

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FT. MYERS DIVISION**

---

**IN RE MIVA, INC.**

**SECURITIES LITIGATION**

---

)  
) **CIVIL ACTION FILE**

) **NO. 2:05-cv-00201-JES-DNF**  
)

**ORDER APPROVING DISTRIBUTION OF NET SETTLEMENT FUND**

Lead Plaintiffs Y.P. and Sampurna Jain, (collectively “Lead Plaintiffs”), by unopposed motion, moved this Court for an order approving the distribution of the Net Settlement Fund, Doc. #249, and the Court having considered the motion and the Affidavit of Stephen J. Cirami in Support of Motion for Distribution of Net Settlement Fund (the “Cirami Affidavit”), submitted therewith.

NOW, THEREFORE, IT IS HEREBY **ORDERED, ADJUDGED AND DECREED** that:

1. This Order incorporates by reference the definitions in the Stipulation of Settlement dated May 14, 2014 (“Stipulation”) and in the Cirami Affidavit and all capitalized terms used herein shall have the same meanings as set forth in the Stipulation or in the Cirami Affidavit;

2. This Court has jurisdiction over the subject matter of the Action and over all parties to the Action, including all Class Members;

3. Plaintiffs’ plan for distribution of the Net Settlement Fund to the Authorized Claimants is APPROVED. Accordingly:

a) The administrative recommendations of the Court-approved Claims Administrator, Garden City Group, LLC (“GCG”), to accept the claims of the Timely Authorized Claimants set forth in Exhibit B-1 to the Cirami Declaration and the claims of

the Late But Otherwise Authorized Claimants set forth in Exhibit B-2 to the Cirami Declaration, are ADOPTED;

b) The Claims Administrator's administrative recommendations to reject wholly ineligible or otherwise deficient Proofs of Claim of the Rejected or Ineligible Claimants, as set forth in Exhibit B-3 to the Cirami Affidavit are ADOPTED;

c) GCG will undertake the following tasks: calculate the *pro rata* distribution amounts from the Net Settlement Fund by comparing the Authorized Claimants' Recognized Loss Amounts to the total Recognized Loss Amounts of all the eligible claimants then to the total dollar value of the Net Settlement Fund at the time of distribution; prepare checks and check registers, and mail checks by prepaid first class mail; issue replacement checks upon request by payee; and answer inquiries about claim calculation and checks;

d) GCG is directed to conduct an initial distribution (the "Initial Distribution") of the Net Settlement Fund, after deducting the payments previously allowed and those currently payable as authorized herein, and after deducting payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, as set forth in the Stipulation and in paragraph 37 of the Cirami Declaration; and

e) In order to encourage Authorized Claimants to cash their checks promptly, and to avoid or reduce future expenses relating to unpaid checks, all distribution drafts shall bear the following notation: "CASH PROMPTLY, VOID AND SUBJECT TO RE-DISTRIBUTION IF NOT CASHED WITHIN 120 DAYS AFTER ISSUE DATE";

4. Authorized Claimants who do not cash their distribution checks within the time allotted irrevocably forfeit all recovery from the Settlement and therefore, funds allocated to all

such stale-dated checks will be available in a re-distribution to other Authorized Claimants;

5. In order to allow a final distribution of any balance that may remain in the Settlement Fund after the Initial Distribution, whether by reason of returned funds, tax refunds, interest, uncashed drafts, or otherwise, the following plan is ordered:

a) If any funds remain in the Net Settlement Fund by reason of uncashed checks or otherwise, after GCG has made reasonable and diligent efforts to have Authorized Claimants who are entitled to participate in the Distribution of the Net Settlement Fund cash their Distribution checks, then any balance remaining in the Net Settlement Fund six (6) months after the initial distribution of such funds shall be used:

- i. First, to pay any amounts mistakenly omitted from the Initial Distribution to Authorized Claimants or to pay any late, but otherwise valid and fully documented claims received after the cut-off date used to make the Initial Distribution, which were not previously authorized by the Court to be paid, provided that such distributions to any late post-distribution Claimants meet all of the other criteria for inclusion in the Initial Distribution, including the \$10.00 minimum check amount set forth in the Notice;
- ii. Second, to pay any additional Notice and Administration Costs incurred in administering the Settlement; and
- iii. Finally, to make a second distribution to Authorized Claimants who cashed their checks from the Initial Distribution and who would receive at least \$10.00 from such second distribution, after payment of the estimated costs or fees to be incurred in administering the Net Settlement Fund and in making this second distribution, if such second distribution is economically feasible;

b) If after six (6) months after such re-distribution (whether any re-distribution was necessary) any funds shall remain in the Net Settlement Fund, then such balance shall be donated to a non-profit charitable organization(s) as designated by Lead Counsel and approved by Defendants;

6. The administration of the Settlement and the proposed distribution of the Net

Settlement Fund comply with the terms of the Settlement Agreement and the Plan of Allocation and, therefore, all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the claims submitted herein, or otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund, are released and discharged from any and all claims arising out of such involvement, and all Class Members, whether or not they have claimed against, they received, or they are to receive payment from the Net Settlement Fund, are barred from making any further claims against the Net Settlement Fund or Lead Plaintiffs, Lead Counsel, the Claims Administrator, the escrow agent or any other agent retained by Lead Plaintiffs or Lead Counsel, and are bound by all of the terms of the Settlement Agreement, including the terms of the Final Judgment, and will be barred from bringing any action against the Released Parties concerning the Released Claims or in connection with the administration of the Settlement, or to claim against the Net Settlement Fund for any amount greater than that allocated to such Class Member as a result of its submission of a valid proof of claim;

7. In order to allow the full and final distribution of the Net Settlement Fund, it is necessary to bar any further claims received after July 23, 2015, from eligibility in the distribution of the Net Settlement Fund beyond the amount allocated to Authorized Claimants;

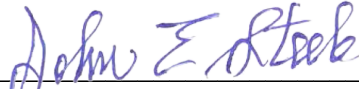
8. GCG shall be paid the outstanding balance of its fees and expenses in connection with the services performed and to be performed in administering the Proofs of Claim and distributing the Net Settlement Fund in the total amount of \$41,108.09;

9. GCG is authorized to destroy the paper copies of the Claim Forms one (1) year after the Initial Distribution of the Net Settlement Fund, and to destroy electronic copies of claim records three (3) years after the Initial Distribution of the Net Settlement Fund; and

10. This Court retains jurisdiction to consider any further applications concerning the administration of the Settlement, and such other and further relief as this Court deems appropriate.

Dated: September 23, 2015

**IT IS SO ORDERED.**



---

THE HONORABLE JOHN E. STEELE  
SENIOR U.S. DISTRICT JUDGE