

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement Agreement,” “Agreement,” or “Settlement”)¹ is entered into between Plaintiffs, Mary Kovach and Lara Bellissimo, on behalf of themselves individually and as the representatives of a class of Persons defined below (“Plaintiffs”), and Compass Bank d/b/a BBVA Compass (“Compass” or “Defendant”). Plaintiffs and Compass are collectively referred to in this Agreement as the “Parties.”

RECITALS

WHEREAS, on June 21, 2018, Plaintiff Mary Kovach filed a putative class action lawsuit in the Circuit Court of Jefferson County, Alabama, captioned *Kovach v. Compass Bank*, Case No. 01-CV-2018-902504 (the “Litigation”);

WHEREAS, on July 27, 2018, Plaintiffs filed an amended complaint in the Litigation;

WHEREAS, in the Litigation, Plaintiffs contend that Compass violated Section 227(b)(1)(A) of the federal Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, *et seq.*, by allegedly making automated or prerecorded voice calls to individuals’ cellphones without prior express consent;

WHEREAS, Plaintiffs and Defendant have engaged in settlement discussions to determine whether they could reach a consensual resolution of the Litigation;

WHEREAS, The Parties agree that by having both Plaintiffs serve as Class Representatives (defined in Section 1.10 below), they better protect the class and insure adequacy;

WHEREAS, Plaintiffs and Defendant have reached an agreement in principle to resolve the Litigation;

WHEREAS, Plaintiffs’ attorneys have thoroughly investigated the relevant facts regarding

¹ Unless otherwise stated, capitalized terms shall have the meanings ascribed to them in Section I of this Settlement Agreement.

Defendant's use of automated dialing equipment and of telephone calls involving the use of a prerecorded or automated voice; Defendant's policies, practices, and procedures regarding the same; and the law relating to the Litigation, before determining whether the Litigation should be resolved by entering into this Settlement Agreement;

WHEREAS, Defendant denies all liability for the claims asserted in the Litigation;

WHEREAS, without admitting or conceding any wrongdoing or liability, and solely for the purpose of avoiding the inconvenience, expense, and risk of further litigation, Compass has agreed to settle all claims, demands, and liabilities between Defendant, on the one hand, and Plaintiffs, and the Settlement Class, on the other, including all claims that have been asserted, or could have been asserted, in the Litigation; and

WHEREAS, Plaintiffs and their counsel believe that the claims asserted in the Litigation have merit, but they have concluded that the terms and conditions provided in this Agreement are fair, reasonable, adequate, and in the best interests of the Settlement Class as a means of resolving the Litigation, considering (1) the benefits to the Settlement Class under this Settlement, (2) Defendant's demonstrated willingness to vigorously oppose class certification and the merits of Plaintiffs' claims if the Litigation is not settled, and (3) the attendant risks, costs, uncertainties, and delays of proceeding with the Litigation.

NOW, THEREFORE, it is agreed, by and among the undersigned, that the Litigation shall be settled on the terms and conditions set forth herein, subject to judicial approval.

I. DEFINITIONS

1.1. "Administration Costs" shall mean (i) the costs and expenses associated with the production and dissemination and publication of the Class Notice, (ii) the costs and expenses of the Settlement Administrator in effectuating this Agreement (but not the costs of the Mediation),

and (iii) any other costs associated with the Settlement of this Litigation (other than Plaintiffs' Incentive Awards and attorneys' fees and expenses (including costs) sought by Class Counsel).

1.2. "Agreement Execution Date" shall mean the date on which the final signature is affixed below to execute this Settlement Agreement.

1.3. "Approved Claims" shall mean the aggregate of all claims submitted by Class Settlement Members in accordance with the Final Order and Judgment and approved by the Settlement Administrator, after any review and challenge procedures as provided in Section 2.6(c).

1.4. "Attorneys' Fee Order" shall mean the Court's order on the Fee and Expense Application as contemplated in Section 8.1.

1.5. "Claim Form" shall mean the form that Settlement Class Members are required to complete and mail to the Settlement Administrator in order to receive a distribution from the Settlement Fund, which is identical in all material respects to that attached hereto as Exhibit 3.

The Claim Form will require claimants to:

- a. fully complete and sign (or an employee of claimant) and witness and attest that the information is "True and Accurate";
- b. declare they (1) received at least one subject phone call from Defendant, (2) were not a Compass customer who provided such phone number to Compass, and (3) were the subscriber or user of a specific cell phone number;
- c. include, (1) first and last name (and middle initial), (2) address information (street address, city, state and zip, email address, contact phone number), and (3) the cell phone number at which they received the phone call identified in subsection 1.5(b)(1); and
- d. state they "will not object to a request by the Settlement Administrator or the parties to this action to obtain my cell phone billing records from the wireless carriers only if necessary to verify my claim."

The Claim Form will further inform claimants that "You may submit only one claim form per cell phone number. Submitting more than one claim form will not increase your compensation

under the Settlement Agreement.”

1.6. “Claims Deadline” shall mean the date by which all Claim Forms must be postmarked to be considered timely and shall be set, subject to approval by the Court, on a date forty-five (45) days after the Final Approval hearing. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order as well as in the Short Form Class Notice, the Claim Form, the Long Form Class Notice, and the Publication Notice.

1.7. “Class Counsel” shall mean Myles McGuire, Evan M. Meyers, and Eugene Y. Turin of McGuire Law, P.C. and Scott A. Morgan of Morgan Law Firm, Ltd.

1.8. “Class Notice” shall mean the Short Form Class Notice, Long Form Class Notice, and the Publication Class Notice, collectively.

1.9. “Class Period” shall mean the period between June 21, 2014 and the date of entry of the Preliminary Approval Order.

1.10. “Class Representatives” shall mean the named Plaintiffs Mary Kovach and Lara Bellissimo in the Litigation.

1.11. “Collection Call” shall mean a telephone call placed for the purposed of attempting to obtain or encourage payment of any financial obligation or monies owed.

1.12. “Court” shall mean the Circuit Court of Jefferson County, Alabama and the judge to whom this matter is assigned or any judge who shall succeed that judge as presiding over the Litigation.

1.13. “Compass’s Counsel” shall mean Gregory C. Cook of Balch & Bingham LLP.

1.14. “Defendant” shall mean Compass Bank d/b/a BBVA Compass.

1.15. “Distributable Settlement Fund” shall have the meaning ascribed to it in Section 2.3(a).

1.16. “Effective Date” shall mean the date five (5) business days after the date upon which the Final Approval Order substantially in the form of Exhibit 6 becomes both final and no longer subject to appeal or review (or further appeal or review), whether by exhaustion of any possible appeal, lapse of time, or otherwise.

1.17. “Final Approval Hearing” shall mean the hearing to be held before the Court where Plaintiffs will request that the Settlement Agreement receive Final Approval and that the Court approve the Fee and Expense Application and Incentive Awards to the Class Representatives.

1.18. “Fee and Expense Application” shall mean the petition to be filed by Class Counsel, in which they seek approval of an award of attorneys’ fees, costs, and expenses.

1.19. “Final Approval” shall mean the entry of the Final Order and Judgment.

1.20. “Final Order and Judgment” shall mean a final order entered by the Court that grants approval of the Settlement following the Final Approval Hearing, and which is identical in all material respects to Exhibit 6 to this Settlement Agreement.

1.21. “Incentive Award” shall mean the incentive awards that the Court awards to the Plaintiffs pursuant to Section 7.1.

1.22. “Initial Payment” shall mean One Million Dollars (\$1,000,000.00) deposited in the Settlement Fund for the purpose of the Notice Plan and Administration Costs.

1.23. “Litigation” shall mean *Kovach v. Compass Bank d/b/a BBVA Compass*, Case No. 01-CV-2018-902504, currently pending in the Circuit Court of Jefferson County, Alabama.

1.24. “Long Form Class Notice” shall mean the non-summary notice that will be mailed by the Settlement Administrator on request from a Settlement Class Member and made available on a website to all Settlement Class Members. The Long Form Class Notice will be identical in all material respects to that attached hereto as Exhibit 1, and shall also include the Claim Form.

1.25. “Mediator” shall mean the Hon. Morton Denlow (Ret.) of JAMS, Inc., or any other mediator mutually agreed to by the Parties.

1.26. “Non-Claims Payment” shall mean an amount equal to the sum of (i) the Court-approved award of attorneys’ fees and costs in the Attorneys’ Fee Order and (ii) the Incentive Awards minus (iii) the outstanding balance of the Settlement Fund at the time the Non-Claims Payment is made.

1.27. “Notice Date” shall mean the date by which the Notice Plan has been completely carried out, and shall be a date no later than thirty (30) days after entry of the Preliminary Approval Order, or such other date as ordered by the Court.

1.28. “Notice Plan” shall mean the proposed plan developed by the Settlement Administrator of disseminating to members of the Settlement Class notice of the proposed Settlement and of the Final Approval Hearing. The Notice Plan will include both a direct notice and publication notice component, as set forth in Exhibit 4.

1.29. “Objection/Exclusion Deadline” shall mean the date by which Persons within the Settlement Class may submit a written objection to this Settlement Agreement or a Request for Exclusion. The Objection/Exclusion Deadline shall be a date no later than sixty (60) days after entry of the Preliminary Approval Order, or such other date as ordered by the Court.

1.30. “Parties” shall mean Plaintiffs and Defendant, collectively.

1.31. “Person” shall mean any individual, corporation, partnership, company, association, estate, legal representative, trust, or any business or legal entity.

1.32. “Plaintiffs” shall mean Mary Kovach and Lara Bellissimo.

1.33. “Preliminary Approval Order” shall mean an order entered by the Court that grants preliminary approval to the Settlement in accordance with Section 4.1, certifies the Settlement

Class, and approves the Notice Plan, and which is identical in all material respects to Exhibit 5 to this Settlement Agreement.

1.34. “Publication Notice” shall mean the publication component of the Notice Plan agreed to by the Parties, and shall be made through publication notice substantially in the form of Exhibit 4a attached hereto.

1.35. “Released Claims” shall mean any and all claims, liabilities, demands, causes of action, or lawsuits of the Settlement Class Members arising during the Class Period, whether known or unknown (including Unknown Claims), whether legal, statutory, equitable, or of any other type or form, whether under federal, state, or local law, and whether brought in an individual, representative, or any other capacity, of every nature and description whatsoever relating in any way to telephone calls by or on behalf of the Released Parties, including but not limited to those claims that relate to or arise out of the use of an “Automatic Telephone Dialing System (“ATDS”),” “automatic dialer,” “automated dialer,” “dialer,” and/or an “artificial or prerecorded voice” (as those terms are defined in the TCPA) that may have resulted in any violation of the TCPA or any other telephone- or telemarketing-related federal, state or local law, regulation or ordinance, including any claims that in any way relate to automated calls (i.e., those made using an ATDS and/or an artificial or prerecorded voice) made to cellular telephones by or on behalf of Defendant to Settlement Class Members or to telephone numbers assigned to Settlement Class Members where the called party did not provide prior express consent or where the called party previously revoked any prior express consent to receive such calls.

1.36. “Released Parties” shall mean: (a) Compass and all of its present, past, and future predecessors, successors, parents, subsidiaries, holding companies, affiliates, corporations, companies, customers, divisions, assigns, officers, directors, committees, employees, fiduciaries,

general partners, limited partners, shareholders, administrators, actuaries, agents, insurers, reinsurers, representatives, attorneys, retained experts, and trustees; and (b) any party that could be deemed to have made telephone calls on behalf of, or on whose behalf calls were made by, one of the entities listed in subsection (a) of this subsection, including but not limited to that party's present, past, and future predecessors, successors, parents, subsidiaries, holding companies, affiliates, corporations, companies, divisions, assigns, officers, directors, committees, employees, fiduciaries, general partners, limited partners, shareholders, administrators, actuaries, agents, insurers, reinsurers, representatives, attorneys, retained experts and trustees. The Parties expressly agree that any person or entity being released under this Agreement who is not a party to this Agreement is an intended third-party beneficiary of this Agreement.

1.37. “Request for Exclusion” shall mean a Person's request that complies with paragraph “(2) Exclude yourself” in the Long Form Class Notice, attached hereto as Exhibit 1.

1.38. “Settlement” shall mean the compromise and settlement agreement embodied in this Settlement Agreement.

1.39. “Settlement Administrator” shall mean Tilghman & Co., P.C., or such other person as the Parties' shall later mutually agree in writing and who agrees to accept such responsibility, as described in this Agreement.

1.40. “Settlement Class” shall mean all persons in the United States who received collection calls from Compass from June 21, 2014 through and including the date of the Preliminary Approval Order (a) where the call was directed to a phone number assigned to a cellular telephone service, (b) whose phone number appears in the records of Compass in association with a “wrong number” code (unless a subsequent Right Party Contact occurred in the records of Compass), (c) who were not a Compass Customer who provided such phone number to

Compass, (d) which calls were placed using an ATDS and/or artificial or prerecorded voice technology. Excluded from the term “Settlement Class” are: (1) any parent, subsidiary, affiliate, or controlled persons of Defendant, as well as the officers, directors, agents, servants, or employees of Defendant and the immediate family members of such persons; (2) governmental agencies, entities, or judicial officers; and (3) any person or entity which properly executes and submits a timely request for exclusion from the Settlement Class.

