

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**TONY M. TOWNSEND,**  
**On behalf of himself and all others**  
**similarly situated,**

Plaintiff,

vs.

**AIM INTEGRATED LOGISTICS, INC.,**

Defendant.

CASE NO. 4:15-CV-00493

UNITED STATES MAGISTRATE  
JUDGE KATLEEN B. BURKE

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**FINAL ORDER AND JUDGMENT APPROVING SETTLEMENT, CERTIFYING  
SETTLEMENT CLASS, AWARDED ATTORNEY FEES AND EXPENSES,  
AWARDED INCENTIVE PAYMENT TO NAMED PLAINTIFF  
AND DISMISSING ACTION**

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This matter having come before the Court on May 12, 2016 upon the Plaintiff's Unopposed Motion for Final Approval of the Class Action Settlement as well as Plaintiff's unopposed Motion for and Award of Attorney Fees, Reimbursement of Expenses and Service Payment to the Named Plaintiff, and upon review and consideration of the Second Amended Stipulation of Settlement filed on January 25, 2016 (the "Settlement Agreement"), the exhibits to the Settlement Agreement, the evidence and arguments of counsel presented at the Court's Final Fairness Hearing, and the submissions filed with this Court, IT IS HEREBY ORDERED and adjudged as follows:

Pursuant to Fed. R. Civ. P. 23(e), the settlement of this action, as embodied in the terms of the Settlement Agreement except as modified herein, is hereby finally approved as a fair, reasonable and adequate settlement of this action in light of the factual, legal, practical and

procedural considerations raised by this action. The Settlement Agreement except as modified herein is hereby incorporated by reference into this Final Order and Judgment Approving Settlement, Certifying Settlement Class, Awarding Attorney Fees and Expenses, Awarding Incentive Payment to Named Plaintiff and Dismissing Action (“Order”). Capitalized terms in this Order shall, unless otherwise defined, have the same meaning as in the Settlement Agreement.

### **FINAL ORDER AND JUDGMENT**

On March 13, 2015, Plaintiff, Tony M. Townsend (hereinafter referred to as “Townsend” or “Class Representative”), filed the above-captioned class action lawsuit (hereinafter referred to as the “Lawsuit”) against Defendant, AIM Integrated Logistics, Inc. (hereinafter referred to as “AIM”). Townsend asserted class claims against AIM under the Fair Credit Reporting Act (hereinafter referred to as the “FCRA”), 15 U.S.C. § 1681, *et seq.*

AIM denied any and all liability alleged in the Lawsuit.

After extensive arms-length negotiations, discovery and mediation, Townsend and AIM (hereinafter jointly referred to as the “Parties”) entered into a Stipulation of Settlement on November 5, 2015, which is subject to review under Fed. R. Civ. P. 23.

On January 15, 2016, the Parties filed the Stipulation of Settlement (*See* Doc. 24), which was followed by the filing of their Motion for Preliminary Approval of Class Action Settlement (hereinafter referred to as the “Preliminary Approval Motion”) (*See* Doc. 25) on that same date.

The Stipulation of Settlement was amended and the final version was filed on January 25, 2016 (*See* Doc. 28).

In compliance with the Class Action Fairness Act of 2005, Pub. L. No. 109-2, 119 Stat. 4, AIM served written notice of the proposed class settlement on the United States Attorney

General and the Attorneys General of all 50 states, the District of Columbia, and the U.S. Virgin Islands.

On January 26, 2016, upon consideration of the Parties' Preliminary Approval Motion and the record, the Court entered an Order of Preliminary Approval of Class Action Settlement (hereinafter referred to as the "Preliminary Approval Order"). Pursuant to the Preliminary Approval Order, the Court, among other things, (i) preliminarily certified (for settlement purposes only) a class of plaintiffs (hereinafter referred to as the "Class Members") with respect to the claims asserted in the Lawsuit; (ii) preliminarily approved the proposed settlement; (iii) appointed Townsend as the Class Representative; (iv) appointed Mr. Matthew A. Dooley and Mr. Anthony R. Pecora as Class Counsel; and, (v) set the date and time of the Final Fairness Hearing.

