authorized Claimants, whose *pro rata* share of the Net Settlement Fund results in a Distribution Amount equal to or greater than \$100,000.00, will receive 95% of their Distribution Amount in the Primary Distribution. Ewashko Decl. ¶ 44. So, for example, if Claimant

X's Distribution Amount under the Distribution Plan is \$100,000.00, it will receive \$95,000.00 in the Primary Distribution.

The remaining 5% will be set aside in reserve to address any contingencies that may arise as well as to pay any further tax obligations, fees or expenses incurred through the administration of the Net Settlement Fund. *Id.* The establishment of a reserve is a customary practice of claim administrators in complex cases and has been approved by courts. *See, e.g., Ramah Navajo Chapter v. Jewell*, 167 F. Supp. 3d at 1233 n.19; *Been v. O.K. Indus., Inc.*, 2011 WL 4478766, at *2.

D. Payment Terms and Secondary Distribution

Once the time to negotiate the distribution checks from the Primary Distribution has elapsed (approximately 90 days), and after reasonable efforts have been made to encourage Authorized Claimants to cash their checks, the proceeds from all void, stale-dated, or returned checks and failed wire transfers from the Primary Distribution will be combined with any funds set aside in reserve and made available for reallocation in a subsequent distribution(s). Ewashko Decl. ¶ 44.

After accounting for any outstanding fees and expenses of administration or other contingencies, and unless the Court approves a request by Class Counsel to do otherwise, a Secondary Distribution (and any subsequent distributions) will allocate any funds that remain in reserve to all Authorized Claimants that: (a) received a Distribution Amount of \$100,000.00 or more; (b) negotiated their first distribution payments; and (c) are entitled to at least \$500.00 from such redistribution based on their *pro rata* share of the remaining funds. *Id.*

III. RECORD RETENTION AND DESTRUCTION

Class Counsel requests that A.B. Data be permitted to destroy paper and electronic copies of Claims one year after the Net Settlement Fund has been distributed. *See* Ewashko Decl. ¶ 44.

IV. SETTLEMENT ADMINISTRATOR EXPENSES TO DATE AND COST TO COMPLETE DISTRIBUTION

To date, the costs of notice and administration for the Settlement total \$358,171.99, for which A.B. Data has been or will be paid in full. Ewashko Decl. ¶ 45. A.B. Data anticipates that the additional cost to complete the administration for this Settlement and the Primary and Secondary Distributions of the Net Settlement Fund will be \$34,450.78. *Id.* This cost includes the work described in the Ewashko Decl. Class Counsel respectfully request that the Court enter the Distribution Order, which authorizes payment of up to \$34,450.78 for the costs and expenses expected to be incurred with the distribution of the Net Settlement Fund.³

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant their motion and enter the accompanying Distribution Order.

Dated: November 5, 2025

Respectfully submitted,

/s/ Eric I Unrein

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³ To the extent additional expenses are incurred beyond the \$34,450.78 estimate, Class Counsel will make an application to the Court to pay any additional administration expenses.

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