

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

TAMI BRUIN, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

BANK OF AMERICA, N.A.,

Defendant.

CASE NO. 3:22-cv-140-MOC-WCM

CLASS ACTION

**DECLARATION OF
SCOTT M. FENWICK OF KROLL
SETTLEMENT ADMINISTRATION LLC
REGARDING DIRECT NOTICE
COMPLIANCE**

I, Scott M. Fenwick, declare as follows:

INTRODUCTION

1. I am a Senior Director of Kroll Settlement Administration LLC (“Kroll”),¹ the Settlement Administrator appointed in the above-captioned case, whose principal office is located at 2000 Market Street, Suite 2700, Philadelphia, Pennsylvania 19103. I am over 21 years of age and am authorized to make this declaration on behalf of Kroll and myself. The following statements are based on my personal knowledge and information provided by other experienced Kroll employees working under my general supervision. This declaration is being filed to update the Court in connection with direct Notice compliance.

2. Kroll has extensive experience in class action matters, having provided services in class action settlements involving antitrust, securities fraud, labor and employment, consumer, and government enforcement matters. Kroll has provided notification and/or claims administration services in more than 3,000 cases.

DIRECT NOTICE

3. On December 13, 2023, Kroll received one (1) data file from Defendant containing the data for 934,083 Settlement Class Members. The Class List contained first and last names for primary and secondary account holders, physical mailing addresses, email addresses, phone numbers, account status, net fees, and if Settlement Class Members consented to received email communication from BANA. Kroll cleaned the data by deduping based on first name, last name and physical address. Kroll then parsed who was a current account holder who had consented to email notification and who was either a former customer or a current customer who did not consent to email notification. Additionally, in an effort to ensure that Postcard Notices would be deliverable to Settlement Class Members, Kroll ran the Class List through the United States Postal Service’s (“USPS”) National Change of Address (“NCOA”) database and

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in that certain Stipulation and Settlement Agreement and Release (the “Settlement Agreement”) entered into in this Action.

updated the Class List with address changes received from the NCOA. After this process was complete, the final Class List contained 828,000 unique Settlement Class Members, of whom 199,358 would be mailed Postcard Notices and 628,642 would receive Email Notices.

4. On December 29, 2023, Kroll caused 199,358 Postcard Notices to be mailed via first-class mail. Pursuant to the Settlement Agreement and consistent with the Preliminary Approval Order, Kroll mailed out all initial Postcard Notice mailings within forty-five (45) days of the Preliminary Approval Order. Kroll is continuing to process and respond to Postcard Notices returned as undeliverable as received, which are coming in on a rolling basis.

5. As of February 13, 2024, 1,463 Postcard Notices were returned by USPS with a forwarding address and of those, 1,455 were automatically re-mailed to the updated address provided by USPS. The remaining eight (8) Postcard Notices were re-mailed by Kroll to the updated address provided by the USPS.

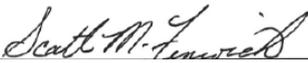
6. As of February 13, 2024, 8,975 Postcard Notices were returned by the USPS as undeliverable as addressed, without a forwarding address. Kroll ran 8,975 undeliverable records through an advanced address search. The advanced address search produced 4,990 updated addresses. Kroll has re-mailed Postcard Notices to the 4,990 updated addresses obtained from the advanced address search.

7. On December 29, 2023, Kroll caused 628,642 Email Notices to be sent to Current Accountholders of BANA who have agreed to receive electronic account statements from BANA. Pursuant to the Settlement Agreement and consistent with the Preliminary Approval Order, Kroll emailed all Email Notices within forty-five (45) days of the Preliminary Approval Order. Of those 628,642 Email Notices that were sent, 78,484 were rejected/bounced back as undeliverable. On January 18, 2024, as required under paragraph 5.2.1 of the Settlement Agreement, Kroll mailed Postcard Notices to those 78,484 Settlement Class Members.

8. Kroll is continuing to process and respond to Postcard Notices returned by the USPS as undeliverable, and will continue to process and respond to all remailings up to March 18, 2024.

CERTIFICATION

I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge and that this declaration was executed on February 15, 2024, in Inver Grove Heights, Minnesota.


SCOTT M. FENWICK