On May 2, 2016, the Plaintiff filed his Unopposed Motion for Final Approval of Class Action Settlement (hereinafter referred to as the "Final Approval Motion"), (*See* Doc. 33).

On May 2, 2016, Plaintiff filed his unopposed Motion for an Award of Attorney Fees, Reimbursement of Expenses and Incentive Award to the Named Plaintiff. (*See* Doc. 34).

On May 12, 2016 at 10:00 a.m. EST, a Fairness Hearing was held pursuant to Fed. R. Civ. P. 23 to determine whether the Lawsuit satisfies the applicable prerequisites for class action treatment and whether the proposed settlement is fundamentally fair, reasonable, adequate, and in the best interest of the Class Members and should be approved by the Court.

The Parties now request final certification of the settlement class under Fed. R. Civ. P. 23 (b)(3) and final approval of the proposed class action settlement.

The Court has read and considered the Settlement Agreement, Final Approval Motion, and record and finds as follows:

1. The Court has jurisdiction over the subject matter of the Lawsuit and over all settling parties hereto.

2. Pursuant to Fed. R. Civ. P. 23(b)(3), the Lawsuit is hereby certified as a class action on behalf of the following classes of plaintiffs (hereinafter referred to as the “Class Members”) with respect to the claims asserted in the Lawsuit:

All natural persons residing in the United States who applied for employment with AIM and who were the subject of a Consumer Report procured by AIM for employment purposes, between March 13, 2010 and November 5, 2015.

3. The Class Members were divided into the following subclasses:

- a. 0-2 Year Disclosure Subclass – All natural persons residing in the United States, who applied for employment with AIM and about whom AIM procured a Consumer Report for employment purposes between March 13, 2013 and November 5, 2015 without first providing disclosures provided for in, or without first providing disclosures compliant with, 15 U.S.C. § 1681b(b)(2)(A) or § 1681b(b)(2)(B).
- b. 0-2 Year Adverse Action Subclass– All natural persons residing in the United States who applied for employment with AIM and (b) were the subject of a Consumer Report which AIM used to make an employment decision regarding such applicant between March 13, 2013 and November 5, 2015, (c) for whom that decision was either a rejection, delay, or other adverse employment action, and (d) who were not provided with consumer rights, notices or information required by, or who were not provided with consumer rights, notices or information compliant with, 15 U.S.C. § 1681b(b)(3)(A) or § 1681b(b)(3)(B). Members of this subclass are also members of the 0-2 Year Disclosure Subclass
- c. 3-5 Year Disclosure Subclass – All natural persons residing in the United States, who applied for employment with AIM and about whom AIM procured a Consumer Report for employment purposes between March 13, 2010 and March 12, 2013 without first providing disclosures provided for in, or without first providing disclosures compliant with, 15 U.S.C. § 1681b(b)(2)(A) or § 1681b(b)(2)(B).
- d. 3-5 Year Adverse Action Subclass - All natural persons residing in the United States who applied for employment with AIM and (b) were the subject of a Consumer Report which AIM used to make an employment decision regarding such applicant between March 13, 2010 and March 12, 2013, (c) for whom that decision was either a rejection, delay, or other adverse employment action, and

(d) who were not provided with consumer rights, notices or information required by, or who were not provided with consumer rights, notices or information compliant with, 15 U.S.C. § 1681b(b)(3)(A) or § 1681b(b)(3)(B). Members of this subclass are also members of the 3-5 Year Disclosure Subclass.

4. There are approximately 11,174 Preliminary Class Members. Approximately 1,500 timely and complete claim forms for the Settlement Class (0-2 Year Disclosure Subclass) have been filed; approximately 1,316 timely and complete claim forms for the Settlement Class (3-5 Year Disclosure Subclass) have been filed and approximately 411 timely and complete claim forms for the Settlement Class (3-5 Year Adverse Action Subclass) have been filed.

5. 0-2 Year Adverse Action Subclass members automatically receive payments.

6. Pursuant to Fed. R. Civ. P. 23, the Court certifies Plaintiff Tony M. Townsend as the Class Representative and Mr. Matthew A. Dooley and Mr. Anthony R. Pecora as Class Counsel.

7. The approved class action notices were mailed to Class Members in conformity with this Court's Preliminary Approval Order and satisfied the requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process, and constituted the best notice practicable under the circumstances. The Court finds that the notices were clearly designed to advise the Class Members of their rights.