1.41. “Settlement Class Member” shall mean a Person who falls within the definition of the Settlement Class and who has not submitted a valid and timely Request for Exclusion from the Settlement Class.

1.42. “Settlement Class Period” shall mean the time period from June 21, 2014 through and including the date of the Preliminary Approval Order.

1.43. “Settlement Fund” means a cash settlement fund that shall be established by Defendant up to a maximum amount of Five Million Eight Hundred Sixty Thousand Dollars (\$5,860,000.00). The Settlement Fund shall be initially funded by Compass within ten (10) business days after the entry of the Preliminary Approval Order in the amount of the Initial Payment and subsequently funded by Compass in the amount of the Non-Claims Payment and the Final Claims Payment, as more specifically provided in Section 2.2 of this Agreement. The Initial Payment, Non-Claims Payment and Final Claims Payment are the only payments to be made into the Settlement Fund. The Settlement Administrator shall provide Defendant with its completed W-9 before the Initial Payment is due and if the W-9 form is not provided by the date the Initial Payment is due, then the Initial Payment will not be due until five (5) business days after the completed W-9 form for the Settlement Administrator is received by Defendant. Defendant shall make the Initial Payment to an escrow account designated by the Settlement Administrator and

transmitted via wire transfer following instructions to be provided by the Settlement Administrator. Defendant shall receive a credit in the amount of any Administration Costs against its Settlement Fund after such payment is made. The Settlement Fund shall be used to pay all Approved Claims, Administration Costs, Plaintiffs' Incentive Awards, and attorneys' fees and expenses (including costs) pursuant to the Attorneys' Fee Order. The Settlement Fund represents the limit and extent of Defendant's monetary obligations under this Agreement and the value of the Released Claims. In no event shall Defendant's total financial liability with respect to this Settlement exceed Five Million Eight Hundred Sixty Thousand Dollars (\$5,860,000.00). Once Defendant makes all payments required under this Agreement to the Settlement Fund, Defendant has no further payment obligation to the Settlement Class. The Parties shall ensure that the Settlement Administrator only makes payments from the Settlement Fund in accordance with this Agreement, or as ordered by the Court, and provides a full accounting for all receipts to the Settlement Fund and disbursements from the Settlement Fund.

1.44. "Short Form Class Notice" shall mean the summary notice distributed to potential Settlement Class Members, as provided herein, and identical in all material respects to that attached hereto as Exhibit 2.

1.45. "Unknown Claims" shall mean any Released Claims that Plaintiffs or any other members of the Settlement Class do not know or suspect to exist in their favor at the time of the release of the Released Parties and which, if known by them, might have affected their settlement with and release of the Released Parties. Without admitting that California law in any way applies to this Agreement, with respect to any and all Released Claims, the Parties agree that, upon the entry of the Final Order and Judgment, Plaintiffs and all Settlement Class Members shall be deemed to have, and by operation of the Final Order and Judgment shall have, expressly waived

the provisions, rights, and benefits of California Civil Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Plaintiffs and all other Settlement Class Members shall be deemed to have, and by operation of the Final Order and Judgment shall have, expressly waived all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code § 1542. Plaintiffs and all other Settlement Class Members shall be deemed by operation of the Final Order and Judgment to have acknowledged that the foregoing waiver was separately bargained for and is a key element of the Settlement of which this release is a part.

II. SETTLEMENT RELIEF

2.1. *Settlement Contingent.* This Settlement Agreement is contingent upon the Court entering (a) a Preliminary Approval Order substantially in the form of Exhibit 5 or in such other form which is mutually acceptable to all Parties and (b) a Final Order and Judgment substantially in the form of Exhibit 6 or in such other form which is mutually acceptable to all Parties. In the event conditions (a) and (b) do not both occur, this Settlement shall not be effective, as provided in Section 9.3.

2.2. *Settlement Fund.*

Compass agrees to pay up to a maximum of Five Million Eight Hundred Sixty Thousand Dollars (\$5,860,000.00) into the Settlement Fund solely as necessary under this Agreement. Upon the later of (i) ten (10) business days after the entry of the Preliminary Approval Order or (ii) five (5) business days after the Settlement Administrator provides to Compass a valid, completed W-9

form for the Settlement Administrator, Compass shall pay into the Settlement Fund the Initial Payment. Within seven business (7) days after the Effective Date, Compass shall pay into the Settlement Fund the Non-Claims Payment. Compass shall also pay into the Settlement Fund the Final Claims Payment (as defined in Section 2.7 below) within fourteen (14) days after the Claims Finalization Date, as stated in Section 2.7 below. The Initial Payment, Non-Claims Payment, and Final Claims Payment (i) are the only payments Compass shall make under this Settlement, (ii) shall be credited towards Compass's total payment obligation to the Settlement Fund, and (iii) shall collectively under no circumstances exceed \$5,860,000.00 in total. The Settlement Fund will be used to pay the following amounts in connection with the Settlement:

- (i) Compensation to the Settlement Class Members (the Distributable Settlement Fund, as defined in Section 2.3(a) below) for valid claims;
- (ii) Incentive Awards (as defined in Section 7.1 below) approved by the Court;
- (iii) Administration Costs; and
- (iv) All attorneys' fees and expenses (including costs) approved by the Court pursuant to the Attorneys' Fee Order.

2.3. *Distribution to Settlement Class Members.*

(a) The Distributable Settlement Fund shall consist of the difference of \$5,860,000.00 minus the amount of any Court-approved Incentive Award, Administration Costs, and attorneys' fees and expenses (including costs) pursuant to the Attorneys' Fee Order, and Settlement Administrator expenses to resolve challenged claims or claim denials (the "Distributable Settlement Fund").

(b) Each Settlement Class Member who timely submits a Claim Form by the Claims Deadline in accordance with Section 2.6(a) below that is found to be valid, as provided herein, shall be entitled to a single payment from the Distributable Settlement Fund not to exceed Three

Hundred Thirty-Nine Dollars (\$339.00).

(c) In the event that the Distributable Settlement Fund is not sufficient to allow each claimant with a valid claim to receive \$339.00, the amount paid to each claimant will be adjusted downward *pro rata*, so that the Distributable Settlement Fund is sufficient to pay all Approved Claims.

2.4. *Deadline for Cashing Checks.* Settlement Class Members shall have 180 days from the date a settlement check is issued (the date printed on the settlement check) to cash the check. All payments to Settlement Class Members via check will state on the face of the check that the check will expire and become null and void unless cashed within 180 days after the date of issuance. To the extent a check issued to a Settlement Class Member is not cashed within 180 days after issuance, such Settlement Class Member's claim is deemed to have been waived and the funds associated with any such uncashed claim checks shall be paid to a cy pres recipient selected by the Parties and approved by the Court. Any amounts left unused in the Settlement Fund (including the Distributable Settlement Fund) shall be used to pay the Settlement Administrator for the costs and fees of the Settlement Administrator referenced herein (or to reimburse Compass for any such payments to the Settlement Administrator). Any other remaining funds in the Settlement Fund after making all payments required under the Agreement (including the Distributable Settlement Fund) shall be paid to Defendant. The Settlement Administrator shall pay to Defendant any such funds within ten (10) business days after all other payments from the Settlement Fund are made pursuant to this Agreement.

2.5. *Entire Monetary Obligation.* It is understood and agreed that Compass's payment obligations under this Settlement Agreement will be fully discharged by payment of the amounts due in compliance with this Agreement, and that Compass shall have no other monetary

obligations to the Settlement Class, nor any obligations to make any other payments to Settlement Class Members under this Agreement or otherwise. Under no circumstances shall Compass's monetary obligations under this Agreement exceed Five Million Eight Hundred Sixty Thousand Dollars (\$5,860,000.00).

2.6. Claims Process.

(a) **Submission of Claims.** Only one claim may be submitted per telephone number, regardless of the number of Persons using that same telephone number, and regardless of the number of calls made to that telephone number. All Claim Forms must be emailed or mailed to the Settlement Administrator and postmarked by the Claims Deadline. Settlement Class Members who do not mail a timely and valid Claim Form on or before the Claim Deadline shall not be entitled to receive any portion of the Settlement Fund. A Claim Form is invalid if it does not contain all required information, is not signed by the claimant, or is not timely emailed or mailed. Settlement Class Members shall not be entitled to a portion of the Distributable Settlement Fund if they fail to submit a valid Claim Form substantially in the form attached hereto as Exhibit 3.

(b) **Claims Processing.** On a rolling basis, but in any event no later than fourteen (14) days after the Claims Deadline, the Settlement Administrator shall process all Claim Forms submitted by Settlement Class Members and shall determine which claims are initially approved claims and which claims are initially rejected. The Settlement Administrator shall confirm that each Claim Form submitted (1) is in the form required herein, (2) is timely, (3) is complete, (4) is made with regards to a cellular phone number (i) called by Compass with a wrong number disposition code according to Compass's records and (ii) that is not associated with a subsequent Right Person Called ("RPC") according to Compass's records, and (5) is not made by a customer of Compass according to Compass's records (i.e., that the claimant is a Settlement Class Member).

Within twenty-one (21) days after the Claims Deadline, the Settlement Administrator shall prepare an electronic Excel spreadsheet listing each initially approved claim, the name, address and email of the claimant, the telephone number at which the calls were received, the date(s) of the calls, whether the claimant was called by Compass, the amount to be paid to the claimant, and the reference number assigned to the claim form (“the Initially Approved Claims List(s)”). The Settlement Administrator shall provide Compass’s Counsel a copy of such spreadsheet, with an electronic pdf copy of all Claim Forms, with each Claim Form labeled with the Claim Form reference number contained in the Initially Approved Claims List.

Additionally, within twenty-one (21) days after the Claims Deadline, the Settlement Administrator shall provide counsel for each Party with an electronic pdf copy of all initially rejected claims and shall prepare a spreadsheet listing each rejected claim, the name, address, and email of the claimant, the telephone number at which the calls were received, the date(s) of the calls, the reason for the rejection of the claim, and a reference number assigned to the Claim Form (the “Initially Rejected Claims List(s)”).

(c) ***Review and Challenge of Claim Decisions.*** By the later of thirty (30) days after the Effective Date or forty-five (45) days after the date both Parties’ counsel receive the Initially Approved Claims List(s) and the Initially Rejected Claims List(s) and the electronic pdf copies of approved Claim Forms from the Settlement Administrator, the Parties shall audit and challenge any Initially Approved Claims or Initially Rejected Claims, including requesting information from the claimant’s telephone provider(s), by serving upon each other via email a Notice of Claim Challenges identifying by claim number any approved or rejected claims the respective Party wishes to challenge and the reason for the challenge. Class Counsel and Compass’s Counsel shall meet and confer in an effort to resolve any disputes over any claims challenged by either of them

and if the challenges are not withdrawn or resolved, the Parties shall, no earlier than forty-five (45) days after initially serving a challenge to the approval or rejection of a claim to the other Party, submit the challenges to the Settlement Administrator to resolve. Within fifteen (15) days of receipt of any challenge to the Initially Approved Claims List(s) and/or Initially Rejected Claims List(s) by the Parties, the Settlement Administrator shall resolve such challenge, and his decision shall be final. Any costs of the Settlement Administrator in resolving disputed claims shall be paid from the Settlement Fund. In resolving any disputed claims, the Defendant's records shall be deemed accurate and binding.

The date all claims are finalized either without any dispute or by the decision of the Settlement Administrator shall be referred to as the "Claim Finalization Date." If neither Class Counsel nor Compass's Counsel have any challenges to the Initially Approved Claims List(s) and/or the Initially Rejected Claims List(s), the Claims Finalization Date shall be the later of the Effective Date or the date on which both Class Counsel and Compass's Counsel inform the Settlement Administrator by email that neither Party has any objection to the claims determinations made by the Settlement Administrator or the time for informing each other of such challenges has lapsed. If the Settlement Administrator must resolve challenges to the Initially Approved Claims List(s) and/or Initially Rejected Claims Lists(s) as outlined above, then the Claim Finalization Date shall be the later of the Effective Date or the date on which the Settlement Administrator communicates to the Parties his decision regarding any such challenges.

