

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

HENRY W. SEGAR, et al.,

Plaintiffs,

v.

MERRICK GARLAND,  
Attorney General, et al.,

Defendants.

Civil Action No. 77-0081 (EGS)

**PARTIAL SETTLEMENT AGREEMENT**

This partial settlement agreement (“Agreement”) is entered into by and among Plaintiffs (as defined below), and Defendants (as defined below). Collectively, Plaintiffs and Defendants are referred to herein as “the Parties” and each separately as “a Party.”

WHEREAS, the Court entered an order dated February 17, 1982 (the “Order”), requiring, among other things, that Defendants implement validated, non-discriminatory promotions procedures;

WHEREAS, the Court entered orders dated September 27, 1999 (the “1999 Order”), and June 25, 2019 (the “2019 Order”), holding that the promotions procedures utilized by Defendants for promotions to the GS-14 and GS-15 levels during the Relevant Period, as defined below, did not comply with the 1982 Order;

WHEREAS, a motion is currently pending before the Court concerning the monetary relief owed by Defendants for alleged damages incurred by Plaintiffs as a result of Defendants’ lack of compliance with the 1982 Order in connection with promotions to the GS-14 and GS-15 levels during the Relevant Period, ECF No. 486 (“Motion for Individual Relief”);

NOW THEREFORE, in consideration of the mutual promises and other good and valuable consideration provided in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows to resolve solely Plaintiffs' claims for monetary relief as a result of the lack of compliance with the 1982 Order in connection with promotions to the GS-14 and GS-15 levels during the Relevant Period, as requested in the pending Motion for Individual Relief.

## **I. DEFINITIONS**

A. "Claims Administrator" means the individual or entity retained for purposes of implementing the administrative requirements of this Agreement.

B. "Class Counsel" means the law firm Wilmer Cutler Pickering Hale and Dorr LLP, including individual attorneys practicing there and participating in the representation of Plaintiffs in this case.

C. "Class Members" means individual members of the Plaintiff Class certified by the Court in connection with the above-captioned case on September 9, 1977.

D. "Court" means the United States District Court for the District of Columbia (and specifically the member of that court presiding over this litigation, currently the Honorable Emmet G. Sullivan).

E. "DEA" means the United States Drug Enforcement Administration.

F. "Defendants" refers to the United States Attorney General (currently Merrick Garland) and the Administrator of the DEA (currently Anne Milgram). The United States' position is that the only proper defendant is the Attorney General in his official capacity. Plaintiffs disagree. While DEA does not waive this argument, it agrees solely for purposes of this Settlement Agreement to use of the plural form "Defendants" for ease of reading.

G. “Effective Date” means the date as of which both Parties have signed this Agreement.

H. “Fairness Hearing” means the hearing before the Court to consider Plaintiffs’ motion for final approval of this Agreement and any objections thereto and to determine whether this Agreement should be finally approved under Federal Rule of Civil Procedure 23(e).

I. “Final Court Approval” means the date on which the following have occurred: (1) the Court has held a Fairness Hearing and thereafter entered an order approving the terms of this Agreement, (2) the time has run to file appeals challenging this Agreement, and (3) any appeal has been fully resolved.

J. “Notice Period” means the later of: (1) sixty calendar days after the Court enters an order approving Plaintiffs’ motion for preliminary approval of this Agreement or (2) thirty calendar days after Class Members’ last day to object to this Agreement, pursuant to any notice plan approved by the Court.

K. “Plaintiffs” means the Plaintiff Class.

L. “Relevant Period” means from January 21, 1993, through May 2, 2022.

M. “Settlement Fund” means the escrow account into which Defendants will deposit the Settlement Payment.

N. “Settlement Payment” means the sum of \$12,568,035.60 that Defendants will pay Plaintiffs under this Agreement.

## **II. PRELIMINARY APPROVAL**

The Plaintiffs shall within thirty calendar days after the Effective Date file a motion for preliminary approval of this Agreement, including a proposed notice and notice plan to inform Class Members of their right to object to this Agreement, and a proposed plan of allocation and

distribution of settlement proceeds. Plaintiffs will provide Defendants drafts of the motion for preliminary approval and plan of allocation for Defendants' review and comment at least a week before filing them.

