
**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

TRAVIS GREGORY, NICOLE GREGORY,
ALAN LAMBERT, and ROBERT BAKER,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

ZIONS BANCORPORATION, N.A.

Defendants.

PRELIMINARY APPROVAL ORDER

Case No. 2:19-CV-15-HCN-DBP

Howard C. Nielson, Jr.
United States District Judge

This matter came before the Court on Plaintiffs’ motion for preliminary approval of the proposed class action settlement of the above-captioned case (the “Action”) between Plaintiffs Travis Gregory, Nicole Gregory, Alan Lambert, and Robert Baker (“Plaintiffs”) and Defendant Zions Bancorporation (“Defendant”) (Plaintiffs and Defendant collectively the “Parties”), as set forth in the Parties’ Settlement Agreement Between Plaintiffs and Zions Bancorporation, N.A. (the “Agreement,” which memorializes the “Settlement”). Having duly considered the papers, **THE COURT HEREBY FINDS AND ORDERS AS FOLLOWS:**

1. Unless defined herein, all defined terms in this Order shall have the meanings ascribed to them in the Agreement.
2. The Court has jurisdiction over the subject matter of the litigation, the Parties, and all Settlement Class Members.
3. The Court has conducted a preliminary evaluation of the Settlement as set forth in the Agreement for fairness, adequacy, and reasonableness, and finds that giving notice is justified by the Parties’ showing that the Court will likely be able to: (i) approve the Settlement

under Federal Rule of Civil Procedure 23(e)(2), and (ii) certify the Class pursuant to Federal Rule of Civil Procedure 23(b)(3). The Court conditionally certifies the Settlement Class for settlement purposes only, appoints Plaintiffs as the Class Representatives of the Settlement Class for settlement purposes only, and appoints Class Counsel as counsel for the Settlement Class for settlement purposes only. The Court further finds there is cause to believe that: (i) the Agreement is fair, reasonable, and adequate, and within the range of possible approval; (ii) the Agreement has been negotiated in good faith at arms' length between experienced attorneys familiar with the legal and factual issues of this case; and (iii) with respect to the forms of notice of the material terms of the Agreement to Settlement Class Members for their consideration and reaction, that notice is appropriate and warranted, and that the notice program proposed by Class Counsel constitutes the best notice practicable under the circumstances, and satisfies due process and Rule 23 of the Federal Rules of Civil Procedure. Therefore, the Court grants preliminary approval of the Settlement.

4. The Court, pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure, conditionally certifies, for purposes of the Settlement only, the following Settlement Class:

All persons and entities who invested in the Silver Pool and were harmed in connection with such investment.

5. The Court hereby appoints Plaintiffs as Class Representatives of the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure.

6. The Court appoints Rosca Scarlato, LLC as Class Counsel, pursuant to Rule 23 of the Federal Rules of Civil Procedure.

7. On Monday, April 24, 2023, at 1:30 P.m., at the Orrin G. Hatch United States Courthouse, 351 South West Temple, Salt Lake City, Utah, or at such other date and time later set by Court Order, this Court will hold a Final Approval Hearing on the fairness, adequacy, and reasonableness of the Agreement and to determine whether (i) final approval of the Settlement embodied by the Agreement should be granted, and (ii) Class Counsel's application for attorneys' fees and expenses should be granted, and in what amount. No later than March 15, 2023, which is no later than forty (40) calendar days prior to the Final Approval Hearing, Plaintiffs must file papers in support of Class Counsel's application for attorneys' fees and expenses, and a request for an Incentive Award for the named Class Representatives. No later than April 14, 2023, which is no later than ten (10) days prior to the Final Approval Hearing, Plaintiffs must file their Motion for Final Approval of the Settlement and response to any written Objections and Defendant may (but is not required to) file papers in support of final approval of the Settlement.

8. Pursuant to the Agreement, Strategic Claims Services is hereby appointed as Notice Provider, and shall be required to perform all the duties of the Notice Provider as set forth in the Agreement and this Order.