2.7. *Payment of Claims.* Within seven (7) days of the Claim Finalization Date, the Settlement Administrator shall provide Compass with a spreadsheet setting forth the claim number, claimant name, address and email, amount of payment, and totaling the amount to be paid for all claims (the "Final Claims List"). Within fourteen (14) days of the Claims Finalization Date,

Compass shall pay to the Settlement Fund an amount sufficient for the Settlement Fund to pay all claims listed on the Final Claims List. Such payment shall be referred to as the “Final Claims Payment.” Notwithstanding any other provision of this Agreement, Compass shall not be required to make the Final Claims Payment before the Effective Date. The Final Claims Payment shall be made by Compass by wire (with wire instructions to be provided by the Settlement Administrator) to the escrow account maintained by the Settlement Administrator. The Settlement Administrator may then make payment from the Settlement Fund by issuing settlement checks to the Settlement Class Members listed on the Final Claims List. Once Compass makes the Final Claims Payment, its payment obligations to the Settlement Class Members under this Agreement shall be deemed to have been fully satisfied. The total of the Administration Payment, the Non-Claims Payment, and the Final Claims Payment shall not exceed \$5,860,000.00. Any amounts remaining in the Settlement Fund after issuance of settlement checks shall first be used to pay the Settlement Administrator for the costs and fees of the Settlement Administrator (or to reimburse Defendant for any such payments to the Settlement Administrator) and shall then be paid to Defendant, as further provided in Section 2.4.

2.8. Prospective Relief. Defendant has agreed to implement material changes to its business practices in order to reasonably minimize, if not eliminate, misdirected automated calls. Compass will agree to implement the following changes to its procedures regarding consumer collections calls and agrees that such changes shall remain in effect for two years:

- a. Implement a procedure that upon being told that a phone number is a wrong number, Compass will not intentionally call such number again via an ATDS unless contacted from such number in connection with a specific account or unless it is otherwise provided consent for calling such number;
- b. Implement real time reporting for management to monitor any dials to numbers previously coded as wrong number or cease and desist;
- c. Check periodically all phone numbers to be called against a telecom database

service to reach sufficient confidence that the phone number belongs to the Compass customer. If not, Compass will use human intervention dialing for such number until the number is verified; and

- d. Provide training for its consumer collections customer service representatives regarding TCPA compliance including but not limited to: the need to honor statements regarding wrong numbers and how to appropriately code phone numbers and remove phone numbers in the Compass software.

III. NOTICE TO THE CLASS

3.1. Notice to the Class. Upon entry of the Preliminary Approval Order, Class Counsel shall cause the Settlement Administrator to implement the Notice Plan, the costs of which shall be considered Administration Costs. Such Notice Plan shall comport with Due Process and shall include the following components:

(a) **Direct Notice.** Within twenty-one (21) days after entry of the Preliminary Approval Order, or such other date ordered by the Court, the Settlement Administrator shall disseminate by first class mail the Short Form Class Notice, substantially identical to Exhibit 2, to such persons that, according to Compass's records, have been called by Compass on their telephone during the relevant Class Period and indicated that the phone number was incorrect. The Settlement Administrator will use a reasonable means to locate address information which may be the reverse lookup of Settlement Class Members' current or last-known address information with a cross-reference of this information with the United States Postal Services' change of address database to confirm its accuracy. The Settlement Administrator shall also re-mail notices one time that are returned as unable to be delivered.

(b) **Publication Notice.** Within twenty-one (21) days after entry of the Preliminary Approval Order, or such other date ordered by the Court, Class Counsel shall cause the Settlement Administrator to implement the Publication Notice Plan, with the notice set forth in Exhibit 4.

(c) **Settlement Website.** Within twenty-one (21) days after entry of the Preliminary

Approval Order, the Long Form Class Notice shall be published on a website to be created and administered by the Settlement Administrator. The Settlement Website shall include pertinent case information and documents (including, but not limited, all relevant pleadings and motions and settlement agreement), as well as the ability to download the Long Form Notice substantially in the form of Exhibit 1. On the Settlement Website, Settlement Class Members will be able to download a Claim Form, substantially in the form of Exhibit 3. Settlement Class Members may also receive a Claim Form by mailing a request, sending an email with a request, or by calling the Settlement Administrator. The Settlement Administrator shall also establish a toll free phone number to receive phone calls from Settlement Class Members about Claim Forms and the claims process.

3.2. Exclusions. The Class Notice shall advise the Settlement Class Members of their right to exclude themselves from the Settlement Class. Settlement Class Members shall be permitted to exclude themselves from the Settlement Class, provided that they comply with the requirements for doing so as set forth in the Preliminary Approval Order and the Class Notice. A Person in the Settlement Class who requests to be excluded from the Settlement Class must do so in writing. A Request for Exclusion must be postmarked on or before the Objection/Exclusion Deadline. In order to exercise the right to be excluded, a Person in the Settlement Class must timely mail a written Request for Exclusion to the Settlement Administrator providing his/her name, address and email, a signature, the name and case number of this Lawsuit, the telephone number at which he or she claims to have been called by a Defendant, the telephone carrier associated with such number, whether the telephone was a cellular phone or a landline at the time of the call(s), and a statement that he or she wishes to be excluded from the Settlement Class. Any requests to be excluded that do not include all of the foregoing information, or that are sent to an address other

than that designated in the Notice, or that are not postmarked within the Objection/Exclusion Deadline, shall be deemed to be invalid and the Persons or entities serving such a request shall be members of the Settlement Class and shall be bound as Settlement Class Members by the Agreement, if approved.

Any Person in the Settlement Class who successfully submits a Request for Exclusion shall not: (i) be bound by any orders or the Final Order and Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Settlement Agreement; or (iv) be entitled to object to any aspect of this Settlement Agreement. The Request for Exclusion must be personally signed by the Person requesting exclusion. So-called “mass” or “class” opt-outs shall not be allowed.

If more than fifty (50) Settlement Class Members successfully submit a Request for Exclusion from the Settlement Class, Compass shall have the option to cancel or terminate this Agreement, which shall have the effects described in Section 9.3 below.

3.3. *Objections.* Settlement Class Members shall be permitted to object to the Settlement, provided that they comply with the requirements for filing an objection as set forth in the Preliminary Approval Order and the Class Notice. The Class Notice shall advise the Settlement Class Members of their rights to object to the Settlement Agreement. Objections to this Settlement Agreement, and any papers submitted in support of said objection, shall be received by the Court at the Final Approval Hearing if and only if, on or before the Objection/Exclusion Deadline approved by the Court and specified in the Class Notice, the Person making an objection files notice of his or her intention to do so and at the same time (a) files copies of such papers he or she proposes to submit at the Final Approval Hearing with the Clerk of the Court and (b) sends copies of such papers via mail, hand delivery, or overnight delivery service to both Class Counsel and

Compass's Counsel.

Any Settlement Class Member who intends to object to this Settlement Agreement must include: his/her full name, address and email; the telephone number(s) at which he or she claims to have received an automated call (including a call that used an automated or prerecorded voice) made by Defendant; the telephone carrier associated with each such identified telephone number; whether each such identified phone number was a cellular phone or a landline number at the time of the call(s); all grounds for the objection along with factual and legal support for the stated objection; and the identity of any other class action cases to which the Person objected in the previous four (4) years. If represented by counsel, the objecting Settlement Class Member must also provide the name and telephone number of his/her counsel.

Although an objector's attendance at the Final Approval Hearing is not mandatory, an objector who intends to attend the Final Approval Hearing must indicate in his/her written objection his/her intention to appear at the Final Approval Hearing on his/her own behalf or through counsel. For any Settlement Class Member who timely files a written objection and who indicates an intention to appear at the Final Approval Hearing on his/her own behalf or through counsel, such Settlement Class Member must also include in his/her written objection the identity of any witnesses he/she may call to testify, and all exhibits he/she intends to introduce into evidence at the Final Approval Hearing, which shall also be attached.

3.4. *Effect of Failing to Object.* Any Settlement Class Member who fails to timely file a written objection with the Court in accordance with the terms of Section 3.3 and the Class Notice, shall not be permitted to object to this Settlement Agreement at the Final Approval Hearing, shall be foreclosed from seeking any review of this Settlement Agreement by appeal or other means, and shall be deemed to have waived his/her objections and be forever barred from making any

such objections in the Litigation. To be valid, the objection must be filed with the Court and delivered to Class Counsel and Compass's Counsel on or before the Objection/Exclusion Deadline set by the Court and specified in the Class Notice.

IV. MOTION FOR PRELIMINARY APPROVAL AND PRELIMINARY CERTIFICATION OF PROPOSED SETTLEMENT CLASS FOR SETTLEMENT PURPOSES AND MOTION FOR FINAL ORDER AND JUDGMENT

4.1. *Motion for Preliminary Approval and Preliminary Certification of Settlement Class.* As soon as practicable after execution of this Agreement, Plaintiffs shall move for (i) preliminary approval of the Settlement, including entry of an order identical in all material respects to the form of the Preliminary Approval Order attached hereto as Exhibit 5, (ii) preliminary appointment of Class Representatives and Class Counsel, and (iii) for purposes of this Settlement only, preliminary and conditional certification of the Settlement Class. Excluded from the Settlement Class are Defendant and any parent, subsidiary, affiliate, or controlled persons of Defendant, as well as the officers, directors, agents, servants, or employees of Defendant and the immediate family members of such persons. The proposed Preliminary Approval Order submitted to the Court will seek a Final Approval Hearing date of approximately ninety (90) days from the entry of the Preliminary Approval Order.

4.2. *Motion for Final Approval and Final Certification of the Settlement Class.* At least fourteen (14) days prior to the Final Approval Hearing, or by some other date if so directed by the Court, Plaintiffs will move for (i) final approval of the Settlement, (ii) final appointment of the Class Representatives and Class Counsel, and (iii) final certification of the Settlement Class, including for the entry of a Final Order and Judgment identical in all material respects to the Final Order and Judgment attached hereto as Exhibit 6, and will file a memorandum in support of the motion for final approval.

4.3. *Certification for Settlement Purposes Only.* Compass agrees to not oppose certification of the Settlement Class only for the limited purpose of effectuating the Settlement Agreement. If the Settlement Agreement is not preliminarily or finally approved in all material respects, Compass reserves all rights to object to the propriety of class certification in the Litigation and in all other contexts and for all other purposes, and neither this Agreement nor Compass's non-opposition to the conditional certification of a settlement class for purposes of this Settlement may be cited as an admission by Compass of the propriety of class certification.

4.4. *Vacating Settlement Certification and Reservation of Rights.* The certification of the Settlement Class shall be binding only with respect to the settlement of the Litigation. If the Settlement Agreement is not approved, the Settlement is terminated, or the Settlement is reversed, vacated, or modified in any material respect by the Court or any other court, the certification of the Settlement Class shall be vacated, the Litigation shall proceed as though the Settlement Class had never been certified, and no reference to the prior Settlement Class or any documents related thereto shall be made for any purpose relating to class certification.

V. RELEASE

5.1. *Released Claims and Parties.* Upon entry of the Final Approval Order, the Settlement Class Members, on behalf of themselves, their predecessors, successors, assigns, beneficiaries, and additional insureds, shall be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally, and forever released, relinquished and discharged the Released Parties from and for any and all liability for the Released Claims, and shall be forever enjoined from the prosecution of each and every Released Claim against any and all of the Released Parties, provided, however, that nothing herein is meant to bar any claim seeking enforcement of this Agreement or court orders relating to it.

VI. SETTLEMENT ADMINISTRATION

6.1. *Settlement Administrator.* The Settlement Administrator shall administer the Settlement consistent with this Agreement subject to the supervision of Class Counsel, and with the supervision of the Court as circumstances may require.

6.2. *Settlement Administrator's Obligations.* The Settlement Administrator shall, under the supervision of the Court and Class Counsel, administer the relief provided by this Settlement Agreement by processing Claim Forms in a rational, responsive, cost effective, and timely manner. The Settlement Administrator shall maintain reasonably detailed records of its activities performed under this Settlement Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices and such records will be made available to Class Counsel and Compass's Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall provide Class Counsel and Compass's Counsel with information concerning Class Notice, the Notice Plan, claims filed and approved, claims filed and disallowed, and the administration and implementation of the Settlement Agreement.

Without limiting the foregoing, the Settlement Administrator shall:

(a) Forward to Compass's Counsel, with copies to Class Counsel, all original documents and other materials received in connection with the administration of the Settlement Agreement, and all copies thereof, within thirty (30) days after the Claim Finalization Date;

(b) Receive requests from Persons within the Settlement Class to exclude themselves from the Settlement Class and promptly provide Class Counsel and Compass's

Counsel a copy of said requests, regardless of whether the Settlement Administrator receives the exclusion request before or after the deadline for the submission of such forms and requests;

(c) Provide weekly reports to Class Counsel and Compass's Counsel, including without limitation, reports regarding the number of Claim Forms received, the number of Claim Forms approved by the Settlement Administrator, and the categorization and description of Claim Forms rejected, in whole or in part, by the Settlement Administrator; and

(d) Upon receipt of reasonable notice from Class Counsel or Compass's Counsel, make available for inspection at any time all Claim Forms and any other documents or correspondence relating to the Settlement.

