

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “Agreement” or “Settlement”) is made by and between plaintiff Marie Coughlin (“Plaintiff”) for herself and the Settlement Class (as defined below), on the one hand, and defendant Higher Education Loan Authority of the State of Missouri (“MOHELA”), for itself and the Released Parties (as defined below), on the other hand. MOHELA, Class Counsel (as defined below) and Plaintiff hereby stipulate and agree that, in consideration of the promises and covenants set forth in this Agreement and upon entry by the Court (as defined below) of a Final Approval Order (as defined below), all claims of Plaintiff and the Settlement Class Members (as defined below) in the action entitled *Marie Coughlin v. Higher Education Loan Authority of the State of Missouri (MOHELA)*, Commonwealth of Massachusetts, Plymouth County Superior Court, Civil Action No. 2083CV00381A (the “Action”), shall be settled, compromised and released upon the terms and conditions contained herein.

I. RECITALS

This Agreement is made with reference to and in contemplation of the following facts and circumstances:

A. The Action was filed on May 13, 2020. Plaintiff alleges that MOHELA violated the Massachusetts Consumer Protection Act, Mass. Gen. Laws ch. 93A, § 1 *et seq.*, and Massachusetts debt collection regulations, 940 Mass. Code Regs. 7.00 *et seq.*

B. Plaintiff believes that the claims asserted in the Action have merit. This Settlement in no event is to be construed or deemed to be evidence of or an admission or concession on the part of Plaintiff that there is any infirmity in the claims asserted by Plaintiff or that there is any merit whatsoever to any of the contentions and defenses that MOHELA has or would have asserted.

C. MOHELA vigorously denies all claims asserted in the Action and denies all allegations of wrongdoing and liability. This Settlement in no event is to be construed or deemed to be evidence of or an admission or concession on the part of MOHELA that there is any infirmity

in the defenses that it has asserted or would have asserted or that there is any merit whatsoever to any of the allegations that Plaintiff asserts. MOHELA desires to settle the Action on the terms set forth herein solely for the purpose of avoiding the burden, expense, risk and uncertainty of continuing these proceedings.

D. This Agreement resulted from and is the product of extensive, good faith and arm's length negotiations. The Parties (as defined below) participated in several telephone conferences, and had multiple follow-up discussions via email, to reach a resolution of the Action, and their agreement in principle was memorialized in a term sheet effective June 15, 2021.

E. Plaintiff and Class Counsel have investigated the facts and law underlying the claims asserted in the Action. The Parties also have engaged in significant motion practice with respect to MOHELA's motion for judgment on the pleadings and on discovery issues.

F. As a result of these efforts, the Parties entered into this Agreement, subject to preliminary approval and final approval by the Court, as required by Mass. Gen. Law. ch. 93A § 9, to fully, finally and forever resolve, discharge and release all rights and claims held by Plaintiff and the Settlement Class Members in exchange for MOHELA's agreement to pay the sum of Six Hundred Thousand Dollars (\$600,000.00).

G. Based on the investigation and the negotiations described above, Class Counsel has concluded, taking into account the sharply contested issues involved, the risks, uncertainty and cost of further prosecution of this litigation, and the substantial benefits to be received by persons in the Settlement Class pursuant to this Agreement, that a settlement with MOHELA on the terms set forth herein is fair, reasonable, adequate and in the best interests of the Settlement Class.

H. The Parties understand, acknowledge and agree that the execution of this Agreement constitutes the settlement and compromise of disputed claims. This Agreement is inadmissible as evidence against any party except to enforce the terms of the Settlement and is not an admission of wrongdoing or liability by MOHELA. It is the Parties' desire and intention to effect a full, complete and final settlement and resolution of all existing disputes and claims as set forth herein.