### **III. PAYMENT OF SETTLEMENT AMOUNT**

Defendants will pay the Settlement Payment pursuant to the written payment instructions provided by Class Counsel within the later of: (1) thirty calendar days after the date of the Court's order granting preliminary approval to this Agreement and (2) thirty calendar days after receiving written payment instructions from Class Counsel. The written payment instructions shall direct that the Settlement Payment be paid directly into an escrow account (the "Settlement Fund"), pending Final Court Approval of this Agreement, and the distribution of the Settlement Payment and interest accrued thereon from the Settlement Fund pursuant to the plan of allocation approved by the Court.

The Parties agree to treat the Settlement Fund as being at all times a "Qualified Settlement Fund" within the meaning of Treasury Regulation § 1.468B-1. All provisions of this Agreement shall be interpreted in a manner that is consistent with the Settlement Fund being a "Qualified Settlement Fund" within the meaning of Treasury Regulation § 1.468B-1.

Defendants shall be responsible for paying any employer-side taxes or contributions due to the federal or any state government based on the payments made to Class Members from the Settlement Fund.

### **IV. FINAL APPROVAL**

Within thirty calendar days following the conclusion of the Notice Period, or as otherwise agreed by the Parties or directed by the Court, the Plaintiffs shall file with the Court a motion for final approval of this Agreement and the Plaintiffs' proposed plan of allocation. The Parties will

request the scheduling of a Fairness Hearing to consider the Plaintiffs' motion for final approval of this Agreement, the Plaintiffs' proposed plan of allocation, and any objections filed thereto.

## **V. LIMITED RELEASE**

A. In consideration of the fulfillment of the Defendant's obligations under this Agreement, upon Final Court Approval of this Agreement, Plaintiffs release Defendants for any and all monetary relief sought by Plaintiffs in their pending Motion for Individual Relief, i.e., the monetary relief owed by the Defendants for alleged damages incurred by Plaintiffs as a result of the Defendants' lack of compliance with the 1982 Order, as held in the 1999 and 2019 Orders, in connection with promotions to the GS-14 and GS-15 levels during the Relevant Period. Plaintiffs agree not to hereafter assert any claim or institute or prosecute any civil action or other proceeding against the United States, the Attorney General, the DEA, or the DEA Administrator with respect to any and all damages sought by Plaintiffs in their Motion for Individual Relief as a result of the Defendants' lack of compliance with the 1982 Order in connection with promotions to the GS-14 and GS-15 levels during the Relevant Period, including without limitation, as noted in the 1999 and 2019 Orders.

B. Plaintiffs will within two business days of Final Court Approval withdraw their pending Motion for Individual Relief (ECF No. 486).

C. Nothing in this Agreement shall be construed as resolving any aspect of this litigation other than that described in the previous paragraphs. In particular, this Agreement has no impact on the Plaintiffs' pending motion for attorneys' fees and costs and any future requests for attorneys' fees and costs as well as costs of notice and administration of this Agreement. Defendants will bear reasonable costs of notice and administering the distribution of settlement proceeds.

D. Nothing in this Settlement constitutes an agreement by the United States or any Defendant concerning the characterization of any portion of the Settlement Proceeds for purposes of the Internal Revenue Code, Title 26 of the United States Code.

## **VI. NO ADMISSION OF LIABILITY; USE OF THIS AGREEMENT**

This Agreement does not constitute and shall not be deemed to be a finding, determination, or adjudication by the Court, nor an admission by any Party, regarding the merits, validity, or accuracy of any of the allegations, claims, or defenses in this case. The Parties' entry into this Agreement, its provisions, the negotiations leading up to this Agreement, or the data, documents, and information exchanged between the Parties in the course of those negotiations, may not be offered, taken, construed, introduced, or admitted as evidence of liability or as an admission or statement of wrongdoing by any Party.

