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FILED
State of the Superior Court

OCT 07 2022

By: M. Abosamra, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

TONI ZIEROLD and BRIAN TRIMBLE,
individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

THE BRADFORD EXCHANGE, LTD.,
an Illinois corporation; and DOES 1-50,
inclusive,

Defendants.

CASE NO. 37-2022-00009703-CU-BT-CTL

CLASS ACTION

**~~PROPOSED~~ ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT AND PROVIDING FOR
NOTICE**

[IMAGED FILE]

1 Pending before the Court is the Motion for Preliminary Approval of Class Action Settlement
2 (“Motion”) relating to the Settlement Agreement (“Settlement”) between plaintiffs, on the one hand,
3 and The Bradford Exchange, Ltd. (“Bradford”) and Hammacher, Schlemmer & Co., Inc.
4 (“Hammacher”), on the other hand. Having read and considered the moving papers, including the
5 Settlement Agreement, and finding good cause, the Court finds and orders as follows:

6 1. Based upon the Court’s review of the Settlement Agreement, the Memorandum of
7 Points and Authorities in Support of the Motion, the discussion at the hearing conducted on October
8 7, 2022, and the entire record, the Motion for Preliminary Approval of Class Action Settlement is
9 GRANTED. Bradford and Hammacher are collectively referred to herein as “Defendants.”

10 2. The Court hereby conditionally certifies the following class (“Class”) for settlement
11 purposes only: “All California residents who, between March 14, 2018 and October 7, 2022, were
12 both (i) enrolled in either the Bradford Rewards program or the Hammacher Rewards program and
13 (ii) charged at least one membership fee for such program. Excluded from the Class are all
14 employees of Bradford and Hammacher, all employees of Plaintiffs’ counsel, and the judicial
15 officers to whom this case is assigned.” The Court grants leave for Plaintiffs to file a Second
16 Amended Complaint, setting forth the foregoing definition of the Class, adding Ken Witt as a named
17 plaintiff, and adding Hammacher as a named defendant, all for settlement purposes only.

18 3. The Court appoints Dostart Hannink LLP as Class Counsel. The Court appoints Toni
19 Zierold, Brian Trimble, and Ken Witt as the Class Representatives. The Court designates CPT
20 Group, Inc. as the Settlement Administrator.

21 4. The Court preliminarily approves the Settlement,¹ including the monetary relief,
22 injunctive relief, procedure for payment of Class Counsel’s attorneys’ fees and litigation expenses
23 to the extent ultimately awarded by the Court, and procedure for payment of any service awards to
24 the extent ultimately awarded by the Court. The Court has reviewed the monetary relief and the
25 injunctive relief that are provided as part of the Settlement and recognizes the value to the Class. It

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27 ¹ The definitions of capitalized terms in this Order are the same as the definitions of those terms in
28 the Settlement Agreement.

1 appears to the Court on a preliminary basis that the Settlement is fair, adequate, and reasonable as
2 to all potential Class Members when balanced against the cost and uncertainty associated with
3 further litigation. It further appears that settlement of the Action at this time will avoid substantial
4 additional costs by all Parties, as well as the delay and risks that would be presented by the further
5 prosecution of the Action. It also appears that the Settlement has been reached as a result of
6 intensive, serious, and non-collusive arm's-length negotiations.

7 5. The Court approves the emailed Summary Class Notice (Exhibit A to the Settlement
8 Agreement), the mailed Summary Class Notice (Exhibit B to the Settlement Agreement), the Long
9 Form Notice (Exhibit C to the Settlement Agreement), and the paper Claim Form (Exhibit D to the
10 Settlement Agreement), as revised and submitted on October 7, 2022). The notice procedure
11 described in the Settlement Agreement meets the requirements of Rule 3.766(d) of the California
12 Rules of Court and due process, and constitutes the best practicable notice under the circumstances.
13 The Settlement Administrator is directed to disseminate the Summary Class Notice to Class
14 Members via email (or, if no email address is available, then via U.S. Mail) no later than thirty-five
15 (35) days following notice of entry of this order. The date on which the Summary Class Notice is
16 emailed or mailed is the "Notice Date." The Parties are authorized to direct the Settlement
17 Administrator to undertake additional steps to disseminate the Summary Class Notice. The
18 Settlement Administrator is directed to take all steps necessary to establish a settlement website and
19 dedicated toll free number, and to post the Long Form Notice on the website by the Notice Date.