9. Pursuant to the Agreement, the court-appointed Receiver in Civil No. 2:18-cv00892-TC, *CFTC and State of Utah Division of Securities v. Rust Rare Coin Inc., et al.* will serve as the Settlement Distribution Administrator, pursuant to the authority granted thereto by the Court in the above-referenced CFTC action, and shall be required to perform all the duties of the Settlement Distribution Administrator set forth in the Agreement and in the Order dated June 24, 2022 entered by the court in the CFTC action.

10. The Court approves the proposed plan for giving notice to the Settlement Class as detailed in plaintiffs' motion for preliminary approval of the proposed class action settlement. The Class Notice, in form, method, and content, complies with the requirements of Rule 23 and due process, and constitutes the best notice practicable under the circumstances. The Court hereby directs the Parties and the Settlement Administrator to complete all aspects of the notice plan, including distribution of the Class Notice via the initiation of the class member notification process, no later than thirty days after entry of this order (the "Settlement Notice Date").

11. The Notice Provider will cause to be filed with the Court by no later than April 14, which is ten (10) days prior to the Final Approval Hearing, proof that Notice was provided in accordance with the Agreement and this Preliminary Approval Order, as well as proof that notice was provided to the appropriate State and federal officials pursuant to the Class Action Fairness Act, 28 U.S.C. § 1715.

12. Settlement Class Members who wish to either object to the Settlement or request to be excluded from it must do so by the Objection Deadline and Opt-Out Deadline of April 3, 2023, which is both at least sixty (60) calendar days after the Settlement Notice Date and twenty-one (21) calendar days prior to the Final Approval Hearing. A Settlement Class Member may not both opt-out of the Agreement and object. If a Settlement Class Member submits both a Request for Exclusion and Objection, the Request for Exclusion will control.

13. Any Settlement Class Member who wishes to opt-out of the Agreement (i.e., to be excluded from the Settlement Class) must advise the Notice Provider of that intent by mailing a letter requesting that they be excluded from the Settlement Class ("Request for Exclusion" or "opt-out") by first-class mail, postage prepaid, and postmarked to the address of the Notice

Provider within the time period and as specified in the Class Notice. Such Request for Exclusion shall clearly include the Settlement Class Member's name, address, and telephone number; the name and case number of the Action; a clear and unequivocal statement that the Settlement Class Member wishes to be excluded from the Settlement Class; and the signature of such person or, in the case of a Settlement Class Member who is deceased, incapacitated, or an entity, the signature of a legally authorized representative of such Settlement Class Member. The Notice Provider shall promptly provide copies of all requests for exclusion it receives on a rolling basis to the Parties, and shall provide a list of all Settlement Class Members who timely and validly opted out of the Agreement in its declaration filed with the Court, as required by paragraph 35.f. of the Agreement. The declaration shall include the names of persons who have excluded themselves from the Agreement, but it shall not include their addresses or any other personal identifying information. "Mass," "group," or "class" opt-outs filed on behalf of a "mass," "group," or "class" of Settlement Class Members, when not signed by each Settlement Class Member, will not be valid opt-outs.

14. At no time shall the Settlement Distribution Administrator share any personal identifying information for Settlement Class Members, except as otherwise approved by the Court, without a Court Order or an authorization form that is signed by the Settlement Class Member whose information is to be disclosed (or by someone with legal authorization to sign on their behalf), except that the Settlement Distribution Administrator shall comply with any federal and state tax laws and required reporting and withholding. Notwithstanding the foregoing, the Settlement Distribution Administrator may disclose the following information for each Class

Member: claim number, claimant's claimed amount, the allowed claim amount, the claim class, and the claimant's percent recovery.

15. Only Class Counsel, Zions Bank, Zions Bank's Counsel, and the Settlement Distribution Administrator shall have access to information submitted by Settlement Class Members, except as otherwise specifically provided herein or as ordered by the Court. Other than Objections and Requests for Exclusion and except as otherwise provided herein, all information submitted by Settlement Class Members to the Settlement Distribution Administrator will be treated as confidential.

