

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

JUAN DUARTE and BETSY DUARTE, on	)	
Behalf of Themselves and all Others Similarly	)	Civil Action No. 2:17-cv-01624-EP-MAH
Situated,	)	
	)	
	)	Honorable Evelyn Padin
	)	Honorable Michael A. Hammer
vs.	)	
	)	<b>CONSENT ORDER FOR APPROVAL</b>
	)	<b>OF SETTLEMENT</b>
	)	<b>ADMINISTRATOR’S FEES</b>
UNITED STATES METALS REFINING	)	
COMPANY; FREEPORT MINERALS	)	
CORPORATION; FREEPORT-MCMORAN	)	
INC., and AMAX REALTY DEVELOPMENT,	)	
INC.,	)	
	)	
	)	
Defendants.)	)	

This matter having been opened to the Court by the Parties seeking to approve the use of up to \$150,000 from the settlement funds for the payment of the Settlement Administrator’s fees; and the Court having reviewed the Declaration of Bronyn Heubach Regarding Notice Administration attached hereto;

Whereas, while the Court has entered its final judgment in this action, it retained jurisdiction to supervise the administration of the class settlement. See Final Judgment at ¶21 (Dkt. No. 283);

Whereas, the Settlement Administrator is nearing completion of its processing and claims adjustment for individual settlement payments to the Class Members, and estimates that its total fees and costs in connection with this work will not exceed \$400,000. Heubach Declaration at ¶ 14, attached as Exhibit A;

*and the Court having held a conference on the record concerning the application on March 15, 2024;*

Whereas, Defendants and Plaintiffs agreed as part of the Settlement Agreement that Defendant USMR would pay the first \$250,000 in fees and costs incurred by the Settlement Administrator, and fees and costs exceeding this amount would be paid from the Settlement Fund with approval by Plaintiffs, Defendants, and the Court. Settlement Agreement at ¶ 11.1 (Dkt. No. 267-2). The Settlement Administrator has projected that its fees will likely total up to \$400,000, and accordingly payment of these fees will require a contribution from the Settlement Fund of up to \$150,000. *See* Ex. A at ¶ 14;

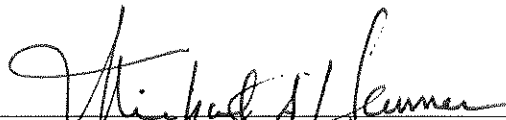
Whereas, the Settlement Administrator's fees and costs are higher than its initial estimates. But the increase in administrative fees and costs is largely due to the overwhelming success of the class settlement. As detailed in the attached declaration by the Settlement Administrator, the increased fees and costs are due in large part to the high volume of response and claim form submittal that exceeded the Settlement Administrator's expectations based on its prior experience. *See id.* (describing the high volume of information requests by potential class members and a claims rate of approximately 70% versus an expected claims rate of 20%);

Whereas, Plaintiffs and Defendants agree that the approval of up to \$150,000 of Settlement Administrator's fees from the Settlement Fund is reasonable and justified;

Whereas, the Settlement Administrator has estimated an individual per property payment amount (for the entire class period) of \$18,708.97. *Id.* at ¶ 13. This compares favorably with the estimated per property payment amount in the mailed notice of \$17,500, and accordingly Class Members should receive monetary payments that exceed expectations based on the notice; and good cause appearing,

IT IS on this 15<sup>th</sup> day of March, 2024

**ORDERED** that the use of up to \$150,000 from the Settlement Fund for the payment of Settlement Administrator's fees where each invoice is subject to review and approval by both Plaintiffs and Defendants be and hereby is granted.

  
Honorable Michael A. Hammer, U.S.M.J.

We hereby consent to the form and entry of the within Consent Order.

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Attorneys for Plaintiffs  
Juan Duarte and Betsy Duarte

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Steven J. German, Esq.

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