

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
PADUCAH DIVISION
CASE NO: 5:21-cv-00068-BJB-LLK

**DANIEL MCNALLY,
Individually and on Behalf of all Others
Similarly Situated,**

PLAINTIFF

V.

THE KINGDOM TRUST COMPANY

DEFENDANT

ORDER

**(1) PRELIMINARILY CERTIFYING THE CLASS FOR SETTLEMENT PURPOSES;
(2) GRANTING PRELIMINARY APPROVAL OF SETTLEMENT; AND
(3) APPROVING CLASS NOTICE**

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

WHEREAS, Plaintiff Daniel McNally and proposed additional plaintiff Daniel Brager (“Plaintiffs”), and Defendant, The Kingdom Trust Company (“KTC,” “Kingdom Trust” or “Defendant”), through their counsel, have entered into a Settlement Agreement dated November 7, 2025 (the “Settlement Agreement”), which is subject to review and approval under Rule 23 of the Federal Rules of Civil Procedure, and which, together with the exhibits thereto, sets forth the terms and conditions for the proposed settlement of the Action (the “Settlement”) and the dismissal of the Action with prejudice;

WHEREAS, the Court has read and considered the Settlement Agreement¹ and exhibits thereto, and the accompanying documents;

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

WHEREAS, the Counsel for Plaintiffs has submitted, and the Court has reviewed, a Motion and accompanying Memorandum of Law supporting preliminary approval of the proposed Settlement; and

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

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

1. Pursuant to Rule 23(a) and Rule 23(b)(3) of the Federal Rules of Civil Procedure, and for the purposes of the Settlement only, the Court preliminarily certifies the following Class (the “Class”): all persons or entities that invested in the William Jordan Scheme and were damaged thereby.

2. Excluded from the Class are: (1) the Defendant; (2) any person, firm, corporation, or other entity related to or affiliated with Defendant, or in which the Defendant has or had a controlling interest; (3) William M. Jordan, and any employee or agent of William Jordan Investments, Inc., WJA Asset Management, LLC, or the WJA Funds; (4) members of the immediate family of Jordan; and (5) the legal representatives, affiliates, heirs, successors-in-interest, or assigns of any such excluded person. Also excluded from the Class are the persons and/or entities who request exclusion from the Class within the time period set by the Court in this Order.

3. The Court preliminarily finds that the prerequisites for maintaining a class action under Rule 23(a) of the Federal Rules of Civil Procedure have been satisfied, in that: (a) the number of Class Members is so numerous that joinder of all members is impracticable; (b) there are questions of law and fact common to each member of the Class; (c) the claims of Plaintiffs are

typical of the claims of the members of the Class they seek to represent; and (d) Plaintiffs will fairly and adequately represent the interests of the Class.

4. The Court further finds that the prerequisites for maintaining a class action under Rule 23(b)(3) of the Federal Rules of Civil Procedure have been preliminarily satisfied for the Class, in that Plaintiffs have demonstrated that: (a) the questions of law or fact common to the Class members predominate over any questions affecting only individual members; and (b) a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

5. Pursuant to Fed. R. Civ. P. 23, and for purposes of this Settlement only, the Court hereby approves Proposed Additional Plaintiff Daniel Brager's request to be added as a plaintiff, preliminarily appoints Plaintiff Daniel McNally and proposed additional plaintiff Daniel Brager as representatives of the Class (the "Representative Plaintiffs").

6. Having considered the factors set forth in Fed. R. Civ. P. 23(g)(1), the Court hereby preliminarily appoints attorneys Alan Rosca and Paul Scarlato of Rosca Scarlato LLC, and Hugh Berkson of McCarthy Lebit Crystal & Liffman Co., LPA as Class Counsel.

7. The Court approves the selection of Strategic Claims Services as the Claims Administrator.

8. The Court preliminarily concludes that the Settlement was negotiated in good faith and is fair, reasonable and adequate, subject to proof to this Court's satisfaction in connection with final approval of the Settlement as set forth in ¶ 9 below ("Final Approval"). *See* Fed. R. Civ. P. 23(e). Accordingly, the Court hereby preliminarily approves the Settlement.

9. The Court reserves the authority to approve the Settlement with or without modification and with or without further notice of any kind. The Court further reserves the authority to enter its Final Order approving the Settlement Agreement and dismissing the Claims

against Defendants on the merits and with prejudice regardless of whether it has awarded any attorneys' fees and expenses to counsel.

10. A Fairness Hearing (which, from time to time, and without further notice to the Class other than by filing a notice on the docket in the Class Action in advance of the Fairness Hearing, may be continued or adjourned by order of this Court) will be held by this Court on April 28, 2026, at 2 p.m. for the following purposes:

- (a) to finally determine whether the Class satisfies the applicable prerequisites for certification under Fed. R. Civ. P. 23(a) and 23(b)(3);
- (b) to finally determine whether the Settlement should be approved by the Court as fair, reasonable and adequate and in the best interests of the Class;
- (c) to determine whether a Final Order Approving Settlement should be entered pursuant to the Settlement Agreement, dismissing the Class Action with prejudice against the Defendant and effectuating the releases set forth in the Settlement Agreement and Notice;
- (d) to determine whether the proposed Plan of Allocation of the Net Cash Settlement Amount set forth in the Notice is fair and reasonable, and should be approved by the Court;
- (e) to consider any request by Class Counsel for an award of attorneys' fees and reimbursement of litigation expenses ("Attorneys' Fees and Expense Award"), and an application by Class Counsel on behalf of the Representative Plaintiffs for compensation for the Representative Plaintiffs' efforts devoted to the Action and reimbursement of Representative Plaintiffs' expenses ("Service Award");
- (f) to hear and determine any objections to the Settlement or to any request by Class Counsel for an Attorney's Fees and Expense Award or Service Award; and

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

11. The Court approves the substance and requirements of the Class Notice, in the form annexed as Exhibit B to the Settlement Agreement.