16. Each member of the Settlement Class who does not submit a valid and timely Request for Exclusion will be bound by the Agreement and the judgment, including the release in Section D of the Agreement. Each member of the Settlement Class who submits a valid and timely Request for Exclusion will not be a Settlement Class Member and shall not be bound by the terms of the Agreement.

17. Each member of the Settlement Class who does not submit a valid and timely Request for Exclusion from the Settlement Class as required in the Agreement will be a Settlement Class Member and will be mailed a distribution of the Settlement Fund pursuant to the court approved Settlement Distribution Plan, to the extent they make valid and timely claim and a valid address for such distribution can be located. Any Settlement Class Member who did not receive mailed notice but nonetheless believes he or she is a member of the Settlement Class may submit a Claim Form to the extent provided for and allowed in the Settlement Distribution Plan.

18. Any Settlement Class Member who intends to object to the fairness of the Agreement must submit a written letter objecting to the Agreement (“Objection”) to the Notice Provider by the Objection Deadline. In the written Objection, the Settlement Class Member must state (1) his or her full name, address, telephone number, and email, (2) whether the Objection applies only to the objector, to a specific subset of the Settlement Class, or to the entire Settlement Class, (3) the specific grounds for the Objection, and a detailed statement of the factual and legal bases for such Objections, (4) the identities and contact information for any counsel representing the objector in relation to the case or Objection, (5) the identity of all witnesses, including the witnesses’ names and addresses, and a summary of such witnesses’ proposed testimony, who the objecting Settlement Class Member may call to testify at the Final Approval Hearing, and describe and produce copies of all evidence such objecting Settlement Class Member may offer at the Final Approval Hearing; and (6) a statement whether the objecting Settlement Class Member and/or his/her/its attorney(s) intend to appear at the Final Approval Hearing. A written Objection must contain the actual written signature of the Settlement Class Member making the Objection. The Notice Provider shall provide Class Counsel and Zions Bank’s Counsel with copies of any Objections as they are received. The names of any objectors who affirmatively state in writing that they wish to use a pseudonym shall be held in strict confidence by Class Counsel and Zions Bank’s Counsel and shall not be disclosed on the public record without the objector’s written permission. Any attorney of an objecting Settlement Class Member who intends to appear at the Final Approval Hearing must enter a written Notice of Appearance of Counsel with the Clerk of the Court no later than the date set by the Court in its Preliminary Approval Order and shall include the full caption and

case number of each previous class action case in which such counsel has represented an objector. The Parties will have the right to issue discovery to or depose any objector as to the basis and circumstances of his or her Objection, and to assess whether the objector has standing. A Settlement Class Member may not both opt-out of the Agreement and object. If a Settlement Class Member submits both a Request for Exclusion and Objection, the Request for Exclusion will control.

19. Any Settlement Class Member who fails to timely submit a written Objection to the Settlement Administrator and notice of his or her intent to appear at the Final Approval Hearing in accordance with the terms of this Order and as detailed in the Notice, shall not be permitted to object to the Agreement at the Final Approval Hearing, shall be foreclosed from seeking any review of the Agreement by appeal or other means, shall be deemed to have waived his, her, or its Objections, and shall be forever barred from making any such Objections in the Action. All members of the Settlement Class, except those members of the Settlement Class who submit timely Requests for Exclusion, will be bound by all determinations and judgments in the Action, whether favorable or unfavorable to the Settlement Class.