20 6. In order to receive a share of the Settlement Amount, Class Members must file a
21 timely Claim, either electronically via the Settlement Website or via a paper Claim Form, and that
22 Claim must be validated by the Settlement Administrator. Completed Claims that are timely
23 submitted electronically through the Settlement Website by individuals to whom the emailed or
24 mailed Summary Class Notice was sent will be deemed valid. Completed Claims that are submitted
25 in the form of a paper Claim Form will be deemed valid if the claimant's name and the claimant's
26 mailing address and/or email address match information in the Class List. To be timely, the Claim
27 must be returned to the Settlement Administrator no later than the Claim/Exclusion/Objection
28 Deadline. If the Claim is returned via the Settlement Website, the date of return will be the date of

1 submission through the Settlement Website. If the Claim is returned by U.S. Mail, the date of return
2 will be the date of postmark. If the Claim is returned by personal delivery or email, the date of return
3 will be the date the Claim is received by the Settlement Administrator. The Parties may jointly direct
4 the Settlement Administrator to treat as timely a Claim received by the Settlement Administrator
5 after the Claim/Objection/Exclusion Deadline and before the Final Approval Hearing.

6 7. If the Settlement Administrator disallows a Claim based on a deficiency that can be
7 cured (such as the failure to sign the Claim Form), the Settlement Administrator has the discretion
8 to either waive the deficiency or notify the claimant of the reason for the disallowance and invite
9 the claimant to cure the deficiency. The Settlement Administrator also will consider any additional
10 information or corrective action by the claimant submitted within twenty-one (21) days after the
11 mailing of the notice of deficiency.

12 8. As set forth in the Settlement Agreement, any individual who wishes to exclude
13 himself or herself from the Settlement Class shall mail, email, or deliver to the Settlement
14 Administrator a written request for exclusion no later than forty-five (45) days following the Notice
15 Date. Class Members who do not timely request exclusion shall be bound by the provisions of the
16 Settlement Agreement and all orders or judgments that may be entered by the Court.

17 9. Class Members may object to the Settlement orally or in writing. To object to the
18 Settlement in writing, a Class Member must file a written objection with the Court and serve copies
19 of the objection on Class Counsel, Defendants' counsel, and the Settlement Administrator, no later
20 than forty-five (45) days following the Notice Date. The written objection must set forth the name
21 of the lawsuit (*Zierold v. The Bradford Exchange, Ltd.*, Case No. 37-2022-00009703-CU-BT-CTL),
22 the Class Member's name, address, and telephone number, and the following statement: "I declare
23 under penalty of perjury that, to the best of my knowledge, between March 14, 2018 and October 7,
24 2022, I was enrolled in either the Bradford Rewards program or the Hammacher Rewards program
25 and was charged a membership fee for such program, and I wish to object to the Settlement." The
26 written objection must also state the factual and legal basis for the objection; the name and contact
27 information of any and all attorneys representing, advising, or in any way assisting the objector in
28 connection with the preparation or submission of the objection or who may profit from the pursuit

1 of the objection; and a statement indicating whether the objector intends to appear at the Final
2 Approval Hearing. Any documents that the objecting Class Member wishes for the Court to consider
3 must also be attached to the objection. Any written objection must be filed with the Court and served
4 by mail as follows: (1) Zierold v. Bradford Settlement Administrator, c/o CPT Group, Inc., 50
5 Corporate Park, Irvine, California 92606; (2) to Defendants' counsel, Christine M. Reilly, Manatt,
6 Phelps & Phillips, LLP, 2049 Century Park East, Suite 1700, Los Angeles, California 90067; and
7 (3) to Class Counsel, Zach P. Dostart, Dostart Hannink LLP, 4225 Executive Square, Suite 600,
8 La Jolla, California 92037. Alternatively, a Class Member may object to the Settlement at the Final
9 Approval Hearing.