## **VII. COMMUNICATIONS WITH AND AMONG THE PARTIES**

A. All notifications, reports, documents, or materials required to be delivered to one or more Parties under this Agreement will be sent to the following representatives both by electronic mail and U.S. mail at the following addresses:

1. For Plaintiffs:

Steven F. Cherry and Daniel S. Volchok  
2100 Pennsylvania Avenue N.W.  
Washington, D.C. 20037  
202-663-6000  
[steven.cherry@wilmerhale.com](mailto:steven.cherry@wilmerhale.com)  
[daniel.volchok@wilmerhale.com](mailto:daniel.volchok@wilmerhale.com)

2. For Defendants:

Sandra T. Stevens  
Drug Enforcement Administration  
8701 Morrisette Drive  
Springfield, VA 22152  
[Sandra.T.Stevens@dea.gov](mailto:Sandra.T.Stevens@dea.gov)

*with copies to:*

BRIAN P. HUDAK  
Civil Chief, United States Attorney's Office  
601 D Street, NW  
Washington, DC 20530  
(202) 252-2549  
[Brian.Hudak@usdoj.gov](mailto:Brian.Hudak@usdoj.gov)

B. Any Party may change such representative or corresponding contact information by written notice to other Parties setting forth the new representative or contact information for this purpose.

#### **VIII. MISCELLANEOUS**

A. This Agreement, including all materials attached hereto, constitutes the entire agreement between and among the Parties with respect to the subject matter of the Agreement and it supersedes all prior negotiations, representations, comments, contracts, writings, and agreements, written or oral, with respect to the subject matter of the Agreement prior to the date of this Agreement.

B. No waiver, modification, or amendment of any term of this Agreement will be effective unless made in writing, approved by Counsel for all Parties.

C. Whenever possible, each term of this Agreement will be interpreted so as to be valid and enforceable. In the event any term of this Agreement is determined to be or rendered invalid or unenforceable, all other terms of this Agreement will remain in force. If application of any term of this Agreement to any person or circumstance should be determined to be invalid or unenforceable, the application of such term to other persons and circumstances will remain in force and unaffected.

D. The terms of this Agreement are the product of joint negotiation and will not be construed as having been authored by one party rather than another.

E. The captions or headings in this Agreement shall have no effect upon the construction or interpretation of any part of this Agreement.

F. As of the Effective Date, the Court shall retain jurisdiction over this matter and the Parties during the duration of this Agreement for the purpose of enforcing this Agreement and issuing any orders necessary to implement this Agreement and the relief provided herein. This Agreement shall in all respects be interpreted, enforced and governed by and under the laws of the United States, and all claims relating in any way to this Agreement shall be brought in the United States District Court for the District of Columbia.

G. In the event Final Court Approval is not secured, the Settlement Payment shall be returned to Defendants, along with any accrued interest.

H. Any signature made and transmitted by facsimile or email for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement and shall be binding upon the Party whose counsel transmits the signature page by facsimile or email.




**AGREED AND ACCEPTED,**

Dated: September 24, 2024

/s/ Steven Cherry

Steven F. Cherry, D.C. Bar #431473  
Daniel S. Volchok, D.C. Bar #497341  
Wilmer Cutler Pickering  
Hale & Dorr llp  
2100 Pennsylvania Avenue N.W.  
Washington, D.C. 20037  
Tel.: 202.663.6000  
Fax: 202.663.6363

*Counsel for Plaintiffs & Class*

/s/  Digitally signed by  
BRIAN HUDAK  
Date: 2024.10.04  
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STEPHEN DEGENARO  
D.C. Bar #1047116  
Assistant United States Attorney  
601 D Street, NW  
Washington, D.C. 20530  
Telephone: (202) 252-7229  
stephen.degenaro@usdoj.gov  
MATTHEW M. GRAVES, D.C. Bar  
#481052 United States Attorney

BRIAN P. HUDAK  
Chief, Civil Division

*Counsel for Defendants*

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Bob Smith

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Ted Golden

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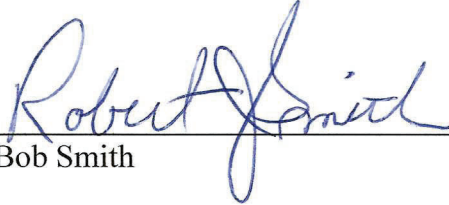
*Class Representatives*

SO ORDERED.

Dated:

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EMMET G. SULLIVAN  
United States District Judge

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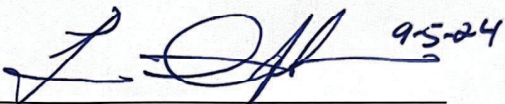
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