

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SUSAN MOSES, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

APPLE HOSPITALITY REIT INC.,

Defendant.

Case No. 1:14-cv-03131 (SMG)

**[PROPOSED] ORDER PRELIMINARILY APPROVING CLASS ACTION
SETTLEMENT, PRELIMINARILY CERTIFYING SETTLEMENT CLASS, AND
APPOINTING INTERIM CLASS COUNSEL**

GOLD, STEVEN M., U.S. Magistrate Judge:

WHEREAS, the above-titled putative class action (the “Class Action” or the “Litigation”) is pending before the Court;

WHEREAS, Plaintiff and Defendant have entered into a Stipulation of Settlement dated August 25, 2017 which is subject to review and approval under Rule 23 of the Federal Rules of Civil Procedure and which, together with the exhibits thereto, sets forth the terms and conditions for the proposed settlement of the Litigation (the “Settlement”) and the dismissal of the Litigation with prejudice;

WHEREAS, the Court has read and considered the Stipulation of Settlement¹ and exhibits thereto, and the accompanying documents;

¹ Unless otherwise stated, all capitalized terms used herein have the meanings defined in the Stipulation of Settlement.

WHEREAS, the Counsel for Plaintiff have submitted, and the Court has reviewed, a motion and accompanying memorandum of law supporting preliminary approval of the proposed Settlement; and

WHEREAS, the Parties to the Settlement have consented to the entry of this Order, the Court:

NOW, THEREFORE, HEREBY ORDERS, ADJUDGES AND DECREES THAT:

1. Pursuant to Rule 23(a) and Rule 23(b)(3) of the Federal Rules of Civil Procedure, and for the purposes of the Settlement only, the Court preliminarily certifies the following Settlement Class (the “Class”): Any person in the United States who participated in the DRIPs for Apple REIT Seven and/or Apple REIT Eight from July 17, 2007 to June 27, 2013 inclusive².

2. Pursuant to Fed. R. Civ. P. 23, and for purposes of this Settlement only, the Court hereby preliminarily appoints Susan Moses as class representative of the Class (“Class Representative”).

3. The Court preliminarily finds that the prerequisites for maintaining a class action under Rule 23(a) of the Federal Rules of Civil Procedure have been satisfied for the Settlement Class in that: (a) the number of Class members is so numerous that joinder of all members is impracticable; (b) there are questions of law and fact common to each member of the Class; (c) the claims of the Class Representative are typical of the claims of the members of the Class she seeks to represent; and (d) Plaintiff will fairly and adequately represent the interests of the Class.

²Excluded from the proposed Class are: (a) Defendant, any entity in which Defendant has a controlling interest or which has a controlling interest in Defendant; (b) Defendant’s legal representatives, predecessors, successors and assigns; and (c) any persons who affirmatively exclude themselves from the Class pursuant to the procedures described in the Notice.

4. Plaintiff also satisfies Federal Rule of Civil Procedure 23(b)(3). Common questions of law and fact predominate and a class action is the superior method available to fairly and efficiently litigate this class action involving the sale of securities.

5. Having considered the factors set forth in Fed. R. Civ. P. 23(g)(1) and the qualifications of Plaintiff's counsel submitted to the Court, the Court hereby preliminarily appoints Salas Wang LLC, Eccleston Law, LLC, and Law Office of Christopher J. Gray, P.C. as Interim Class Counsel.

6. The Court preliminarily concludes that the Settlement was negotiated in good faith and is fair, reasonable and adequate, subject to proof to this Court's satisfaction in connection with Final Approval. *See* Fed. R. Civ. P. 23(e). Accordingly, the Court hereby preliminarily approves the Settlement.

7. The Court reserves the authority to approve the Settlement with or without modification and with or without further notice of any kind. The Court further reserves the authority to enter its Final Order and Judgment approving the Settlement and dismissing the Claims against Defendant on the merits and with prejudice regardless of whether it has awarded attorneys' fees and expenses.

8. A Final Fairness Hearing (which, from time to time, and without further notice to the Class other than by filing a notice on the docket in the Class Action in advance of the Final Fairness Hearing, may be continued or adjourned by order of this Court) will be held by this Court on January 16, 2018 at 4:30 p.m. for the following purposes:

(a) to finally determine whether the Class satisfies the applicable prerequisites for certification under Fed. R. Civ. P. 23(a) and 23(b)(3);

(b) to finally determine whether the Settlement should be approved by the Court as fair, reasonable and adequate and in the best interests of the Class;

(c) to determine whether a Final Order and Judgment should be entered pursuant to the Stipulation of Settlement, dismissing the Class Action with prejudice as against the Plaintiff and the Class;

(d) to determine whether the proposed Plan of Allocation of the settlement fund set forth in the Notice is fair and reasonable, and should be approved by the Court;

(e) to consider any request by counsel for an award of attorneys' fees and reimbursement of litigation expenses;

(f) to hear and determine any objections to the Settlement or to any request by counsel for an award of attorneys' fees and reimbursement of litigation expenses; and

(g) to rule on such other matters as the Court may deem appropriate.

9. The Court approves the substance and requirements of the Notice, in the form annexed as Appendix "A" hereto.

10. No later than October 10, 2017, Interim Class Counsel shall mail, or cause to be mailed, the Notice to those Class members who can be identified through reasonable effort. Not later than October 20, 2017, Interim Class Counsel shall also cause a summary notice in the form annexed hereto as Appendix "B" to be published via PR Newswire or another national wire service and shall establish a website that will (at a minimum) provide Class members with access to this Order, the Stipulation of Settlement, the Notice, and all of the papers before the Court on this motion.

11. The Court finds that mailing and dissemination of the Notice, as described herein, constitutes the best notice practicable under the circumstances and is due and sufficient notice of

the matters set forth in the Notice to all Class Members, and fully satisfies the requirements of due process and of Rule 23 of the Federal Rules of Civil Procedure.

12. The Court will consider any objections, and comments in support of or in opposition to the Settlement, the Plan of Allocation, or any request by counsel for an award of attorneys' fees and reimbursement of litigation expenses, only if such comments and any supporting papers are in writing and filed with the Clerk of the Court, United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Room 130, Brooklyn, NY 11201, and copies of all such papers are served, on or before December 29, 2017 upon each of the following by U.S. Mail and e-mail:

Jeffrey M. Salas
SALAS WANG, LLC
73 West Monroe, Suite 219
Chicago, IL 60603
(312) 803-4963
(312) 244-3151 (fax)
jsalas@salaswang.com

James J. Eccleston
Stephany D. McLaughlin
ECCLESTON LAW, LLC
55 West Monroe, Suite 610
Chicago, IL 60603
(312) 332-0000
(312) 332-0003 (fax)
jeccleston@ecclestonlaw.com

Christopher J. Gray
Michael J. Giarrusso
LAW OFFICE OF CHRISTOPHER J. GRAY, P.C.
360 Lexington Avenue, 14th Floor
New York, New York 10017
(212) 838-3221
(212) 937-3139 (fax)
chris@investorlawyers.net

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