20. The Court approves Strategic Claims Services, LLC as Notice Provider in connection with providing Notice to Members of the Class as set forth in ¶¶ 34-36 of the Agreement. The Court further approves the appointment of Jonathan O. Hafen as the Settlement Distribution Administrator, pursuant to the authority granted thereto by the Court in Civil No. 2:18-cv-00892-TC, *CFTC and State of Utah Division of Securities v. Rust Rare Coin Inc., et al.* (the “Receiver Action”) to: 1) receive any Claim Forms from Class Members who did not previously submit timely, valid Claim Forms in connection with the Receiver Action; 2) file a

Settlement Distribution Plan with the Court prior the issuance of the Class Notice; 3) determine each Class Member's recognized loss pursuant to the Settlement Distribution Plan approved by the Court; and 4) issue and mail payments to Settlement Class Members from the Settlement Fund as set forth in the Agreement. The Court does not find that the Settlement Distribution Administrator's prior rendition of legal services to Zions Bank constitutes a conflict which would disqualify the Settlement Distribution Administrator from such role.

21. Pending the final determination of whether the Settlement should be approved, all pre-trial proceedings and briefing schedules in the Action are stayed. If the Settlement is terminated or final approval does not for any reason occur, the stay will be immediately terminated.

22. If the Settlement is not approved or consummated for any reason whatsoever, the Settlement and all proceedings in connection with the Settlement will be without prejudice to the right of Defendant or Plaintiffs to assert any right or position that could have been asserted if the Agreement had never been reached or proposed to the Court. In such an event, the Parties will return to the status quo ante in the Action and the certification of the Settlement Class will be deemed vacated. The certification of the Settlement Class for settlement purposes, or any briefing or materials submitted seeking certification of the Settlement Class, will not be considered in connection with any subsequent class certification decision.

23. The settlement of the Action, the negotiation and execution of this Agreement, and all acts performed or documents executed pursuant to or in furtherance of the Agreement: (i) are not and shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendant or of the truth of any of the allegations in the

Action; (ii) are not and shall not be deemed to be, and may not be used as an admission or evidence of any fault or omission on the part of Defendant in any civil, criminal, or administrative proceeding in any court, arbitration forum, administrative agency, or other tribunal; and, (iii) are not and shall not be deemed to be and may not be used as an admission of the appropriateness of these or similar claims for class certification; and evidence relating to the Agreement will not be discoverable or used, directly or indirectly, in any way except as necessary to approve, interpret, or enforce the Agreement, this Order, or the Final Approval Order.

24. Counsel are hereby authorized to use all reasonable procedures in connection with approval and administration of the Settlement that are not materially inconsistent with this Order or the Agreement, including making, without further approval of the Court, minor changes to the form or content of the Class Notice, and other exhibits that they jointly agree are reasonable and necessary. The Court reserves the right to approve the Agreement with such modifications, if any, as may be agreed to by the Parties without further notice to the members of the Class.

25. Accordingly, the following are the deadlines by which certain events must occur:

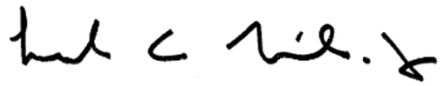
| ACTION | DATE |
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| Settlement Notice Date | Date: January 9, 2023 |
| | (30 days after Preliminary Approval Order entered) |
| Class Counsel's Fee/Incentive Award Motion Due | Date: March 15, 2023 |
| | (40 days prior to Final Approval Hearing) |

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| Opt-Out and Objection Deadline | Date: April 3, 2023 |
| | (At least 60 days after the Settlement Notice Date, and no later than 21 days prior to Final Approval Hearing) |
| Deadline to Submit Claims If Not Previously Submitted | Date: March 10, 2023 |
| | (60 days after Settlement Notice Date) |
| Motion for Final Approval, Notice Provider Declaration, and Response to Objections Due | Date: April 14, 2023 |
| | (10 days prior to Final Approval Hearing) |
| Final Approval Hearing | Date: April 24, 2023 Time: 1:30 PM |
| | Orrin G. Hatch United States Courthouse 351 South West Temple Salt Lake City, Utah |

IT IS SO ORDERED.

Dated this 8th day of December, 2022.

BY THE COURT:



Howard C. Nielson, Jr.
United States District Judge