8. The Court finds that the Lawsuit satisfies the applicable prerequisites for class action treatment under Fed. R. Civ. P. 23, namely:

- a. The Class Members are so numerous that joinder of all of them in the Lawsuit is impracticable;
- b. There are questions of law and fact common to the Class Members, which predominate over any individual questions;

- c. The claims of the Class Representative are typical of the claims of the Class Members;
- d. The Class Representative and Class Counsel have fairly and adequately represented and protected the interests of all of the Class Members; and
- e. Class treatment of these claims will be efficient and manageable, thereby achieving an appreciable measure of judicial economy, and a class action is superior to other available methods for a fair and efficient adjudication of this controversy.

9. The Court finds that the settlement of the Lawsuit, on the terms and conditions set forth in the Settlement Agreement, except as modified herein, is in all respects fundamentally fair, reasonable, adequate, and in the best interest of the Class Members, especially in light of the benefits to the Class Members; the strengths and weaknesses of the Plaintiff's case; the complexity, expense, and probable duration of further litigation; the risk and delay inherent in possible appeals; the risk of collecting any judgment obtained on behalf of the class; and, the limited amount of any potential total recovery for the class.

10. The Settlement Agreement shall be deemed incorporated herein, and the proposed settlement is finally approved and shall be consummated in accordance with the terms and provisions thereof, except as amended by any order issued by this Court. The material terms of the Agreement include, but are not limited to, the following:

- a. The Settlement Fund of \$1,310,000.00 will be distributed as follows:
  - i. Each Settlement Class Members (0-2 Year Disclosure Subclass) shall receive a gross sum not to exceed \$420.00;
  - ii. Each Settlement Class Members (0-2 Year Adverse Action Subclass) shall receive a gross sum not to exceed \$1,420.00;

- iii. Each Settlement Class Members (3-5 Year Disclosure Subclass) shall receive a gross sum not to exceed \$300.00;
  - iv. Each Settlement Class Members (3-5 Year Adverse Action Subclass) shall receive a gross sum not to exceed \$805.00
  - v. The Class Representative shall receive a total sum of \$15,000.00.
- b. From the Settlement Fund, the Court awards a third (1/3) of the total settlement fund of \$1,310,000.00 as attorneys' fees and expenses for Class Counsel.
- c. In the event that settlement checks mailed to Class Members returned as undeliverable or otherwise not cashed before becoming stale or void exceeds the amount of \$50,000.00, this remaining sum shall be disbursed to members of the 0-2 Year Disclosure Class who submitted valid claim forms on a pro rata basis. If the sum of uncashed checks is less than \$50,000.00, the parties shall move the Court to disburse the remaining funds to a *cy pres* beneficiary as provided for in Section 5.7 of the Settlement Agreement.

11. The Class Members were given an opportunity to object to the settlement and no objections were filed. The opt-out members are excluded from the class and settlement and are not bound by this order. The identities of such persons are set forth in the Opt-Out List filed with this Court (Doc. 35).

12. This order is binding on all Class Members, except those individuals identified in the Opt-Out List (Doc. 35), who validly and timely excluded themselves from the class.

13. The Class Representative, Class Members, and their successors and assigns are permanently barred and enjoined from instituting or prosecuting, either individually or as a class, or in any other capacity, any of the Released Claims against any of the Released Parties, as set forth in the Settlement Agreement. Pursuant to the release contained in the Settlement

Agreement, the Released Claims are compromised, settled, released, discharged, and dismissed with prejudice by virtue of these proceedings and this order.

14. The Lawsuit is hereby dismissed with prejudice in all respects.

15. This order is not, and shall not be construed as, an admission by AIM of any liability or wrongdoing in this or in any other proceeding.

16. The Court hereby retains continuing and exclusive jurisdiction over the Parties and all matters relating to the Lawsuit and/or Settlement Agreement, including the administration, interpretation, construction, effectuation, enforcement, and consummation of the settlement and this order.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Kathleen B. Burke". The signature is written in a cursive, flowing style.

UNITED STATES MAGISTRATE JUDGE  
KATHLEEN B. BURKE