NOW, THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt of which is hereby mutually acknowledged, Plaintiff and MOHELA agree to the Settlement, subject to approval by the Court, as follows:

II. DEFINITIONS

A. In addition to the terms defined elsewhere within this Agreement, the following defined terms apply throughout this Agreement and the attached Exhibits:

1. “Account” means the account to be established consistent with the terms and conditions described in Section III(C) of this Agreement. The Account shall be held at a bank to be selected by Class Counsel and MOHELA, in conjunction with the Settlement Administrator.

2. “Claim Form” or “Claim Forms” means the claim forms to be submitted by Settlement Class Members, subject to approval by the Court, substantially in the forms attached hereto as **Exhibit A**.

3. “Claim Period” means the period of time between the date of Preliminary Approval and the Objection Deadline (as defined below).

4. “Class Counsel” means Lemberg Law, LLC.

5. “Class Notice” means all types of notices that will be provided to the Settlement Class, pursuant to Section III(E) of this Agreement, including Mail Notice, Website Notice and any additional notice that might be ordered by the Court.

6. “Class Period” means the time period from May 13, 2016 through entry of the Preliminary Approval Order.

7. “Court” shall mean the Commonwealth of Massachusetts, Plymouth County Superior Court.

8. “*Cy Pres* Distribution” means monies that may be distributed in connection with the Settlement, pursuant to Section III(F)(7) of this Agreement.

9. “Effective Date” means the fifth business day after the last of the following dates:

- a. The Parties, MOHELA's Counsel, and Class Counsel have executed this Agreement;
- b. The Court has entered, without material change, the Final Approval Order; and
- c. The final disposition of any related appeals, and in the case of no appeal or review being filed, expiration of the applicable appellate period.

10. "Final Approval Hearing" means the hearing when the Court considers the Parties' request to enter the Final Approval Order granting final approval to the Settlement and determining the amount of fees, costs and expenses awarded to Class Counsel and the amount of the Service Award to Plaintiff.

11. "Final Approval Order" or "Final Approval" means the order and judgment that the Court enters upon finally approving the Settlement in connection with the Final Approval Hearing, the proposed form of which is attached hereto as **Exhibit B**.

12. "Fund" means the total cash sum of Six Hundred Thousand Dollars (\$600,000) to be paid pursuant to Section III(F)(1). Under no circumstance will MOHELA be required to pay any additional amount into the Fund or otherwise in connection with the Settlement. Under no circumstances will any portion of the Fund revert back to MOHELA except pursuant to Sections III(c)(2) and IV(a) below.

13. "Mail Notice" means the notice that will be provided pursuant to Section III(E)(1) of this Agreement, subject to approval by the Court, substantially in the form attached hereto as **Exhibit C**.

14. "MOHELA's Counsel" means Ryan P. McManus of Hemenway & Barnes LLP.

15. "Notice" or "Notice Program" means the methods provided for in this Agreement for giving notice of the Settlement and includes the Class Notice.

16. "Parties" means Plaintiff and MOHELA.

17. “Preliminary Approval” means the date that the Court enters, without material change, the Preliminary Approval Order.

18. “Preliminary Approval Order” means the order that the Court enters upon preliminarily approving the Settlement, the proposed form of which is attached hereto as **Exhibit D**.

19. “Released Claim” or “Released Claims” means all rights, duties, obligations, claims, actions, causes of action or liabilities, whether arising under local, state or federal law, whether by Constitution, statute, contract, rule, regulation, any regulatory promulgation (including, but not limited to, any opinion or declaratory ruling), common law or equity, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, punitive or compensatory as of the date of the Final Approval Order: (a) that arise out of or are based on calls by MOHELA to the Settlement Class Members in excess of two times in a seven day period regarding a debt during the class period, including, but not limited to, any claims that could be made pursuant to the Massachusetts Consumer Protection Act, M.G.L. c. 93A, et seq., Massachusetts Debt Collection Regulations, 940 CMR §7.00, et. seq. or the Fair Debt Collection Practices Act, 15 U.S.C. 1692, *et seq*; or (b) that arise out of or relate in any way to the administration of the Settlement.