6.3. *Challenges to Acceptance or Rejection of Claim Forms.* Both Class Counsel and Compass's Counsel shall have the right to challenge the acceptance or rejection of any Claim Form submitted by a Settlement Class Member in accordance with Section 2.6. If Class Counsel and Compass's Counsel reach an agreed decision regarding the acceptance or rejection of any Claim Form, the Settlement Administrator shall follow that decision. To the extent that Class Counsel and Compass's Counsel are not able to agree on the disposition of a challenge, the Settlement Administrator shall timely decide such a challenge and its decision shall be final in accordance with Section 2.6. If Compass challenges a Claim Form, Compass may attempt to obtain the phone records of the Settlement Class Member who submitted that Claim Form by issuing a subpoena to that Settlement Class Member's phone service provider. Any costs of the Settlement Administrator for challenges shall be considered Administration Costs to be paid from the Settlement Fund.

6.4 *Information about Administration Process.* Class Counsel and Defendant's

Counsel each agree to keep all information about the settlement administration process—including without limitation all information received pursuant to Section 6 of this Agreement, such as claims reports, information concerning opt-outs, Initially Approved and Rejected Claims Lists, the Final Claims List, and information about potential Settlement Class Members—confidential and may use it only for purposes of effectuating this Agreement. Notwithstanding the foregoing, as required by the Court or to effectuate the intent of this Agreement, the Parties may disclose: opt-outs, objections, claims and other documents as necessary to enforce the terms and conditions of this Agreement.

VII. INCENTIVE AWARDS TO CLASS REPRESENTATIVES

7.1. In recognition of their efforts on behalf of the Settlement Class, each of the Class Representatives shall, subject to the Court's approval, receive an Incentive Award in the amount of Five Thousand Dollars (\$5,000.00), in addition to any amounts that they may be entitled to receive under the Settlement Agreement.

7.2. Notwithstanding any contrary provision of this Agreement, the allowance or disallowance (in whole or in part) by the Court of any application for the Incentive Awards shall be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement, and any Order or proceedings relating to the Incentive Awards, or any appeal of any Order relating thereto, shall not operate to terminate or cancel this Agreement or be deemed material thereto.

7.3. The Settlement Administrator shall pay the amount of the Incentive Awards approved by the Court from the escrow account maintained by the Settlement Administrator within seven (7) business days after the Effective Date. The Settlement Administrator shall issue checks for any Incentive Awards in the approved amount made payable to the Class Representatives and

delivered to Class Counsel. This payment shall be credited as payment from the Settlement Fund. Plaintiffs shall provide Compass with their Social Security Numbers before the aforementioned payments are due.

VIII. ATTORNEYS' FEES

8.1. Class Counsel will move the Court for an award of attorneys' fees and expenses (including costs) to be paid from the Settlement Fund. Class Counsel may petition the Court for an award of attorneys' fees and expenses (including costs) not to exceed thirty (30) percent or One Million Seven Hundred Fifty Eight Thousand Dollars (\$1,758,000.00) of the Settlement Fund. Compass agrees not to object to Class Counsel's Fee and Expense Application if Class Counsel's request for attorneys' fees and expenses (including costs) does not exceed such amount. Class Counsel has, in turn, agreed not to seek or accept attorneys' fees and expenses (including costs) in excess of such amount.

8.2. Class Counsel will file their Fee and Expense Application no later than fourteen (14) days prior to the Objection/Exclusion Deadline. Notwithstanding any contrary provision of this Agreement, the Court's consideration of the Fee and Expense Application is to be conducted separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement Agreement, and the Attorneys' Fee Order or proceedings incident thereto, including any appeal thereof, shall not operate to terminate or cancel this Agreement or be deemed material thereto.

8.3. Class Counsel shall provide the Settlement Administrator with its completed W-9 before the payment of the award of attorneys' fees and costs is due. Within seven (7) business days after the Effective Date, Defendant shall pay into the Settlement Fund the Non-Claims Payment.

8.4. The Settlement Administrator shall pay from the Settlement Fund the amount

awarded in the Attorneys' Fee and Expenses Order fourteen (14) business days after the Effective Date. Any payment of the amount awarded in the Attorneys' Fee and Expenses Order shall be paid via electronic transfer to an account designated by McGuire Law, P.C.

IX. CONTINGENCIES, EFFECT OF DISAPPROVAL OR TERMINATION OF SETTLEMENT

9.1. *Option to Terminate.* If the Court or, in the event of an appeal, any appellate court, refuses to approve, or otherwise modifies any material aspect of this Agreement, the proposed Preliminary Approval Order, or the Final Order and Judgment, Compass may elect to terminate this Agreement and the Settlement as stated below.

9.2. *Events Giving Rise to Option to Terminate.* This Agreement and the Settlement shall terminate and be cancelled if Compass provides to Class Counsel written notification in accordance with Section 11.6 of this Agreement of its election of a right to terminate arising under this paragraph 9.2 within ten (10) business days after any of the following events:

(a) The Court declines to enter or materially modifies the contents of the Preliminary Approval Order attached hereto as Exhibit 5;

(b) The Court declines to enter or materially modifies the contents of the Final Order and Judgment attached hereto as Exhibit 6;

(c) The Court's Final Order and Judgment is vacated, reversed, or modified in any material respect on any appeal or other review or in a collateral proceeding occurring prior to the Effective Date;

(d) The Effective Date does not occur for some other reason. For purposes of this Agreement and this Section 9.2, no order of the Court, or modification or reversal on appeal of any order of the Court, concerning the amount in the Attorneys' Fees Order and/or Incentive Awards to the Class Representatives shall constitute grounds for

cancellation or termination of the Agreement;

(e) Any federal or state authorities object to or request material modifications to the Agreement; or

(f) More than fifty (50) Persons submit valid and timely Requests for Exclusion from the Settlement Class (provided the ten (10) business day period for notice shall run from when the Settlement Administrator notifies Defendant of this event).

9.3. *Effect of Termination.* If, for any reason, this Agreement is terminated or fails to become effective, then the Parties shall be deemed to have reverted to their respective status in the Litigation before the settlement term sheet was signed and before the Settlement Agreement was signed, and Plaintiffs and the Defendant shall proceed in all respects as if this Agreement and any related orders had not been entered. Further, neither this Agreement, nor any order issued by the Court in furtherance of this Agreement, shall have any effect if this Agreement is terminated nor shall this Agreement, or any order issued by the Court in furtherance of this Agreement, be used as evidence, or be used to support any argument of waiver, estoppel (including collateral, judicial, or promissory estoppel), or res judicata.

X. NO ADMISSION OF WRONGDOING

10.1 *No Admission of Liability.* As a result of the Litigation, Defendant has already implemented, and will continue to implement, certain changes to its business practices in order to reasonably minimize unauthorized automated calls and improve company policies for honoring do-not-call requests. Nonetheless, Compass has vigorously denied, and continues to deny, that it committed any violation of the TCPA or other laws, and has vigorously denied, and continues to deny, all allegations of wrongdoing or liability whatsoever with respect to the Released Claims, including any and all claims of wrongdoing or liability alleged or asserted in the Litigation.

Compass states that it is agreeing to this Settlement solely because it provides substantial and meaningful benefits to the Settlement Class and will eliminate the substantial burden, expense, and uncertainties of further litigation along with the concomitant use of resources and efforts.

10.2. *Agreement Not to be Construed as Evidence of Admission.* This Agreement and any of its terms, any agreement or order relating thereto, and any payment or consideration provided for herein, is not and shall not be construed as an admission by Compass or the Released Parties of any fault, wrongdoing, or liability whatsoever. This Agreement and any of its terms, any agreement, order, or notice relating thereto, and any payment or consideration provided for herein shall not be offered by any Party to be received in evidence in any civil, criminal, administrative, or other proceeding, as a presumption, concession, or admission of any fault, wrongdoing, or liability on the part of Compass or any of the Released Parties.

10.3. *Exceptions.* Nothing contained in this Section shall prevent this Agreement (or any agreement, order, or notice relating thereto) from being used, offered, or received in evidence in any proceeding to approve, enforce, or otherwise effectuate the Settlement (or any agreement or order relating thereto) or the Final Order and Judgment. This Agreement may be filed and used in other proceedings, where relevant, to demonstrate the fact of its existence and of this Settlement, including but not limited to the Released Parties filing the Agreement and/or the Final Order and Judgment in any other action that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, waiver, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

XI. MISCELLANEOUS

11.1. *Public Statements.* Class Counsel (and any affiliate counsel) shall not issue a press release or hold a press conference to discuss this Settlement (or information learned in this

matter). However, notwithstanding the foregoing, Class Counsel may explain to Settlement Class Members that the Lawsuit has been settled and how to obtain settlement benefits when contacted by Settlement Class Members regarding the Settlement and may include this Settlement on their firm website and in any court filings in the future. This Section shall not be construed to limit or impede the notice requirements of Section 3.1 above, nor shall this Section be construed to prevent Class Counsel from notifying or explaining to potential Settlement Class Members or others that this case has settled, the merits of such settlement, and how to obtain settlement benefits. Class Counsel warrants and represents to Defendant that that Class Counsel: (a) does not currently represent any client or clients that plan to, or are considering whether to, seek exclusion from the Settlement, and shall not advocate for same (or assist those who are so advocating); (b) are not currently aware of any Class Members that plan to, or are considering whether to, seek exclusion from the Settlement; and (c) will not solicit, or assist others in soliciting, Class Members to exclude themselves from the Class Settlement.

11.2. *Duty to Cooperate.* The Parties promise to cooperate in good faith and to take all actions reasonably necessary to effectuate this Agreement. Class Counsel (and any affiliate counsel) expressly acknowledge that a conflict of interest would exist if they represented (directly or indirectly) any individual (i) who will be a Settlement Class Member who challenges in any way the Settlement described in this Agreement; or (ii) who opts out or who claims at some later date that they were not bound by the terms of this Agreement for any reason. It is expressly acknowledged and agreed that no Party will institute, participate in, or encourage any appeal from an order implementing this Agreement; provided, however, any Party has the right to appeal an order which is in any way different from the material terms of this Agreement or which materially alters the consideration to be given by or to any Party. The Parties further agree that if, before the

Effective Date, any issues regarding interpretation or implementation of, or compliance with, this Settlement Agreement (other than disputes concerning challenges to a Initially Approved Claims List or a Initially Rejected Claims List, which shall be resolved in accordance with Section 2.6(c)) arise between or among the Parties and such issues cannot be resolved by the Parties themselves, either Party may submit such issues for binding arbitration before the Mediator, who will arbitrate the issues and deliver a decision that is binding on the Parties. In the event that the Mediator is unavailable or unwilling to act in this capacity and the Parties fail to agree upon a substitute individual to do so, either Party may apply to the administrator of JAMS, Inc. in Chicago, Illinois for the appointment of a neutral to serve in such capacity.

11.3. *Entire Agreement.* This Agreement is the entire agreement between the Parties regarding the subject matter covered by the terms of this Agreement and it supersedes any prior agreements, written or oral, including the term sheet and any written settlement offers or emails exchanged between the Parties regarding the subject matter covered by the terms of this Agreement. This Settlement Agreement cannot be altered, modified, or amended, except through a writing executed by all Parties.

11.4. *Construction of Agreement.* This Settlement Agreement shall be construed to effectuate the intent of the Parties to resolve all disputes encompassed by the Agreement. All Parties have participated in the drafting of this Agreement, and any ambiguity should not be resolved by virtue of a presumption in favor of any Party. The Settlement Agreement was reached at arm's-length by Parties represented by counsel.

11.5. *Executed in Counterparts.* This Settlement Agreement may be executed by exchange of executed signature pages by facsimile or Portable Document Format ("PDF") as an electronic mail attachment, and any signature transmitted by facsimile or PDF via electronic mail

for the purpose of executing this Settlement Agreement shall be deemed an original signature for purposes of this Settlement Agreement. This Settlement Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same instrument.

11.6. Notices. Unless otherwise provided herein, any notice, request, instruction, application for Court approval, or application for Court order sought in connection with the Agreement, other than documents electronically filed with the Court, shall be in writing and sent by electronic mail, or else delivered personally or sent by certified mail or overnight delivery service, postage pre-paid, with copies by e-mail to the attention of Class Counsel and Compass's Counsel (as well as to any other recipients that a court may specify). As of the date hereof, the respective representatives are as follows:

For Compass:

Gregory C. Cook
Balch & Bingham LLP
1901 Sixth Ave. N., Suite 1500
Birmingham, AL 35203
205.226.3426
gcook@balch.com

For the Settlement Class:

Myles McGuire
Evan M. Meyers
Eugene Y. Turin
McGuire Law, P.C.
55 W. Wacker Drive, 9th Fl.
Chicago, IL 60601
Tel: (312) 893-7002
mmcguire@mcgpc.com
emeyers@mcgpc.com
eturin@mcgpc.com

11.7. Extensions of Time. The Parties may agree, subject to the approval of the Court

where required, to reasonable extensions of time to carry out the provisions of the Agreement.

