

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DUDENHOEFFER, *et al.*,

Plaintiffs

v.

FIFTH THIRD BANCORP, *et al.*,

Defendants

Civil Action No. 1:08-CV-538-SSB

PLAN OF ALLOCATION

I. DEFINITIONS.

Except as indicated in this Plan of Allocation, the capitalized terms used herein shall have the meaning ascribed to them in the Settlement Agreement.

II. CALCULATION OF ALLOCATION AMOUNTS.

A. Per paragraph 8.3.3 of the the Settlement Agreement, prior to disbursement of the Net Settlement Fund to the Plan, Defendants shall provide the Settlement Administrator with the data reasonably necessary to determine the amount of the Net Settlement Fund to be distributed to each Settlement Class Member in accordance with this Plan of Allocation.

B. For each Settlement Class Member, the Settlement Administrator shall determine the approximate net loss (“Net Loss”) as follows: $\text{Net Loss} = A + B - C - D$, where, for each Settlement Class Member’s account:

1. A = the dollar value, if any, of the balance invested in the Fifth Third Stock Fund on the first day of the Settlement Class Period;
2. B = the dollar value, if any, of all acquisitions of the Fifth Third Stock Fund after the first day of the Settlement Class Period and during the Class Period as of the time of purchase(s);
3. C = the dollar value, if any, of all dispositions of the Fifth Third Stock Fund during the Settlement Class Period as of the time of the sale(s); and
4. D = the dollar value, if any, of the Fifth Third Stock Fund remaining on the last day of the Settlement Class Period.

In the event that a participant’s account was transferred, in whole or in part, to a beneficiary (including an alternate payee) during the Settlement Class Period, the participant and the transferee beneficiary shall be treated as a single Settlement Class Member for the purpose of determining a Net Loss. The Net Loss shall then be allocated between the participant and beneficiary according to the proportion of the Net Loss attributable to the holdings of the participant and beneficiary.

C. The Net Losses of the Settlement Class Members as calculated in Section II.B above will be totaled to yield the loss of the Plan as a whole over the Class Period (the “Plan’s Loss”).

D. The Settlement Administrator shall calculate for each Settlement Class Member his or her “Preliminary Fractional Share” of the Plan’s Loss by dividing each Settlement Class Member’s Net Loss by the Plan’s Loss.

E. The Settlement Administrator shall then calculate for each Settlement Class Member his or her “Preliminary Dollar Recovery” of the Net Settlement Fund by multiplying the Settlement Class Member’s Preliminary Fractional Share by the Net Settlement Fund.

F. The Settlement Administrator shall identify all Settlement Class Members whose Preliminary Dollar Recovery is greater than five dollars (\$5.00) but less than or equal to nine dollars and ninety-nine cents (\$9.99) (the “Minimum Amount”). All such Settlement Class Members shall receive an allocation from the Net Settlement Fund of the Minimum Amount. The parties in their discretion reserve their right to propose a modified Minimum Amount if review of the Plan data so indicates.

G. All Settlement Class Members whose Preliminary Dollar Recovery is more than zero dollars (\$0) but less than five dollars (\$5.00) will be deemed to have a final share equal to zero dollars (\$0) and will not receive a Settlement distribution.

The Settlement Administrator shall then, after subtracting out the amounts allocated to Settlement Class Members who receive the Minimum Amount, recalculate the Preliminary Fractional Shares and the Preliminary Dollar Recoveries so as to arrive at the “Final Fractional Share” and the “Final Dollar Recovery” for each Settlement Class Member. The sum of the Final Dollar Recoveries must equal the Net Settlement Fund.

III. DISTRIBUTION OF THE ALLOCATED AMOUNTS.

A. As soon as practicable after the calculations pursuant to Section II above, Class Counsel shall direct the Financial Institution to deposit the Net Settlement Fund into the Plan. The funds deposited into the Plan shall be assets of the Plan for all purposes.

B. **Settlement Class Members With Accounts In the Plan.** As promptly as reasonably possible after deposit of the Net Settlement Fund into the Plan, the Settlement

Administrator shall forward to the Plan Trustee the information needed for allocating into each Settlement Class Member's account under the Plan his or her Final Dollar Recovery as calculated above. The deposited amount shall be invested by the Plan Trustee pursuant to the plan participant's election on file. If the plan participant has no election on file, it shall be invested in any default investment option(s) designated by the Plan, and if the Plan has not designated any default investment option(s), in a stable value fund or similar fund under the Plan.

C. **Settlement Class Members Without Accounts Under the Plan.** Settlement Class Members who withdrew their accounts under the Plan after the beginning of the Class Period or whose accounts were transferred to a beneficiary (including an alternate payee) ("Former Plan Participants") shall be handled in the following manner. For Former Plan Participants whose Final Dollar Recovery as calculated by the Settlement Administrator is determined to be Two Hundred Dollars (\$200.00) or more, such funds shall be paid to the Plan to be deposited in a Plan Account that the Plan Trustee shall establish for each such Former Plan Participant. For Former Plan Participants whose Final Dollar Recovery is determined to be less than Two Hundred Dollars (\$200.00), such funds shall be paid directly to such Former Plan Participants by the Settlement Administrator. All such payments shall be used to restore losses to the Former Plan Participants on account of the investment in Fifth Third Stock Fund through the Plan and are intended by the Settlement class to be "restorative payments" in accordance with Internal Revenue Service Revenue Ruling 2002-45.

D. If any Settlement Class Member with a Final Dollar Recovery cannot be located despite reasonable efforts, such Settlement Class Member's Final Dollar Recovery shall be administered in accordance with the procedures of the Plan regarding participants who cannot be

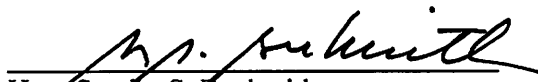
located. If any Settlement Class Member with a Final Dollar Recovery is deceased, such Settlement Class Member's Final Dollar Recovery shall be administered in accordance with the procedures of the Plan regarding deceased participants.

IV. QUALIFICATIONS AND CONTINUING JURISDICTION

A. Depending on the manner in which the data is kept and the ease with which it can be analyzed, it may be appropriate to simplify some of the features of these calculations. Such simplifications are acceptable as long as the two basic features of the distribution of the Net Settlement Fund are preserved: (1) that each Settlement Class Member receives a proportionate share of the Net Settlement Fund based approximately on the decline in the value of the Company Stock Fund held in the Settlement Class Member's account over the Settlement Class Period in comparison with the decline in value of the Company Stock Fund held by all other Settlement Class Members; and (2) that the individual's share of the Net Settlement Fund is added to the Settlement Class Member or beneficiary's account under the Plan and/or distributed as a Plan distribution so as to realize any potential tax advantage of investment in the Plan.

B. The Court will retain jurisdiction over the Plan of Allocation to the extent necessary to ensure that it is fully and fairly implemented.

SO ORDERED this 11th day of July, 2016.



Hon. Sandra S. Beckwith
United States District Judge