20. “Released Parties” means MOHELA and all entities to which it is related, together with all of their respective members, owners, shareholders, predecessors, successors and assigns; the past, present, and future, direct and indirect, parents and subsidiaries of any of the above; and the past, present and future principals, trustees, partners, insurers, officers, directors, employees, agents, vendors, independent contractors, advisors, attorneys, members, owners, shareholders, predecessors, successors, assigns, representatives, heirs, executors and administrators of any of the above.

21. “Releases” means all of the releases contained in Section III(G) of this Agreement.

22. “Releasing Parties” means Plaintiff and each Settlement Class Member, along with their respective heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, assigns and all persons acting for or on their behalf.

23. “Service Award” means an incentive award for Plaintiff, as set forth in Section III(I) of this Agreement.

24. “Settlement Administrator” means the administrator selected by the Parties and approved by the Court.

25. “Settlement Award” means a cash payment to an eligible Settlement Class Member pursuant to Section III(F)(1-5) of this Agreement.

26. “Settlement Class” means: (a) consumers associated in MOHELA’s records with addresses in the Commonwealth of Massachusetts; (b) to whom MOHELA directed in excess of two telephone calls within a seven-day period to their residence, cellular telephone or other provided telephone number between May 13, 2016 and the date of Preliminary Approval. Excluded from the Settlement Class are the Judge to whom the Action is assigned and any member of the Judge’s staff and immediate family. MOHELA represents that there are approximately 10,880 persons in the Settlement Class.

27. “Settlement Class Member” means any person in the Settlement Class.

28. “Settlement Costs” means: (a) all costs of printing and providing notice to persons in the Settlement Class (including, but not limited to, Mail Notice, Website Notice and any additional notice that might be ordered by the Court); (b) all costs of administering the Settlement, including, but not limited to, the cost of printing and mailing Settlement Awards and other payments; and (c) the fees, expenses and all other costs of the Settlement Administrator.

29. “Settlement Website” means a settlement website, with such URL being mutually agreed by the Parties, as addressed in Section III(e)(2) below.

30. “Website Notice” means the website notice provided pursuant to Section III(E)(2) of this Agreement, in the form attached hereto as **Exhibit E**. The Website Notice will be posted on the “Settlement Website,” which shall be established by the Settlement Administrator.

B. Capitalized terms used in this Agreement but not defined above shall have the meaning ascribed to them in this Agreement, including the attached Exhibits.

III. TERMS OF SETTLEMENT

A. Conditional Certification of the Settlement Class. Solely for the purposes of settlement, providing Class Notice and implementing this Agreement, the Parties agree to conditional certification of the Settlement Class in the Action for settlement purposes only. If the Settlement is not finalized or finally approved by the Court for any reason whatsoever, then the certification of the Settlement Class is voidable by any party, and no doctrine of waiver, estoppel or preclusion will be asserted in any litigated certification proceedings in the Action. No agreements, documents or statements made by or entered into by any of the Parties in connection with the Settlement may be used by Plaintiff, any person in the proposed Settlement Class, MOHELA or any other person to establish liability, any defense and/or any of the elements of class certification, whether in the Action or in any other proceeding.

B. Preliminary Approval.

1. Preliminary Approval Motion. Plaintiff will move the Court for entry of the Preliminary Approval Order. The Preliminary Approval Order shall specifically include provisions that: (a) preliminarily approve the Settlement reflected herein as fair, adequate and reasonable to the Settlement Class, and within the reasonable range of possible final approval; (b) conditionally certify the Settlement Class for settlement purposes only and appoint Class Counsel as counsel for the Settlement Class for settlement purposes only; (c) approve the forms of Class Notice and find that the Notice Program constitutes the best notice practicable under the circumstances, provides due and sufficient notice to the Settlement Class and fully satisfies the requirements of due process and Mass. Gen. Laws ch. 93A § 9; (d) direct that notice be provided to the Settlement Class, in accordance with this Agreement, within 30 calendar days following entry of the Preliminary Approval Order (the “Notice Deadline”); (e) establish a procedure for persons in the Settlement Class to object to the Settlement, and set a date 60 calendar days after the Notice Deadline, after which no one shall be allowed to object to the Settlement (the “Objection

