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Counsel for Plaintiffs and the Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SHELA CAMENISCH, et al.

Plaintiffs,

v.

UMPQUA BANK,

Defendant.

Case No. 5:20-cv-5905-PCP

**MOTION FOR CY PRES
DISTRIBUTION OF INTEREST
EARNED**

Date: November 12, 2026

Time: 10:00 a.m.

Place: Courtroom 8, 4th Floor

Judge: Hon. P. Casey Pitts

NOTICE OF MOTION

PLEASE TAKE NOTICE that at 10:00 a.m. on November 12, 2026, at the United States District Court for the Northern District of California, San Jose Courthouse, Courtroom 8, 4th Floor, 280 South First Street, San Jose, CA 95113, before the Honorable P. Casey Pitts, Plaintiffs and Class Counsel will and hereby do move the Court for an order authorizing a cy pres distribution.

Plaintiffs and Class Counsel request an order authorizing settlement administrator Epiq to distribute all interest earned on the settlement distribution account to Operation HOPE.

I. INTRODUCTION

Following final approval of a \$55 million class action settlement, the settlement administrator established an administration account to receive and almost immediately disburse the settlement funds. Because the funds were to be distributed promptly in a single round that accounted for all available funds, the administration account was to be a non-interest-bearing account. Through an administrative error, however, the account earned \$21,947.61 in interest. It is not economically feasible or rational to distribute the de minimis amount of interest to the class. Instead, a cy pres distribution of the unexpected interest to Operation HOPE would put those funds to work providing financial education and coaching to support financial literacy.

II. BACKGROUND

This class action was filed against Umpqua Bank in an effort to recover investors' remaining losses from a Ponzi scheme run by Professional Financial Investors and Professional Investors Security Fund. (*See* Compl. [Dkt. 1].) The claims for aiding and abetting fraud and aiding and abetting breach of fiduciary duty were tried in February 2025. After four days of deliberations, the jury reported that it could not reach a unanimous verdict, and the Court declared a mistrial. (Dkt. 425.) The case was scheduled to be retried before a new jury beginning on April 28, 2025. The Parties reported a settlement of all claims on March 27, 2025. (Dkt. 467.) The Court granted final approval of the \$55 million settlement on September 11, 2025 (Dkt. 501), and the settlement administrator distributed all available settlement funds to class members in early November 2025 (Dkt. 504).

The settlement administrator intended to establish a non-interest-bearing distribution account for the settlement funds. (M. Kimball Decl, ¶ 4.) This was appropriate because settlement funds would be held in the account very briefly, with checks to be issued to class members in a single disbursement within four days after receipt of the funds from Umpqua. (A. Zeman Decl., ¶ 2-4; *see* M. Kimball Decl., ¶ 7.) Earning interest on the distribution account would create a practical conundrum because interest would continue to accrue until all class members' checks were cashed. Distributing the interest would thus require a second round of distributions, during which time interest would continue to accrue, requiring yet another round of distributions, etc. And the costs of each subsequent distribution would significantly reduce the amount to be distributed. In short, the operational costs would not have been

1 worth the small financial return. That is why here the settlement administrator was to disburse all funds
2 in a single, immediate distribution, with no interest to be accrued or accounted for.

3 Through an administrative error, however, the account accrued interest monthly between
4 October 2025 and June 2026, at which point it was switched to a non-interest-bearing account. (M.
5 Kimball Decl., ¶¶ 4-5.) As a result, the settlement administration account earned \$21,947.61 in interest
6 that was unexpected and not accounted for in the November 2025 distribution to class members. (*Id.*,
7 ¶ 7.) The distribution plan does not address how to distribute the interest earned on the distribution
8 account because it was never intended to exist.

9 III. LEGAL ANALYSIS

10 The Procedural Guidance for Class Action Settlements published by this district acknowledges
11 that a cy pres distribution of unused funds may be appropriate when further distribution to class
12 members is not feasible. (“[U]nused funds ... should be distributed to the class pro rata if feasible, or
13 else awarded to cy pres recipients or to the relevant government authorities.”) The “cy pres doctrine
14 allows a court to distribute unclaimed or non-distributable portions of a class action settlement fund to
15 the ‘next best’ class of beneficiaries.” *Nachshin v. AOL, LLC*, 663 F.3d 1034, 1036 (9th Cir. 2011). “For
16 purposes of the cy pres doctrine, a class-action settlement fund is ‘non-distributable’ when ‘the proof of
17 individual claims would be burdensome or distribution of damages costly.’” *Lane v. Facebook, Inc.*,
18 696 F.3d 811, 819 (9th Cir. 2012). Courts may approve cy pres distributions if there is “a driving nexus
19 between the plaintiff class and the cy pres beneficiaries.” *Dennis v. Kellogg Co.*, 697 F.3d 858, 865 (9th
20 Cir. 2012).

21 Here, distributing the de minimis interest to 1,219 class members is not economically feasible or
22 rational. The administrative cost to process, issue, and monitor payments could exceed the amount of
23 interest. (M. Kimball Decl., ¶ 7.) Even disregarding necessary costs, most checks would be under
24 \$5.00. (*Id.*) Also, class counsel has dedicated hundreds of hours since the initial distribution following
25 up with class members who did not cash their settlement checks and coordinated the re-issue of dozens
26 of payments to minimize the amount of unclaimed funds subject to escheatment. (A. Zeman Decl., ¶ 5-
27 6.) The de minimis amount of interest available for distribution would not justify the expenditure of
28

such resources again, and many checks would likely end up subject to escheatment if a second distribution were undertaken. (*Id.*)

Operation HOPE is a national nonprofit that promotes financial literacy for all. (*See* B. Betts Decl.) It provides financial education through online resources, workshops, and coaching. Operation HOPE offers an online course titled “Types of Scams and How to Protect Yourself,” and its coaching and workshops address avoiding scams. (*See* https://operationhope.org/courses/types-of-scams-and-how-to-protect-yourself/index.html# and <https://operationhope.org/hope-lite/#workshops>.) Such resources are available, relevant, and helpful to class members and to anyone assessing how to invest money and build financial security. Operation HOPE has previously received cy pres distributions approved by the Central District of California (*Thompson v. Transamerica*, Case No. 2:18-cv-05422), the Northern District of New York (*Petrey v. Visions Federal Credit Union* Case No. 3:20-cv-1147), and the District of Connecticut (*Martinez v. Avantus*, Case No. 3:20-cv-1772). Class counsel have no relationship with Operation HOPE and are not aware of any between the organization and Umpqua Bank. (A. Zeman Decl., ¶ 9.)

Distributing the unexpected interest earned on the settlement administration account as a cy pres award to Operation HOPE would avoid wasting the money on administrative costs for de minimis payments to class members and support access to free financial education resources that help potential investors learn how to identify and avoid fraudulent opportunities.

IV. CONCLUSION

For the reasons set forth above, Plaintiffs respectfully request the Court enter an order directing the settlement administrator to pay all interest earned on the settlement distribution account, after accounting for taxes, to Operation HOPE as a cy pres award.

Dated: October 2, 2026

Respectfully submitted,

By: /s/ Amy M. Zeman

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