

IN THE IOWA DISTRICT COURT OF DALLAS COUNTY

DUANE SMITH and BROOKE SMITH, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

MARTIN BROTHERS DISTRIBUTING COMPANY, INC., IOWA EDUCATORS CORPORATION d/b/a IOWA EDUCATORS CONSORTIUM, and THE IOWA ASSOCIATION FOR EDUCATIONAL PURCHASING,

Defendants.

Case No. **CVCV036641**

**FINAL ORDER AND JUDGMENT GRANTING
FINAL APPROVAL OF CLASS
SETTLEMENTS**

WHEREAS, Plaintiffs have filed their Motion For Final Approval of Class Settlements (“Motion”) with Defendants Martin Brothers Distributing Company (“Martin Brothers”) and the Iowa Educators Corporation d/b/a Iowa Educators Consortium and the Iowa Association for Educational Purchasing (collectively, “IEC”);

WHEREAS, Plaintiffs and Defendants desiring to resolve any and all disputes in this action, have entered into two separate settlements: the Settlement Agreement and Release dated July 31, 2014 between Plaintiffs and Martin Brothers (“MB SA”), attached as Ex. 1 to the Motion; and the Settlement Agreement dated December 28, 2012 between Plaintiffs and the IEC (“IEC SA”) attached as Ex. 2 to the Motion (collectively, “Settlements”);

WHEREAS, this Court has reviewed the Motion and the Settlements;

WHEREAS, Plaintiffs, on behalf of the Settlement Classes, and Defendants have agreed to entry of this Final Order and Judgment Granting Final Approval of Class Settlements (hereinafter “Final Approval Order and Judgment”);

WHEREAS, by Orders entered on August 1, 2014, this Court granted preliminary approval to the Settlements, directed that Notice be given to the Settlement Class certified below, and appointed Class Counsel;

WHEREAS, pursuant to preliminary approval of the Settlements and approval of the proposed method of Notice to Class Members, Notice was given to Class Members, in accordance with Iowa Rule of Civil Procedure 1.266 and the requirements of due process, and Class Members were afforded the opportunity to object or otherwise comment on the MB SA and IEC SA and afforded the opportunity to exclude themselves from the terms of the MB SA;

WHEREAS, an opportunity to be heard was given to all persons requesting to be heard in accordance with this Court's orders; the Court has reviewed and considered the terms of the Settlements, the submissions of the parties in support thereof, and the comments received in response to the Notice; and a hearing was held on November 4, 2014 at which time all interested parties were given an opportunity to be heard;

WHEREAS, all capitalized terms in this Final Approval Order and Judgment shall have the same meaning as defined in the Settlements;

WHEREAS, the Court finds good cause to grant the Motion;

WHEREAS, the Court finds as follows:

1. On August 1, 2014, this Court conditionally certified the following Settlement Classes for Settlement purposes, and such certification is hereby made final:

(a) All persons who paid for food, between January 1, 2000 and August 1, 2014, at an Iowa-based school that, at the time of payment was a member of the Iowa Educators Corporation (IEC) or The Iowa Association for Educational Purchasing (IAEP), and had one or more grades from pre-kindergarten through 12th grade. Excluded from the Settlement Class are:

(1) Martin Brothers, each of their respective affiliates, subsidiaries, and parents; each of the respective directors, officers, employees, legal representatives, successors, and assigns of Martin Brothers, and their respective affiliates, subsidiaries, and parents; and (2) any Judge to whom the Action is assigned and all members of his or her immediate family.

(b) All persons who paid for food, between January 1, 2000 and August 1, 2014, at an Iowa-based school that, at the time of payment, (i) was a member of the Iowa Educators Corporation (IEC) or The Iowa Association for Educational Purchasing (IAEP), and (ii) had one or more grades from pre-kindergarten through 12th grade. Excluded from the Settlement Class are: the IEC and the IAEP and each of their respective affiliates, subsidiaries, and parents; each of the respective directors, officers, employees, legal representatives, successors, and assigns of the IEC, the IAEP, and their respective affiliates, subsidiaries, and parents; persons who purchased for purposes of resale; and any Judge to whom the Action is assigned and all members of his or her immediate family.

2. The Court finds that the Notice provided constituted the best notice practicable under the circumstances and constituted valid, due and sufficient notice to all persons entitled thereto.

3. Class Counsel has vigorously pursued the relief contained in the Settlements and has adequately protected the interests of Class Members.

4. The terms of the Settlements are adjudged to be fair, reasonable, and adequate and in the best interests of Plaintiffs and the Settlement Classes as a whole.

5. The terms of the Settlements are hereby approved, and the parties thereto are directed to implement the Settlements in accordance with their terms.

6. This Action is dismissed with prejudice as to Defendants.

7. Plaintiffs and all Class Members who have not timely and validly excluded themselves from the MB SA in accordance with the requirements approved by the Court, except as agreed to by the Parties as reflected in the Declaration of Kenneth Jue, are bound by the terms of this Final Approval Order and Judgment and barred from further prosecution of the Released Claims as defined in the MB SA.

8. Plaintiffs and all Class Members are bound by terms of this Final Approval Order and Judgment and barred from further prosecution of the Released Claims as defined in the IEC SA.

9. The Court finds that this Final Approval Order and Judgment adjudicates all the claims, rights, and liabilities of the parties to the Settlements, other than those covered in the proposed Fee and Expense Order. The Court further finding that there is no just reason for delay, this Final Approval Order and Judgment is final. Further proceedings, including appeals, if any, related to the proposed Fee and Expense Order shall not prevent this Final Approval Order and Judgment from becoming Final, as that term is defined in the Settlements. Neither this Final Approval Order and Judgment nor the Settlements shall constitute any evidence or admission of liability by Defendants, nor shall either document or any other document relating to the Settlements be offered in evidence or used for any other purpose in this or any other matter or proceeding except as may be necessary to consummate or enforce the Settlements or the terms of this Final Approval Order and Judgment or if offered by Defendants in responding to any action purporting to assert Released Claims.



State of Iowa Courts

Type: OTHER ORDER

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DISTRIBUTING ET AL

So Ordered

A handwritten signature in black ink, appearing to read "Paul R. Huscher".

Paul R. Huscher, District Court Judge,
Fifth Judicial District of Iowa