11.8. *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of Alabama without giving effect to any conflict of law provisions that would cause the application of the laws of any jurisdiction other than Alabama.

11.9. *Recitals.* The Parties hereby agree that each of the recitals set forth above is true and correct. Each of the definitions and recitals set forth above is expressly incorporated into this “Agreement” section of this Agreement. Each of the Parties agree not to contest the accuracy of any of the recitals set forth above.

11.10. *Expenses.* Except as specified in Section 8 or as otherwise expressly set forth herein, each Party hereto will pay all of its own fees, costs, and expenses incurred in connection with the Litigation, including fees, costs, and expenses incident to the Mediation, the negotiation, preparation, or compliance with this Agreement, and including any fees, expenses, and disbursements of counsel, accountants, and other advisors. Nothing in this Agreement shall require Compass to pay any monies other than as expressly provided herein.

11.11. *Jurisdiction.* The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and the Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Agreement.

IN WITNESS WHEREOF, the undersigned have caused this Settlement Agreement to be executed as of the dates set forth below.

ON BEHALF OF PLAINTIFFS AND SETTLEMENT CLASS:

MARY KOVACH

Date:

LARA BELLISSIMO

Date:

ON BEHALF OF CLASS COUNSEL:

Myles McGuire
Evan M. Meyers
Eugene Y. Turin
MCGUIRE LAW, P.C.
55 West Wacker Drive, 9th Floor
Chicago, Illinois 60601

Date:

ON BEHALF OF DEFENDANT COMPASS:

Name:

Title:

Date:

Exhibits

Exhibit 1	Long Form Class Notice
Exhibit 2	Short Form Class Notice
Exhibit 3	Claim Form
Exhibit 4	Notice Plan
Exhibit 4a	Publication Notice
Exhibit 5	Draft Preliminary Approval Order
Exhibit 6	Draft Final Order and Judgment

EXHIBIT 1

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Kovach v. Compass Bank, Case No. 01-CV-2018-902504 (Ala. Cir. Ct. Jefferson Cnty.)

For more information, visit www.website.com.

Para una notificación en Español, visitar www.website.com.

PLEASE READ THIS NOTICE CAREFULLY. YOU MAY BE ENTITLED TO A CASH PAYMENT OF UP TO \$339 FROM A CLASS ACTION SETTLEMENT IF YOU RECEIVED AN AUTOMATED TELEPHONE COLLECTION CALL ON YOUR CELLULAR TELEPHONE FROM COMPASS BANK AND IF YOU DID NOT HAVE AN ACCOUNT WITH COMPASS BANK AND DID NOT CONSENT TO RECEIVE THE CALL. THIS NOTICE EXPLAINS YOUR RIGHTS AND OPTIONS AND THE DEADLINES TO EXERCISE THEM.

This is a court-authorized notice of a proposed class action settlement. This is not a solicitation from a lawyer and is not notice of a lawsuit against you.

WHY DID I GET THIS NOTICE?

This is a court-authorized notice of a proposed settlement in a class action lawsuit, *Kovach v. Compass Bank d/b/a BBVA Compass*, Case No. 01-CV-2018-902504, pending in the Circuit Court of Jefferson County, Alabama, Birmingham Division before the Honorable [REDACTED]. The settlement would resolve a lawsuit brought on behalf of persons who allege that Compass Bank d/b/a BBVA Compass (“Compass Bank”) unlawfully made automated telephone collection calls to the cellphones of persons who did not have a Compass Bank account and did not consent to receive the automated phone calls. If you received this notice directly, you have been identified as someone who may have received one of these automated phone calls on your cellphone. The Court has granted preliminary approval of the settlement and has conditionally certified the Settlement Class for purposes of settlement only. This notice explains the nature of the class action lawsuit, the terms of the Settlement, and the legal rights and obligations of the Settlement Class Members. Please read the instructions and explanations below so that you can better understand your legal rights.

WHAT IS THIS LAWSUIT ABOUT?

The federal Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”), prohibits automated and prerecorded or artificial voice calls to the cellular telephones of individuals who did not provide prior express consent to receive such calls. This lawsuit alleges that Compass Bank violated the TCPA by making automated and prerecorded or artificial voice collection calls to the cellphones of persons who did not have an account with Compass Bank and did not consent to receive the phone calls. Compass Bank contests these claims and denies that it violated the TCPA.

WHY IS THIS A CLASS ACTION?

A class action is a lawsuit in which an individual called a “Class Representative” brings a single lawsuit on behalf of other people who have similar claims. All of these people together are a “Class” or “Class Members.” Once a Class is certified, a class action Settlement finally approved by the Court resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Settlement Class.

By order of: Hon. _____, Jefferson County Courthouse, 716 N. Richard Arrington Blvd., Courtroom _____,
Birmingham, Alabama 35203

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QUESTIONS? VISIT WWW.WEBSITE.COM OR CALL TOLL FREE 1-999-999-9999.

WHY IS THERE A SETTLEMENT?

To resolve this matter without the expense, delay, and uncertainties of litigation, the Parties have reached a Settlement, which resolves all claims against Compass Bank and any affiliated entities on whose behalf the calls were placed. The Settlement requires Compass Bank to pay money to the Settlement Class, as well as pay settlement administration expenses, attorneys' fees and costs to class counsel, and incentive payments to the Class Representatives, if approved by the Court. The Settlement is not an admission of wrongdoing by Compass Bank and does not imply that there has been, or would be, any finding that Compass Bank violated the law.

The Court has already preliminarily approved the Settlement. Nevertheless, because the settlement of a class action determines the rights of all members of the class, the Court overseeing this lawsuit must give final approval to the Settlement before it can be effective. The Court has conditionally certified the Settlement Class for settlement purposes only, so that members of the Settlement Class can be given this notice and the opportunity to exclude themselves from the Settlement Class, to voice their support or opposition to final approval of the Settlement, and to submit a Claim Form to receive the relief offered by the Settlement. If the Court does not give final approval to the Settlement, or if it is terminated by the Parties, the Settlement will be void, and the lawsuit will proceed as if there had been no settlement and no certification of the Settlement Class.

WHO IS IN THE SETTLEMENT CLASS?

You are a member of the Settlement Class if, at any time between June 21, 2014 and __, 2018, Compass Bank made an automated telephone call or a telephone call featuring a prerecorded or artificial voice to your cellphone regarding the collection of a consumer debt and you did not have an account with Compass Bank and did not consent to receive such calls. If you received one or more such unauthorized calls, then you may visit the settlement website www.website.com for further instructions on making a claim for cash benefits.

WHAT ARE MY OPTIONS?

(1) Accept the Settlement.

To accept the Settlement, you must submit a Claim Form by _____. You may obtain a Claim Form at www.website.com, and you may submit your Claim Form by email or U.S. Mail (sent or postmarked by _____, 2018) to the Settlement Administrator at _____ or ____@____.com. If the Settlement is approved and your claim is deemed valid, a check will be mailed to you. ***Submitting a valid and timely Claim Form is the only way to receive a payment from this Settlement, and is the only thing you need to do to receive a payment.***

(2) Exclude yourself.

You may exclude yourself from the Settlement. If you do so, you will not receive any cash payment, but you will not release any claims you may have against Compass Bank and the Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have by pursuing your own lawsuit against the Released Parties at your own risk and expense. To exclude yourself from the Settlement, you must mail a signed letter to the Settlement Administrator at _____, postmarked by _____. The exclusion letter must state that you exclude yourself from this Settlement and must include the name and case number of this litigation, as well as your full name, address, the cellphone number on which you received the calls at issue, the carrier of that cellphone number, a statement that you wish to be excluded, and your signature.

(3) Object to the Settlement.

If you wish to object to the Settlement, you must submit your objection in writing to the Clerk of the Court of the Jefferson County Courthouse, 716 N. Richard Arrington Blvd., Birmingham, Alabama 35203. The

By order of: Hon. _____, Jefferson County Courthouse, 716 N. Richard Arrington Blvd., Courtroom _____, Birmingham, Alabama 35203

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QUESTIONS? VISIT WWW.WEBSITE.COM OR CALL TOLL FREE 1-999-999-9999.

objection must be received by the Court no later than _____. You must also send a copy of your objection to the attorneys for all Parties to the lawsuit, including the attorneys representing the Class Representatives and the Settlement Class (Myles McGuire, Evan M. Meyers, and Eugene Y. Turin, MCGUIRE LAW, P.C., 55 West Wacker Drive, 9th Floor, Chicago, Illinois 60601), as well as the attorneys representing Compass Bank (Gregory C. Cook, BALCH & BINGHAM LLP, 1901 Sixth Ave. N., Suite 1500, Birmingham, AL 35223), postmarked no later than _____. Any objection to the proposed Settlement must include your full name; address; the telephone number(s) at which you received an automated call from Compass Bank; the telephone carrier associated with each such identified telephone number; whether each identified telephone number is a cellular phone or a residential landline; the identification of any other objections you have filed, or have had filed on your behalf, in any other class action cases in the last four years; and all grounds for the objection with factual and legal support for the stated objection. If you hire an attorney in connection with making an objection, that attorney must also file with the Court a notice of appearance by the objection deadline of _____. If you do hire your own attorney, you will be solely responsible for payment of any fees and expenses the attorney incurs on your behalf. If you exclude yourself from the Settlement, you cannot file an objection.

You may appear at the Final Approval Hearing, which to be held on _____, **2018 at ___ a.m.**, in the Jefferson County Courthouse, 716 N. Richard Arrington Blvd., Courtroom _____, Birmingham, Alabama 35203, in person or through counsel, to show cause of why the proposed Settlement should not be approved as fair, reasonable, and adequate. Attendance at the hearing is not necessary; however, persons wishing to be heard orally in opposition to the approval of the Settlement, the request for attorneys' fees and expenses, and/or the request for Incentive Awards to the Class Representatives are required to indicate in their written objection their intention to appear at the hearing on their own behalf or through counsel and to identify the names of any witnesses they intend to call to testify at the Final Approval Hearing, as well as any exhibits they intend to introduce at the Final Approval Hearing.

(4) Do Nothing.

If you do nothing, you will receive no money from the Settlement Fund, but you will still be bound by all orders and judgments of the Court. Unless you exclude yourself from the Settlement, you will not be able to file or continue a lawsuit against the Released Parties regarding any of the Released Claims. *Submitting a valid and timely Claim Form is the only way to receive a payment from this Settlement.*

For information on how to request exclusion from the class or file an objection, or for more information on submitting a claim, please visit the Settlement website www.website.com, or call (XXX) XXX-XXXX.

WHAT DOES THE SETTLEMENT PROVIDE?

A. Cash Payments. Compass Bank has agreed to create a \$5,860,000 Settlement Fund for the Class Members. All Settlement Class Members are entitled to submit a Claim Form in order to receive a payment out of the Settlement Fund. If the Settlement is approved, each Settlement Class Member who submits a timely Claim Form that is deemed valid will be entitled to an equal payment of up to \$339 paid out of the Settlement Fund. The exact amount of each Class Member's payment is unknown at this time; it may be as much as \$339, but it may be less depending on several factors, including how many Settlement Class Members return valid Claim Forms and the costs of the other expenses to be paid from the Settlement Fund. The Settlement Administrator will issue a check to each Class Member who submits a valid Claim Form following the final approval of the Settlement. All checks issued to Settlement Class Members will expire and become void 180 days after they are issued. Additionally, the attorneys who brought this lawsuit (listed below) will ask the Court to award them attorneys' fees and costs of up to 30 percent of the Settlement Fund for the substantial time, expense and effort expended in investigating the facts, litigating the case and negotiating the Settlement. The Class Representatives will also apply to the Court for a payment of up to \$5,000 for their time, effort, and service in this matter.

B. Service Improvements & Assurances. As part of this Settlement, Compass Bank has also agreed to make changes to its calling practices going forward for the next two years, including the following:

By order of: Hon. _____, Jefferson County Courthouse, 716 N. Richard Arrington Blvd., Courtroom _____, Birmingham, Alabama 35203

- i. Compass Bank will implement a policy that, upon being told that a cellular telephone number is a wrong number, Compass Bank will not intentionally call such cellular telephone number again via an automated telephone dialing system unless contacted from such number in connection with a specific account or unless it is otherwise provided consent for calling such number;
- ii. Compass Bank will implement real-time reporting for management to monitor any dials to numbers previously coded in its records as “wrong number” or “cease and desist”;
- iii. Compass Bank will periodically check all phone numbers to be called against a telecom database service to reach sufficient confidence that the phone number is the Compass customer. If not, Compass will use human intervention dialing for such number until the number is verified; and
- iv. Compass Bank will provide training for its customer service representatives doing collections work regarding TCPA compliance, including but not limited to: the need to honor statements regarding wrong numbers, and how to appropriately code phone numbers and remove phone numbers in the Compass Bank software.

WHAT RIGHTS AM I GIVING UP IN THIS SETTLEMENT?

