

UNITED STATES DISTRICT
COURT EASTERN DISTRICT OF
MICHIGAN SOUTHERN
DIVISION

IN RE PACKAGED ICE ANTITRUST

Case Number: 08-MD-01952
Honorable Paul D. Borman

THIS DOCUMENT RELATES TO:

**ORDER GRANTING INDIRECT PURCHASER PLAINTIFFS
CLASS' MOTION TO DISTRIBUTE PROCEEDS
REMAINING IN THE HOME CITY ICE SETTLEMENT
FUND FROM UNCASHED CHECKS AND FOR CERTAIN
OTHER RELIEF (ECF NO. 579)**

Before the Court is the Indirect Purchaser Plaintiffs Class' Motion To Distribute Proceeds Remaining In The Home City Ice Settlement Fund From Uncashed Checks And For Certain Other Relief (ECF No. 579). The Court held a hearing on the Motion on August 15, 2019.

On February 1, 2019, this Court entered an Order granting the Indirect Purchaser Plaintiffs' Motion to Distribute the Home City Ice Company Settlement Fund. (ECF No. 578.) Pursuant to that Order, on February 25, 2019, 128,543 checks, totaling \$2,079,079.56, were mailed to eligible class members. As of May 15, 2019, 99,555 checks, totaling \$1,612,160.03, were cashed, representing approximately 77.5 percent of the total checks issued.

The total value of uncashed checks was \$461,058.01. After deducting the payments outlined below, which the Court finds reasonable and has approved, the amount available for *cy pres* distribution will be \$442,327.96. The Court has received no objection to the Indirect Purchaser Plaintiffs' proposed recipient of the *cy pres* award, the American Red Cross Disaster Relief Fund. The Court further finds no conflict of interest in the proposal of this *cy pres* recipient and finds that the expected utilization of the funds by the American Red Cross in its disaster relief efforts is sufficiently related to the interests of all indirect purchasers of packaged ice. The Court therefore approves the proposed *cy pres* distribution.

Accordingly, the Court GRANTS the Motion, and Orders as follows:

1. Within 14 days after entry of this Order, Rust Consulting shall distribute from The Home City Ice Company Settlement Fund (the "Fund") an aggregate total of \$2,068.28 to three (3) claimants who Rust determined were entitled to additional payments.
2. Within 14 days after entry of this Order, Rust Consulting shall re-issue from the Fund checks to two (2) claimants for \$16.35 each who wrote to Class Counsel stating that they never received their checks because they had moved.
3. Rust Consulting may pay itself from the Fund an additional \$4,202.00 so that its total payments from the Fund are \$654,202.00.

4. Within 14 days after entry of this Order, Rust Consulting shall pay remaining proceeds from the Fund in the amount of \$442,327.96 (which represents the balance available for cy pres distribution as of August 15, 2019, namely \$442,475.11 reduced by \$147.15 representing claimants' checks that banks cashed on or after August 15, 2019) to The American National Red Cross and send the payment to the following address: American Red Cross, Office of the General Counsel, 431 18th Street, NW, Washington DC 20006 with the request that the American National Red Cross apply the proceeds to its Disaster Relief Fund.

5. Within 14 days after entry of this Order, Rust Consulting shall certify to Class Counsel that it has sent payment in amount of \$442,327.96 to The American National Red Cross. Within 10 days after receiving proof of payment in the form of a receipt from The American National Red Cross or cancelled check or report of a successful wire transfer to The American National Red Cross, Rust Consulting shall provide Class Counsel with such proof of payment to the American National Red Cross. Class Counsel shall file a copy of Rust Consulting's certification and proof of payment with the Court.

6. Class Counsel has been authorized to retain certain moneys to pay taxes and tax related expenses. No later than 30 days after the filing of the Fund's final income tax return and payments of any taxes and such expenses, Class Counsel shall remit any balance of such moneys to The American National Red

Cross and file an accounting for such moneys.

7. Rust Consulting is authorized to terminate the Home City Ice Settlement website and toll-free hotline and close the Post Office Box.



HON. PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: AUG 29 2019