10 10. Plaintiffs shall file their motion for final approval, and Class Counsel shall file its
11 motion for attorneys' fees, litigation expenses, and for any service awards to the Class
12 Representatives, by the date specified below. The motion for final approval shall identify a proposed
13 *cy pres* recipient for any excess funds, consistent with Section IV.B of the Settlement Agreement
14 and with Code of Civil Procedure section 384.

15 11. A Final Approval Hearing shall be held by this Court, located at 330 West Broadway,
16 San Diego, California 92101, Department 75, on April 7, 2023, at 9:00 a.m., at
17 which time the Court will determine whether the Settlement should be granted final approval. At
18 that time, the Court will also consider Class Counsel's motion for attorneys' fees, litigation
19 expenses, and any proposed service awards. The Parties, Class Members, and any other interested
20 parties should consult this Action's Register of Actions and the Superior Court's General Orders
21 and website for information about whether that hearing will proceed in person and/or by remote
22 means.

23 12. If the Settlement is not finally approved by the Court, (i) the conditional certification
24 of the Class shall be withdrawn, (ii) the Second Amended Complaint and any Answer thereto shall
25 be stricken or withdrawn; and (iii) the Settlement Administrator will, after deducting any settlement
26 administration expenses incurred as of that date, return any Settlement funds in its possession to
27 Defendants.

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1 13. The Court reserves the right to adjourn or continue the date of the Final Approval
 2 Hearing and all dates provided for in the Settlement without further emailed or mailed notice to the
 3 Class Members, and retains jurisdiction to consider all further matters arising out of or connected
 4 with the proposed Settlement.

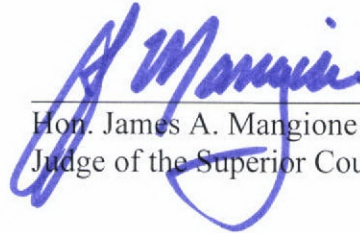
5 14. In accordance with the terms of the Settlement, the Court hereby adopts the following
 6 dates for performance of the specified activities leading to the Final Approval Hearing:

Proposed Deadline	Event
7 days after both (1) notice of entry of this Order and (2) delivery to Defendants' counsel of the Settlement Administrator's Confidentiality Confirmation	Deadline for Defendants to provide to the Settlement Administrator an Excel spreadsheet that includes each Class Member's name, mailing address, email address, telephone number, and the name of the Rewards program in which the Class Member was enrolled, to the extent such information is available in Defendants' business records
14 days after notice of entry of this Order	Deadline for Defendants to wire transfer the Settlement Amount to Settlement Administrator
35 days after notice of entry this Order	Deadline for Settlement Administrator to email the Court-Approved Summary Class Notice to Class Members for whom an email address is available, mail the Summary Class Notice to Class Members for whom an email address is not available, and establish the settlement website ("Notice Date")
14 days after Notice Date	Deadline for Settlement Administrator to mail the Summary Class Notice to last known address of any Class Members for whom an email notice was bounced back as undeliverable
45 days after Notice Date	Last day for Class Members to submit completed Claim Forms
45 days after Notice Date	Last day for Class Members to object or opt out
16 court days prior to Final Approval Hearing	Deadline for Plaintiffs to file Motion for Final Approval of Settlement
10 days prior to Final Approval Hearing	Deadline for parties respond to any objections to the Settlement
As set forth above in Paragraph 11	Final Approval Hearing

1 15. The Parties are ordered to carry out the Settlement in the manner provided in the
2 Settlement Agreement and this Order.

3 IT IS SO ORDERED.

4 DATED: 10.7, 2022

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8 Hon. James A. Mangione
9 Judge of the Superior Court

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