Unless you exclude yourself from this Settlement, you will be considered a member of the Settlement Class, which means you give up your right to file or continue a lawsuit against Compass Bank and its related entities, agents, and clients relating to the making of automated/prerecorded calls from June 21, 2014 through ____, 2018. Giving up your legal claims is called a release. The precise terms of the release are set forth in the Settlement Agreement, which is available on the settlement website. Unless you formally exclude yourself from this Settlement, you will release your claims whether or not you submit a Claim Form and receive payment. If you have any questions, you can talk for free to the attorneys identified below who have been appointed by the Court to represent the Settlement Class, or you are welcome to talk to any other lawyer of your choosing at your own expense.

WHEN WILL I BE PAID?

The Parties cannot predict exactly when (or whether) the Court will give final approval to the Settlement, so please be patient. However, if the Court finally approves the Settlement, you will be paid as soon as possible after the Court order becomes final, which should occur within approximately ___ days after the Settlement has been finally approved. If there is an appeal of the Settlement, payment may be delayed. Updated information about the case is available at www.website.com, or you can call the Settlement Administrator at _____, or contact Class Counsel at the information provided below.

WHEN WILL THE COURT RULE ON THE SETTLEMENT?

The Court has already given preliminary approval to the Settlement. A final hearing on the Settlement, called a final approval or fairness hearing, will be held to determine the fairness of the Settlement. At the Final Approval Hearing, the Court will also consider whether to make final the certification of the Class for Settlement purposes, hear any proper objections and arguments to the Settlement, as well as any requests for an award of attorneys’ fees and expenses and a Incentive Awards for the Class Representatives that may be sought by Class Counsel. The Court will hold the Final Approval Hearing on _____ at ___:___ a.m. at the Jefferson County Courthouse, 716 N. Richard Arrington Blvd., Courtroom _____, Birmingham, Alabama 35203.

By order of: Hon. _____, Jefferson County Courthouse, 716 N. Richard Arrington Blvd., Courtroom _____, Birmingham, Alabama 35203

If the Settlement is given final approval, the Court will not make any determination as to the merits of the claims against Compass Bank or its defenses to those claims. Instead, the Settlement's terms will take effect and the lawsuit will be dismissed on the merits with prejudice. Both sides have agreed to the Settlement in order to achieve an early and certain resolution to the lawsuit, in a manner that provides specific and valuable benefits to the members of the Settlement Class.

If the Court does not approve the Settlement, if it approves the Settlement and the approval is reversed on appeal, or if the Settlement does not become final for some other reason, you will not be paid at this time and Class Members will receive no benefits from the Settlement. Plaintiff, Compass Bank, and all of the Class Members will be in the same position as they were prior to the execution of the Settlement, and the Settlement will have no legal effect, no class will remain certified (conditionally or otherwise), and the Plaintiffs and Compass Bank will continue to litigate the lawsuit. There can be no assurance that if the Settlement is not approved, the Settlement Class will recover more than is provided in the Settlement, or indeed, anything at all.

WHO REPRESENTS THE CLASS?

The Court has approved the following attorneys to represent the Settlement Class. They are called "Class Counsel." You will not be charged for these lawyers. If you want to be represented by your own lawyer instead, you may hire one at your own expense.

Myles McGuire Evan M. Meyers Eugene Y. Turin MCGUIRE LAW, P.C. 55 W. Wacker Drive, 9 th Floor Chicago, IL 60601 mmcguire@mcgpc.com emeyers@mcgpc.com eturin@mcgpc.com Tel: 312-893-7002	Scott A. Morgan MORGAN LAW FIRM, LTD. 55 W. Wacker Dr., 9th Fl. Chicago, IL 60137 smorgan@smorgan-law.com Tel: 312-327-3386
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WHERE CAN I GET ADDITIONAL INFORMATION?

This Notice is only a summary of the proposed Settlement of this lawsuit. More details are in the Settlement Agreement which, along with other documents, can be obtained at www.website.com. If you have any questions, you can also call the Settlement Administrator at _____ or Class Counsel at the numbers or email addresses set forth above. In addition to the documents available on the settlement website, all pleadings and documents filed in Court may be reviewed or copied in the Office of the Clerk. Please do not call the Judge or the Clerk of the Court about this case, as they will not be able to give you advice on your options.

By order of: Hon. _____, Jefferson County Courthouse, 716 N. Richard Arrington Blvd., Courtroom _____,
Birmingham, Alabama 35203

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QUESTIONS? VISIT WWW.WEBSITE.COM OR CALL TOLL FREE 1-999-999-9999.

EXHIBIT 2—SHORT FORM NOTICE

IF YOU RECEIVED AN AUTOMATED TELEPHONE COLLECTION CALL FROM COMPASS BANK, BUT DID NOT HAVE A BANK ACCOUNT WITH COMPASS BANK AND DID NOT CONSENT TO RECEIVE THE CALL, YOU MAY BE ENTITLED TO A CASH PAYMENT FROM A CLASS ACTION SETTLEMENT

Kovach v. Compass Bank, Case No. 01-CV-2018-902504 (Ala. Cir. Ct. Jefferson Cnty.)
Para una notificacion en Espanol, visitar www.website.com.

A settlement has been reached in a class action lawsuit involving automated and prerecorded or artificial voice collection calls that Compass Bank d/b/a BBVA Compass (“Compass Bank”) made to individuals who did not have a Compass Bank account and who did not consent to receive such calls. The lawsuit, *Kovach v. Compass Bank*, Case No. 01-CV-2018-902504 (Ala. Cir. Ct. Jefferson Cnty.), alleges that Compass Bank violated the federal Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”), by making automated and prerecorded or artificial voice calls to the cellphones of persons who did not consent to receive such calls. The proposed settlement is not an admission of wrongdoing by Compass Bank. Compass Bank denies that it violated the TCPA or any similar laws, and the Court hasn’t decided who is right or wrong. Rather, the parties are resolving the dispute by settlement.

Am I a Member of the Settlement Class?

You could be a member of the Settlement Class if, at any time between June 21, 2014 and _____, 2018, Compass Bank made an automated telephone call or a telephone call featuring a prerecorded or artificial voice call to your cellphone regarding the collection of a consumer debt, and you did not have a Compass Bank account and did not consent to receive such calls.

What Can I Get From the Proposed Settlement?

If the Court finally approves the settlement, class members who timely submit a valid claim form will be entitled to an equal payment of up to \$339 out of a \$5,860,000 Settlement Fund that Compass Bank has agreed to create. The exact amount of each class member’s payment is unknown at this time; it may be as much as \$339, but it may be less depending on several factors, including how many settlement class members return valid claim forms. Administration expenses, attorneys’ fees and costs, and incentive awards are also paid from the Settlement Fund.

To make a claim for a cash payment, you must submit a completed claim form via email or U.S. mail by _____, 2018.

What are my Options?

Please visit the settlement website, www.website.com, for details about your options and related deadlines. If you do not want to be legally bound by the settlement, you must exclude yourself by _____, 2018. If you do not exclude yourself, you will release any claims you may have, as more fully described in the Settlement Agreement, available at the settlement website. You may also object to the settlement by making a valid objection by _____, 2018. The Long Form Notice, available on the website, explains how to exclude yourself or object. The Court will hold a hearing on _____, 2018 to consider whether to approve the settlement and a request by Class Counsel for attorneys’ fees and expenses of up to 30 percent of the Settlement Fund for their work in the case. The Court will also consider an incentive award payment in an amount up to \$5,000 to each of the class representatives. You may appear at the hearing, either by yourself or through an attorney hired by you, but you don't have to.

For more information and for a claim form, visit www.website.com or call 1-999-999-9999.

EXHIBIT 3

**COMPASS BANK D/B/A BBVA COMPASS
CLASS ACTION SETTLEMENT
PROOF OF CLAIM FORM**

**TO RECEIVE A PAYMENT FROM THE SETTLEMENT FUND, YOU MUST
COMPLETE THIS CLAIM FORM AND SUBMIT IT BY [REDACTED], 2018 AND IT MUST BE
VALIDATED BY THE SETTLEMENT ADMINISTRATOR.**

IMPORTANT NOTE: You must submit this claim form by email or mail to the address stated in Step 4 below with a postmark date of no later than [Date] in order for its validity to be considered to receive payment. To complete this claim form, read the instructions below in Step 1; provide the requested information in Step 2; sign the certification in Step 3; and submit the claim form using one of the methods stated in Step 4.

Each Settlement Class Member may submit only one claim form regardless of the number of telephone calls received, and there can be only one claim for any given phone number. Submitting more than one claim form will not increase your compensation under the Settlement Agreement. Failure to follow all steps below will result in denial of your claim.

QUESTIONS or HELP: Call [Settlement Administrator] at 1-800-XXX-XXXX.

INFORMATION at: www.settlementwebsite.com

STEP 1 – DIRECTIONS

In the spaces below, print your (i) name, (ii) address, and (iii) the cellular telephone number at which you received an automated telephone call from Compass Bank d/b/a BBVA Compass (“Compass”). Remember that only calls received between June 21, 2014 and [Prelim Approval] to which you did not consent are eligible for a claim.

STEP 2 – CLAIMANT INFORMATION

Name: _____
(First) (Middle Initial) (Last)

Address: _____
(Street)

(City) (State) (Zip Code)

(Email Address)

Cellular Telephone number: (____) ____ - ____

You must enter the telephone number at which you received the unauthorized automated collection calls from Compass between June 21, 2014 and [date of Prelim Approval].

STEP 3 – CERTIFICATION

I hereby certify that:

- 1. During the period June 21, 2014 through [Date of Preliminary Approval] 2018, I received one or more collection calls from Compass Bank on my cellular telephone;**
- 2. I am not now, nor was I, a Compass customer during the period June 21, 2014 through [Date of Preliminary Approval] 2018;**
- 3. I did not consent to receive the automated call(s); and**
- 4. I was the subscriber or authorized user of the telephone number(s) listed above at the time I received the automated call(s) during the date range in question.**

I certify that all the above statements are TRUE AND ACCURATE to the best of my knowledge. I understand that the Settlement Administrator has the right to verify my responses with my telephone carrier or otherwise dispute any claims that are based on inaccurate responses, and I will not object to a request by the Settlement Administrator or the parties to this action to obtain my cell phone billing records from the wireless carriers only if necessary to verify my claim.

Signature

Date

STEP 4 – METHODS OF SUBMISSION

Please complete and sign the claim form above and return it to the Settlement Administrator by mail or email, sent or postmarked no later than [Date], and addressed to:

EXHIBIT 4
TILGHMAN & CO., P.C.
Notice Plan Outline

Kovach v. Compass Bank, Case No. 01-CV-2018-902504 (Ala. Cir. Ct. Jefferson Cnty.)

Tilghman & Co., Settlement Administrator under the Settlement Agreement in the above matter, submits the following plan to notify Class Members of the Agreement.

Proposed Settlement

Class:

All persons in the United States who received collection calls from Compass Bank from June 21, 2014 through and including the date of the Preliminary Approval Order (“Settlement Class Period”) (a) where the call was directed to a phone number assigned to a cellular telephone service, (b) whose phone number appears in the records of Compass Bank in association with a “wrong number” code (unless a subsequent Right Party Contact occurred in the records of Compass Bank), (c) who were not a Compass Bank customer who provided such phone number to Compass Bank, (d) which calls were placed using an automatic telephone dialing system or artificial or prerecorded voice technology. Excluded from the Class are: (1) governmental agencies, entities, or judicial officers; and (2) any person or entity which properly executes and submits a timely request for exclusion from the Class.

Notice Guidelines:

“Best notice practicable under the circumstances” under Ala. R. Civ. P. 23(c)(2).

Target Audience for

Media Effort:

Primary: U.S. Adults aged 18+ who own a cell phone

NOTICE PLAN SUMMARY

1. **Individual Notice**

Within twenty-one (21) days after entry of the Preliminary Approval Order the Settlement Administrator will conduct a reverse lookup of all telephone numbers that Compass Bank has identified in its existing call records as being recipients of “wrong number” calls, and is not associated with a subsequent Right Person Called (“RPC”) according to Compass’s records, and mail the Short Form Notice by postcard to all addresses that it is able to obtain.

2. **Publication Notice**

Within twenty-one (21) days after entry of the Preliminary Approval the Settlement Administrator will publish for national circulation in USA Today a one-time quarter page ad directed towards potential Class Members in the form below in Exhibit 4(a).

3. **Website**

Within twenty-one (21) days after entry of the Preliminary Approval the Settlement Administrator will make available a website that shall include pertinent case information and documents (including all relevant pleadings and motions and settlement agreement), as well as the ability to download the Long Form Notice and the Claim Form.

4. **Toll-free phone number**

Within twenty-one (21) days after entry of the Preliminary Approval Order the Settlement Administrator will establish a toll-free phone number to provide automated guidance to Class Members seeking additional information about the settlement or the claims process.