Deadline”); (f) pending final determination of whether the Settlement should be approved, bar and enjoin, in accordance with applicable law, persons in the Settlement Class, directly, on a representative basis or in any other capacity, from commencing or prosecuting against any of the Released Parties any action, arbitration, or proceeding in any court, arbitration forum or tribunal asserting any of the Released Claims; (g) pending final determination of whether the Settlement should be approved, stay all proceedings in the Action except those related to effectuation of the Settlement; and (h) schedule a hearing on Final Approval of the Settlement, which shall be scheduled no earlier than 30 calendar days after the Objection Deadline.

2. Stay/Bar of Proceedings. All proceedings in the Action, including any pending appeals, will be stayed following entry of the Preliminary Approval Order, except as may be necessary to implement the Settlement or comply with the terms of the Settlement. Pending determination of whether the Settlement should be granted Final Approval, the Parties in the Action agree not to pursue any claims or defenses otherwise available to them, and no person in the Settlement Class and no person acting or purporting to act directly or derivatively on behalf of a person in the Settlement Class, or acting on a representative basis or in any other capacity on behalf of a person in the Settlement Class, will commence or prosecute against any of the Released Parties any action or proceeding asserting any of the Released Claims. The Preliminary Approval Order will contain an injunction, in accordance with applicable law, enjoining the commencement or prosecution of the Released Claims by Settlement Class Members. The Settlement will be conditioned upon the entry of such an injunction in both the Preliminary Approval Order and the Final Approval Order.

C. The Account.

1. The Account. MOHELA shall deposit the Fund into the Account within fourteen (14) calendar days of Preliminary Approval. With the consent of the Parties, the Settlement Administrator shall have the ability and the authority to withdraw from the Account those amounts necessary to effectuate the Settlement.

2. Termination. In the event that the Settlement is not approved, or is terminated, canceled or fails to become effective for any reason, the amounts remaining in the Account (including accrued interest) shall be returned to MOHELA.

D. Settlement Administrator. The Settlement Administrator shall administer the Notice Program and Settlement Award distribution process. MOHELA will reasonably cooperate in the notice and administration process by providing the Settlement Administrator, on a confidential basis and within 15 calendar days of the entry of the Preliminary Approval Order, with the names, addresses and telephone numbers associated with the Settlement Class (as reflected in reasonably available computerized records of MOHELA).

E. Notice Program. The Settlement Administrator, as specified below, shall provide Class Notice in the forms approved by the Court, as detailed below, within 30 calendar days following entry of the Preliminary Approval Order (i.e., the Notice Deadline, as defined herein):

1. Mail Notice. The Settlement Administrator will provide the Mail Notice to all persons in the Settlement Class. A National Change of Address update shall be performed before mailing. Skip tracing shall be performed for all returned direct mail, and all costs of skip tracing will be considered Settlement Costs. The Mail Notice shall include a tear-off claim form, and shall also direct recipients to the Settlement Website for additional information or to submit a claim online.

2. Website Notice. The Settlement Administrator will establish and maintain the Settlement Website, posted on which will be the Website Notice, a copy of this Agreement, the Preliminary Approval Order and any other materials that the Parties agree to include. These documents shall be available on the Settlement Website beginning 30 calendar days following Preliminary Approval and remain at least until Final Approval. The Settlement Administrator shall secure a URL for the Settlement Website agreed by the Parties. Aside from as reflected in this Agreement and Exhibits hereto, or by separate agreement, the Settlement Website shall not bear or include MOHELA's logo or trademarks, or those belonging to any entities affiliated with MOHELA. Ownership of the Settlement Website URL shall be transferred to MOHELA within

10 calendar days after operation of the Settlement Website ceases and shall be used for no further purpose without the written consent of the Plaintiff.