12. No later than fourteen (14) days after Preliminary Approval, the Claims Administrator shall mail, or cause to be mailed, and to the extent such addresses are available, to electronically transmit via email, or cause to be e-mailed, the Class Notice to those Class Members who can be identified through reasonable effort. Notice costs shall be paid or reimbursed from the Settlement Fund, as set forth in ¶5 of the Settlement Agreement.

13. The Court finds that mailing and emailing of the Notice, as described herein, constitutes the best notice practicable under the circumstances and is due and sufficient notice of the matters set forth in the Class Notice to all Class Members, and fully satisfies the requirements of due process and of Rule 23 of the Federal Rules of Civil Procedure.

14. No later than March 30, 2026, which is no later than thirty (30) calendar days prior to the Fairness Hearing, Plaintiffs must file papers in support of Final Approval, the Plan of Allocation, and Class Counsels' Attorneys' Fees, Expense and Service Award Application.

15. The Court will consider any objections, and comments in support of or in opposition to the Settlement, the Plan of Allocation, or any request by Class Counsel for an Attorney's Fees and Expense Award and Service Award, only if such comments and any supporting papers (a) provide the name, address, and telephone number of the objecting Settlement Class Member; (b) include the basis for the objection; and (c) are in writing and filed with the Clerk of the Court, United States District Court, Western District of Kentucky, Clerk's Office, 241 East Main Ave., Bowling Green, KY 42101. Copies of any such papers must be served upon each of the counsel below by U.S. Mail or email and should be received on or before April 14, 2026:

Alan Rosca
ROSCA SCARLATO LLC
2000 Auburn Drive, Suite 200
Beachwood, OH 44122
arosca@rs counsel.law

Hugh Berkson
McCARTHY LEBIT CRYSTAL & LIFFMAN CO., LPA
1111 Superior Avenue, Suite 2700
Cleveland, OH 44114
hdb@mccarthylebit.com

Any replies to any objections or comments shall be filed and served upon any objector or commenter no later than April 21, 2026.

16. Attendance at the Fairness Hearing is not necessary. Persons wishing to be heard orally with respect to the approval of the Settlement, the Plan of Allocation, and/or any request by Class Counsel for an Attorney's Fees and Expense Award or Service Award, however, must indicate in their written comments or objections their intention to appear at the Fairness Hearing. Persons who intend to object to the Settlement, the Plan of Allocation, and/or any request by Class Counsel for an award of attorneys' fees and reimbursement of litigation expenses, and desire to present evidence at the Fairness Hearing, must include in their written objections the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the Fairness Hearing. Class Members do not need to appear at the hearing or take any action to indicate their approval.

17. Any person or entity who fails to object in the time and manner provided above shall be deemed to have waived such objection (including the right to appeal), and absent good cause found by the Court, shall forever be barred from making any such objection in the Class Action or any other action or proceeding or otherwise contesting any aspect of the Settlement, but shall otherwise be bound by the Final Order and Judgment to be entered and the releases to be

given.

18. Each Settlement Class Member will be bound by all determinations and judgments in this Action, whether favorable or unfavorable, unless such person or entity mails or delivers a written request for exclusion from the Settlement Class, addressed to *McNally v. The Kingdom Trust Company*, EXCLUSIONS, c/o Strategic Claims Services, 600 N. Jackson St., Ste. 205, P.O. Box 230, Media, PA 19063, Fax (610) 565-7985, pursuant to the procedure set forth in the Class Notice. The request for exclusion must be received no later than April 14, 2026, (the “Opt-Out Deadline”). Class Members will not be able to exclude themselves from the Settlement Class after the Exclusion Deadline.

19. All parties are hereby notified that Final Approval would result in the dismissal, with prejudice, of all claims in the Class Action as defined in the Settlement Agreement.

20. This Order, the Settlement Agreement, and any negotiations, discussions, or proceedings in connection with this Settlement shall not be offered or received against Defendant as evidence of, or deemed to be any admission or confession by Defendant, of the truth of any of the claims, allegations, facts, subjects, or issues that were or could have been set forth or raised in the Class Action.

21. Accordingly, the Court sets the following deadlines:

Settlement Notice Date	Date: February 11, 2026 <i>(14 days after Preliminary Approval)</i>
Motion for Final Approval	Date: March 30, 2026 <i>(30 days before Fairness Hearing)</i>
Attorneys' Fees, Expense and Service Award Application	Date: March 30, 2026 <i>(30 days before Fairness Hearing)</i>
Opt-Outs and Objections	Date: April 14, 2026 <i>(14 days after Class Counsel files opening papers in support of Final Approval, the Plan of Allocation, and the Attorneys' Fees, Expenses and Service Award Application)</i>
Deadline to file Claims	Date: April 14, 2026 <i>(75 days after mailing of Notice and Claim Form)</i>
Deadline to file reply papers in support of the Settlement (if any)	Date: April 21, 2026 <i>(7 days before the Fairness Hearing)</i>
Fairness Hearing	Date: April 28, 2026 <i>(90 days after Preliminary Approval).</i>

SO ORDERED this ____ day of _____, 2026.

Benjamin Beaton
United States District Judge