EXHIBIT 4(a)

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

IF YOU WERE NOT A COMPASS BANK CUSTOMER AND RECEIVED AN AUTOMATED TELEPHONE COLLECTION CALL FROM COMPASS BANK WITHOUT YOUR CONSENT, YOU MAY BE ENTITLED TO A CASH PAYMENT FROM A CLASS ACTION SETTLEMENT.

For more information, visit www.website.com.

Para una notificación en Español, visitar www.website.com

A settlement has been reached in a class action lawsuit involving automated and prerecorded or artificial voice calls made by Compass Bank d/b/a BBVA Compass (“Compass Bank”). The lawsuit alleges that Compass Bank violated federal law by making automated and prerecorded or artificial voice collection calls to the cellphones of persons who did not have a Compass Bank Account and did not consent to receive such calls. The proposed settlement is not an admission of wrongdoing by Compass Bank, and Compass Bank denies that it violated the law. The Court has not decided who is right or wrong. Rather, to save the time, expense, and distraction of litigation, Compass Bank has agreed to a settlement of the class action lawsuit. That settlement has been preliminarily approved by a Court in Birmingham, Alabama. For complete information visit www.website.com.

As part of the settlement, Compass Bank has agreed to establish a settlement fund of \$5,860,000, from which you may submit a claim form to receive a cash payment of up to \$339. The exact amount of each class member’s payment is unknown at this time; it may be up to \$339, but it may be less depending on how many settlement class members return valid claim forms and the amount of other expenses to be paid from the settlement fund. Please visit www.website.com to learn more about the settlement and your rights and options, including how to submit a claim form electronically or by mail, as well as how to exclude yourself or object to the settlement. Claim forms must be submitted by _____, 2018.

As part of the settlement, Class Counsel will request an award of attorneys’ fees and expenses not to exceed 30% of the settlement fund. The Class Representatives will also petition the Court for an award of \$5,000 for their services in bringing this suit. Neither the award of fees or the incentive award will reduce the benefit to any Class Member. You may retain your own counsel, but only at your own expense.

The sole purpose of this notice is to inform you of the settlement so that you can decide what to do about it.

For more information, and to submit a claim form, visit www.website.com.

Summary Of Your Legal Rights And Options In The Settlement

You May:	Result	Due Date:
AGREE WITH THE SETTLEMENT AND SUBMIT A CLAIM FORM	By submitting a claim, you are eligible to receive a payment from the Settlement Fund, but you give up your right to be part of any other lawsuits involving claims associated with this case, if any.	The claim form must be postmarked or sent by email by [insert date] or your claim will be rejected.
EXCLUDE YOURSELF FROM THE SETTLEMENT	You get no payment, but you can be a part of future lawsuits involving claims associated with this case, if any.	Your exclusion request must be submitted in writing and mailed to the Claims Administrator, postmarked no later than [insert date] .
OBJECT TO THE SETTLEMENT	Write to the Court about the reasons that you're against the settlement.	Your Objection must be in writing and filed with the Court with copies to all counsel by [insert date] .
ATTEND A HEARING	Request that you be allowed to speak in Court about the fairness of the settlement.	You must file a Notice of Intention to Appear and Object with the Court with copies to counsel by [insert date] .
DO NOTHING	If you do nothing, you get no payment and give up your rights.	

For complete information about the settlement and your options, related Court documents, and claim forms, please visit [www.\[settlement\].com](http://www.[settlement].com) or call [\[toll fee number\]](tel:[toll fee number]). You may also contact the attorneys for the class: Eugene Turin of McGuire Law, P.C. www.mcgpc.com.

EXHIBIT 5

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

MARY KOVACH and LARA)
BELLISSIMO, on behalf of themselves)
and other persons similarly situated,)

Plaintiffs,)

v.)

Case No. 01-CV-2018-902504

COMPASS BANK D/B/A BBVA)
COMPASS, an Alabama banking)
corporation,)

Defendant.)

[PROPOSED] PRELIMINARY APPROVAL ORDER

This matter having come before the Court on Plaintiffs’ Unopposed Motion in Support of Preliminary Approval of Class Action Settlement (the “Motion”), the Court having reviewed in detail and considered the Motion and memorandum in support of the Motion, the Class Action Settlement Agreement (“Settlement Agreement”) between Plaintiffs Mary Kovach and Lara Bellissimo and Defendant Compass Bank d/b/a BBVA Compass (“Compass Bank”) (together, the “Parties”), and all other papers that have been filed with the Court related to the Settlement Agreement, including all exhibits and attachments to the Motion and the Settlement Agreement, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Capitalized terms used in this Order that are not otherwise defined herein have the same meaning assigned to them as in the Settlement Agreement.
2. The terms of the Settlement Agreement are preliminarily approved as fair, reasonable, and adequate. There is good cause to find that the Settlement Agreement was negotiated at arms-length between the Parties, who were represented by experienced counsel.

3. For settlement purposes only, the Court finds that the prerequisites to class action treatment under Alabama Rule of Civil Procedure 23 – including numerosity, commonality and predominance, and adequacy – have been preliminarily satisfied.

4. The Court hereby conditionally certifies, pursuant to Alabama Rule of Civil Procedure 23, and for the purposes of settlement only, the following Settlement Class consisting of:

All persons in the United States who received collection calls from Compass Bank from June 21, 2014 through and including the date of the Preliminary Approval Order (“Settlement Class Period”) (a) where the call was directed to a phone number assigned to a cellular telephone service, (b) whose phone number appears in the records of Compass Bank in association with a “wrong number” code (unless a subsequent Right Party Contact occurred in the records of Compass Bank), (c) who were not a Compass Bank customer who provided such phone number to Compass Bank, (d) which calls were placed using an automatic telephone dialing system or artificial or prerecorded voice technology. Excluded from the Class are: (1) governmental agencies, entities, or judicial officers; and (2) any person or entity which properly executes and submits a timely request for exclusion from the Class.

5. For settlement purposes only, Plaintiffs Mary Kovach and Lara Bellissimo are hereby appointed as Class Representatives.

6. For settlement purposes only, the following counsel are hereby appointed as Class Counsel:

Myles McGuire
Evan M. Meyers
Eugene Y. Turin
MCGUIRE LAW, P.C.
55 W. Wacker Dr., 9th Fl.
Chicago, IL 60601

Scott A. Morgan
MORGAN LAW FIRM, LTD.
55 W. Wacker Dr., 9th Fl.
Chicago, IL 60137

7. The Court recognizes that, pursuant to the Settlement Agreement, Compass Bank retains all rights to object to the propriety of class certification in the Litigation in all other contexts and for all other purposes should the Settlement not be finally approved. Therefore, as more fully set forth below, if the Settlement is not finally approved, and litigation resumes, this Court’s

preliminary findings regarding the propriety of class certification shall be of no further force or effect whatsoever, and this Order will be vacated in its entirety.

8. The Court approves, in form and content, the Long Form Class Notice, Short Form Class Notice, and Notice Plan, attached to the Settlement Agreement as Exhibits 1, 2, and 4, respectively, and finds that they meet the requirements of Alabama Rule of Civil Procedure 23(c)(2) and 23(e) and satisfy Due Process.

9. The Court finds that the Notice Plan as set forth in the Settlement Agreement meets the requirements of Alabama Rule of Civil Procedure 23(c)(2) and 23(e) and constitutes the best notice practicable under the circumstances, including through a dedicated website and through publication in a national newspaper and by direct individual notice by postcard to potential Settlement Class Members, and satisfies fully the requirements of Due Process, and any other applicable law, such that the Settlement Agreement and Final Order and Judgment will be binding on all Settlement Class Members. In addition, the Court finds that no notice other than that specifically identified in the Settlement Agreement is necessary in this action. The Parties, by agreement, may revise the Class Notice and Claim Form in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting for publication.

10. Tilghman & Co., P.C. is hereby appointed Settlement Administrator to supervise and administer the notice process, as well as to oversee the administration of the Settlement, as more fully set forth in the Settlement Agreement.

11. The Settlement Administrator may proceed with the distribution of Class Notice as set forth in the Settlement Agreement and the Notice Plan.

12. Settlement Class Members who wish to receive benefits under the Settlement Agreement must complete and submit a valid Claim Form in accordance with the instructions provided in the Class Notice on or before _____, **2018**. The Court hereby approves as to form and content the Claim Form attached to the Settlement Agreement as Exhibit 3.

13. All Claim Forms must be mailed to the Settlement Administrator and postmarked, or sent by email, no later than _____, **2018**. Settlement Class Members who do not timely submit a Claim Form deemed to be valid in accordance with Sections 1.5 and 2.6(a) of the Settlement Agreement shall not be entitled to receive any portion of the Settlement Fund.

14. Settlement Class Members shall be bound by all determinations and orders pertaining to the Settlement, including the release of all claims to the extent set forth in the Settlement Agreement, whether favorable or unfavorable, unless such persons request exclusion from the Settlement Class in a timely and proper manner, as hereinafter provided. Settlement Class Members who do not timely and validly request exclusion in accordance with Section 3.2 of the Settlement Agreement shall be so bound even if they have previously initiated or subsequently initiate litigation or other proceedings against Compass Bank or the Released Parties relating to the claims released under the terms of the Settlement Agreement.

15. Any Person within the Settlement Class may request exclusion from the Settlement Class by expressly stating his/her request in a written exclusion request in accordance with Section 3.3. of the Settlement Agreement. Such exclusion requests must be received by the Settlement Administrator at the address specified in the Class Notice in written form, by first class mail, postage prepaid, and postmarked, no later than _____, **2018**.

16. In order to exercise the right to be excluded, a Person within the Settlement Class must timely submit a written request for exclusion to the Settlement Administrator providing

his/her name and address, the cellular telephone number that received the subject call or calls (if known), the carrier of that cellular telephone number, a signature, the name and number of the case, and a statement that he or she wishes to be excluded from the Settlement Class. Any request for exclusion must be personally signed by the person requesting exclusion. No person within the Settlement Class, or any person acting on behalf of, in concert with, or in participation with that person within the Settlement Class, may request exclusion from the Settlement Class of any other person within the Settlement Class.

17. Any person in the Settlement Class who elects to be excluded shall not: (i) be bound by any orders or the Final Order and Judgment; (ii) be entitled to relief under the Settlement Agreement; (iii) gain any rights by virtue of this Settlement Agreement; or (iv) be entitled to object to any aspect of this Settlement Agreement.

18. Class Counsel may file any motion seeking an award of attorneys' fees, costs and expenses, as well as any Incentive Awards for the Class Representatives, no later than _____, **2018**.

19. Any Settlement Class Member who has not requested exclusion from the Settlement Class and who wishes to object to any aspect of the Settlement Agreement, including the amount of the attorneys' fees and expenses that Class Counsel intends to seek and the payment of any Incentive Awards, may do so, either personally or through an attorney, by filing a written objection, together with the supporting documentation set forth below in Paragraph 20 of this Order, with the Clerk of the Court, and served upon Class Counsel, Compass Bank's counsel, and the Settlement Administrator no later than _____, **2018**. Addresses for Class Counsel, Compass Bank's Counsel, the Settlement Administrator, and the Clerk of Court are as follows:

Class Counsel:

Myles McGuire
Evan M. Meyers
Eugene Y. Turin
MCGUIRE LAW, P.C.
55 W. Wacker Dr., 9th Fl.
Chicago, IL 60601

Compass Bank's Counsel:

Gregory C. Cook
BALCH & BINGHAM LLP
1901 Sixth Ave. N., Suite 1500
Birmingham, AL 35203

Settlement Administrator:

Tilghman & Co., P.C
3419 Independence Drive, Ste. 102
Birmingham, AL 35209

Clerk of Court:

Clerk of the Circuit Court of
Jefferson County
Birmingham Division
Jefferson County Courthouse
716 N. Richard Arrington Blvd.
Birmingham, AL 35203

20. Any Settlement Class Member who has not requested exclusion and who intends to object to this Agreement must state, in writing, all objections and the basis for any such objection(s), and must also state in writing: his/her full name, address and email; the telephone number(s) at which he or she received an automated call(s) made by Compass Bank; the telephone carrier associated with each such identified telephone number; whether each such identified phone number was at the time of the call(s) a cellular phone or a residential landline; the identification of any other objections he or she has filed, or had filed on his or her behalf, in any other class action cases in the last four years; and all grounds for the objection along with factual and legal support for the stated objection. Objections not filed and served in accordance with this Order shall not be received or considered by the Court. Any Settlement Class Member who fails to timely file and serve a written objection in accordance with this Order shall be deemed to have waived, and shall be forever foreclosed from raising, any objection to the Settlement, to the fairness, reasonableness,

or adequacy of the Settlement, to the payment of attorneys' fees, costs, and expenses, to the payment of any Incentive Awards, and to the Final Approval Order and the right to appeal same.

21. A Settlement Class Member who has not requested exclusion from the Settlement Class and who has properly submitted a written objection in compliance with the Settlement Agreement, may appear at the Final Approval Hearing in person or through counsel to show cause why the proposed Settlement should not be approved as fair, reasonable, and adequate. Attendance at the hearing is not necessary; however, persons wishing to be heard orally in opposition to the approval of the Settlement and/or Class Counsel's Fee and Expense Application and/or the request for Incentive Awards to the Class Representatives are required to indicate in their written objection their intention to appear at the Final Approval Hearing on their own behalf or through counsel. For any Settlement Class Member who files a timely written objection and who indicates his/her intention to appear at the Final Approval Hearing on their own behalf or through counsel, such Settlement Class Member must also include in his/her written objection the identity of any witnesses he/she may call to testify, and all exhibits he/she intends to introduce into evidence at the Final Approval Hearing, which shall be attached.

22. No Settlement Class Member shall be entitled to be heard, and no objection shall be considered, unless the requirements set forth in this Order and in the Settlement Agreement are fully satisfied. Any Settlement Class Member who does not make his or her objection to the Settlement in the manner provided herein, or who does not also timely provide copies to the designated counsel of record for the Parties at the addresses set forth herein, shall be deemed to have waived any such objection by appeal, collateral attack, or otherwise, and shall be bound by the Settlement Agreement, the releases contained therein, and all aspects of the Final Order and Judgment.

23. All papers in support of the final approval of the proposed Settlement shall be filed no later than fourteen (14) days before the Final Approval Hearing.

24. Pending the final determination of the fairness, reasonableness, and adequacy of the proposed Settlement, no Settlement Class Member may prosecute, institute, commence, or continue any lawsuit (individual action or class action) with respect to the Released Claims against any of the Released Parties.

25. A hearing (the "Final Approval Hearing") shall be held before the Court on _____, 2018 at ____:____ a.m./p.m., at the Jefferson County Courthouse, 716 N. Richard Arrington Blvd., Courtroom _____, Birmingham, Alabama 35203 (or at such other time or location as the Court may without further notice direct) for the following purposes:

(a) to finally determine whether the applicable prerequisites for settlement class action treatment under Alabama Rule of Civil Procedure 23 have been met;

(b) to determine whether the Settlement is fair, reasonable and adequate, and should be approved by the Court;

(c) to determine whether the judgment as provided under the Settlement Agreement should be entered, including a bar order prohibiting Settlement Class Members from further pursuing claims released in the Settlement Agreement;

(d) to consider the application for an award of attorneys' fees, costs and expenses of Class Counsel;

(e) to consider the application for any Incentive Awards to the Class Representatives;

(f) to consider the distribution of the Settlement Fund pursuant to the Settlement Agreement; and

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

26. The Final Approval Hearing may be postponed, adjourned, transferred or continued by order of the Court without further notice to the Settlement Class. At or following the Final Approval Hearing, the Court may enter a judgment approving the Settlement Agreement and a Final Judgment and Order in accordance with the Settlement Agreement that adjudicates the rights of all Settlement Class Members.

27. Settlement Class Members do not need to appear at the Final Approval Hearing or take any other action to indicate their approval.

28. All discovery and other proceedings in the Litigation as between Plaintiffs and Compass Bank are stayed and suspended until further order of the Court except such actions as may be necessary to implement the Settlement Agreement and this Order.

29. For clarity, the deadlines set forth above and in the Settlement Agreement are as follows:

Class Notice Mailed by: 21 days from Date of Preliminary Approval, by _____, 2018.

Publication Notice by: 21 days from Date of Preliminary Approval, by _____, 2018.

Settlement Website launched by: 21 days from Date of Preliminary Approval, by _____, 2018.

Fee and Expense Application: 14 days prior to Objection/Exclusion Deadline: by _____, 2018.

Deadline for Objections/Exclusions: 60 days from Date of Preliminary Approval, by _____, 2018.

Final Approval Motion: 14 days prior to Final Approval Hearing, by _____, 2018

Final Approval Hearing: _____, 2018 at ____:____ a.m./p.m.

Claims Deadline: 45 days after Final Approval, by _____, 2018.

IT IS SO ORDERED.

ENTERED: _____

Hon. _____
Jefferson County Circuit Court Judge

EXHIBIT 6

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

MARY KOVACH and LARA)
BELLISSIMO, on behalf of themselves)
and other persons similarly situated,)
)
Plaintiffs,)
)
v.)
)
COMPASS BANK D/B/A BBVA)
COMPASS, an Alabama banking)
corporation,)
)
Defendant.)

Case No. 01-CV-2018-902504

[PROPOSED] FINAL ORDER AND JUDGMENT

This matter coming to be heard on Plaintiffs’ Unopposed Motion for Final Approval of Class Action Settlement (the “Motion”), due and adequate notice having been given to the Settlement Class, and the Court having considered the papers filed and proceedings in this matter, and being fully advised in the premises, IT IS HEREBY ORDERED, ADJUDGED, and DECREED as follows:

1. All capitalized terms in this Final Order and Judgment shall have the same meaning as ascribed to them in the Class Action Settlement Agreement (“Settlement Agreement”) between Plaintiffs Mary Kovach and Lara Bellissimo and Defendant Compass Bank d/b/a BBVA Compass (“Compass Bank” or “Defendant”) (together, the “Parties”), unless otherwise noted.
2. This Court has jurisdiction over the subject matter of the Litigation and personal jurisdiction over all parties to the Litigation, including all Settlement Class Members.
3. The Court preliminarily approved the Settlement Agreement by Preliminary Approval Order dated _____, 2018, and the Court finds that adequate notice was given to all members of the Settlement Class pursuant to the terms of the Preliminary Approval Order.
4. The Court has read and considered the papers filed in support of this Motion, including the Settlement Agreement and exhibits thereto and supporting declarations.

5. The Court held a Final Approval Hearing on _____, 2018, at which time the Parties and all other interested persons were afforded the opportunity to be heard in support of and in opposition to the Settlement.

6. Based on the papers filed with the Court and the presentations made to the Court by the Parties and other interested persons at the Final Approval Hearing, the Court now gives final approval to the Settlement and finds that the Settlement Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class. The complex legal and factual posture of the Litigation, and the fact that the Settlement Agreement is the result of arms-length negotiations presided over by a neutral mediator, further support this finding.

7. Pursuant to Alabama Rule of Civil Procedure 23, the Court finally certifies, for settlement purposes only, the following Settlement Class:

All persons in the United States who received collection calls from Compass Bank from June 21, 2014 through and including the date of the Preliminary Approval Order (“Settlement Class Period”) (a) where the call was directed to a phone number assigned to a cellular telephone service, (b) whose phone number appears in the records of Compass Bank in association with a “wrong number” code (unless a subsequent Right Party Contact occurred in the records of Compass Bank), (c) who were not a Compass Bank customer who provided such phone number to Compass Bank, (d) which calls were placed using an automatic telephone dialing system or artificial or prerecorded voice technology. Excluded from the Class are: (1) governmental agencies, entities, or judicial officers; and (2) any person or entity which properly executes and submits a timely request for exclusion from the Class.

8. The persons who are listed on Exhibit 1 to this order have made timely and valid requests for exclusion and are excluded from the Settlement Class and are not bound by this Final Order and Judgment.

9. For settlement purposes only, the Court confirms the appointment of Plaintiffs Mary Kovach and Lara Bellissimo as Class Representatives of the Settlement Class.

10. For settlement purposes only, the Court confirms the appointment of the following counsel as Class Counsel, and finds they are experienced in class litigation and have adequately represented the Settlement Class:

Myles McGuire
Evan M. Meyers
Eugene Y. Turin
MCGUIRE LAW, P.C.
55 W. Wacker Dr., 9th Fl.
Chicago, IL 60601

Scott A. Morgan
MORGAN LAW FIRM, LTD.
55 W. Wacker Dr., 9th Fl.
Chicago, IL 60137

11. With respect to the Settlement Class, this Court finds, for settlement purposes only, that: (a) the Settlement Class defined above is so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the Settlement Class, and those common questions predominate over any questions affecting only individual members; (c) the Class Representatives and Class Counsel have fairly and adequately protected, and will continue to fairly and adequately protect, the interests of the Settlement Class; and (d) certification of the Settlement Class is an appropriate method for the fair and efficient adjudication of this controversy.

12. The Court has determined that the Class Notice given to the Settlement Class Members, in accordance with the Preliminary Approval Order, fully and accurately informed Settlement Class Members of all material elements of the Settlement and constituted the best notice practicable under the circumstances, and fully satisfied the requirements of Alabama Rule of Civil Procedure 23(c)(2) and 23(e), applicable law, and the Due Process Clauses of the U.S. Constitution and Alabama Constitution.

13. The Court orders the Parties to the Settlement Agreement to perform their obligations thereunder. The terms of the Settlement Agreement shall be deemed incorporated herein as if explicitly set forth and shall have the full force of an order of this Court.

14. The Court dismisses the Litigation with prejudice and without costs (except as otherwise provided herein and in the Settlement Agreement) as to Plaintiffs' and all Settlement Class Members' claims against Compass Bank. The Court adjudges that the Released Claims and all of the claims described in the Settlement Agreement are released against the Released Parties.

15. The Court adjudges that the Plaintiffs and all Settlement Class Members who have not opted out of the Settlement Class shall be deemed to have fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties, as defined under the Settlement Agreement.

16. The Released Claims specifically extend to claims that Plaintiffs and Settlement Class Members do not know or suspect to exist in their favor at the time that the Settlement Agreement, and the releases contained therein, become effective. The Court finds that Plaintiffs have, and the Settlement Class Members are deemed to have, knowingly waived the protections of California Civil Code § 1542 and any other applicable federal or state statute, case law, rule or regulation relating to limitations on releases.

17. The Court further adjudges that, upon entry of this Order, the Settlement Agreement and the above-described release of the Released Claims will be binding on, and have *res judicata* preclusive effect in, all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and all other Settlement Class Members whose names do not appear on Exhibit 1 hereto as having validly and timely excluded themselves from the Settlement, and their respective affiliates, assigns, heirs, executors, administrators, successors, and agents, as set forth in the Settlement Agreement. The Released Parties may file the Settlement Agreement and/or this Final Order and Judgment in any action or proceeding that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel,

release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

18. Plaintiffs and Settlement Class Members who did not validly and timely request exclusion from the Settlement are permanently barred and enjoined from asserting, commencing, prosecuting, or continuing any of the Released Claims or any of the claims described in the Settlement Agreement against any of the Released Parties.

19. The Court approves payment of attorneys' fees, costs and expenses to Class Counsel in the amount of \$_____ [\$1,758,000.00]. This amount shall be paid from the Settlement Fund in accordance with the terms of the Settlement Agreement. The Court, having considered the materials submitted by Class Counsel in support of final approval of the Settlement and their request for attorneys' fees, costs and expenses and in response to any timely filed objections thereto, finds the award of attorneys' fees, costs and expenses appropriate and reasonable for the following reasons: First, the Court finds that the Settlement provides substantial benefits to the Settlement Class. Second, the Court finds the payment fair and reasonable in light of the substantial work performed by Class Counsel. Third, the Court concludes that the Settlement was negotiated at arms-length without collusion, and that the negotiation of the attorneys' fees only followed agreement on the settlement benefits for the Settlement Class Members. Finally, the Court notes that the Class Notice specifically and clearly advised the Settlement Class that Class Counsel, as a group, would seek an award in the amount sought.

20. The Court approves the incentive award in the amount of \$_____ [\$5,000.00] for each of the Class Representatives Mary Kovach and Lara Bellissimo, and specifically finds such amount to be reasonable in light of the services performed by Plaintiffs for the Settlement Class, including taking on the risks of litigation and

helping achieve the results to be made available to the Settlement Class. This amount shall be paid from the Settlement Fund in accordance with the terms of the Settlement Agreement.

21. Neither this Final Order and Judgment, nor the Settlement Agreement, nor the payment of any consideration in connection with the Settlement shall be construed or used as an admission or concession by or against Compass Bank or any of the Released Parties of any fault, omission, liability, or wrongdoing, or of the validity of any of the Released Claims. This Final Order and Judgment is not a finding of the validity or invalidity of any claims in this Litigation or a determination of any wrongdoing by Compass Bank or any of the Released Parties. The final approval of the Settlement Agreement does not constitute any position, opinion, or determination of this Court, one way or another, as to the merits of the claims or defenses of Plaintiffs, the Settlement Class Members, or Compass Bank.

22. Any objections to the Settlement Agreement are overruled and denied in all respects. The Court finds that no reason exists for delay in entering this Final Order and Judgment. Accordingly, the Clerk is hereby directed forthwith to enter this Final Order and Judgment.

23. The Parties, without further approval from the Court, are hereby permitted to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all exhibits to the Settlement Agreement) so long as they are consistent in all material respects with the Final Order and Judgment and do not limit the rights of the Settlement Class Members.

IT IS SO ORDERED.

ENTERED: _____

Hon. _____
Jefferson County Circuit Court Judge

EXHIBIT 1

List of persons validly and timely excluded from the Settlement:

1.

NO FURTHER NAMES FOLLOW