3. Toll-Free Telephone Number. The Settlement Administrator will establish and maintain a toll-free telephone number that persons in the Settlement Class may call to receive more information regarding the Settlement. The Mail Notice shall inform persons in the Settlement Class of the toll-free number. The toll-free number will be established no later than 30 calendar days following entry of the Preliminary Approval Order and is to remain active at least until the date of the Final Approval.

F. Settlement Consideration.

1. The Fund. As consideration for the Settlement, MOHELA will pay the cash sum of \$600,000.00 (as defined above, the “Fund”). This is a non-reversionary fund. No part of the Fund will at any time revert back to MOHELA or any MOHELA affiliated entity except pursuant to Sections III(c)(2) and IV(a) below. Any award of attorneys’ fees and costs, the Service Award and the Settlement Costs shall be deducted from the Fund prior to distribution to the Settlement Class Members. Following those deductions, the remaining amount will be distributed *pro rata* to those Settlement Class Members who have submitted valid and timely Claim Forms.

2. Conditions for Claiming Settlement Awards. To make a claim for a Settlement Award, a Settlement Class Member must submit to the Settlement Administrator a valid and timely Claim Form. The Claim Form must be submitted to the Settlement Administrator by mail to a designated post office box or via the Settlement Website.

To be valid, the Claim Form must include: (a) the Settlement Class Member’s full name and address; (b) certification that, between May 13, 2016 and [date of preliminary approval], the Settlement Class Member was aware of more than two call attempts to his/her telephone number(s) in a seven day period regarding an MOHELA serviced loan; (c) for mailed Claim Forms, the Settlement Class Member’s signature; (d) for Claim Forms submitted via the Settlement Website, the Settlement Class Member’s electronic signature; and (e) for mailed Claim Forms and Claim Forms submitted via the Settlement Website, either the unique claim ID for the Claim Form

or the telephone number(s) called in excess of two times in a seven day period. Only one valid Claim Form will be honored per Settlement Class Member, regardless of the number of telephone calls received by or attempted to the Settlement Class Member.

3. Time to Submit a Claim for a Settlement Award. In order to be deemed timely, Claim Forms and all required information must be submitted via the Settlement Website or by mail by the last date of the Claim Period, which will be specified in the Claim Form and Website Notice. Claim Forms submitted by mail must be postmarked by that date. The Settlement Administrator will have no obligation to honor any Claim Form or information submitted via the Settlement Website or postmarked after the end of the Claim Period, even if such Claim Form or information otherwise would be valid.

4. Review of Approved or Denied Claims. Each Settlement Class Member who makes a timely claim will have his or her claim reviewed by the Settlement Administrator. The Settlement Administrator will advise the Parties, at a minimum, on a weekly basis of the claims that are approved and denied. Each of the Parties is entitled to contest the denial of any claim, first through a meet and confer with the Settlement Administrator and the other party, and then, if they are unable to resolve the issue, the party contesting the denial may seek a resolution from the Court. To the extent possible, the Parties and the Settlement Administrator will attempt to resolve any issues regarding denied claims prior to the Final Approval Hearing. However, if any disputed claim denials are unresolved at the time of the Final Approval Hearing, that will not prevent the Final Approval Hearing from going forward, with such issues to be resolved at a later date, but within 60 calendar days of the entry of any order regarding the Final Approval Hearing, including any Final Approval Order of the Settlement.

5. Distribution of Settlement Awards. Within 30 calendar days after the Effective Date, Settlement Awards shall be mailed by the Settlement Administrator to Settlement Class Members. The Settlement Administrator shall mail, by first class mail, a check to each claiming Settlement Class Member. No skip tracing or re-mailing of returned mail will be required. All checks for Settlement Awards will be valid for 120 calendar days from the date on

the check. Any remaining monies from uncashed Settlement Awards may be redistributed in a second distribution to Settlement Class Members who submitted a valid and timely claim. If a second distribution would result in less than \$5 per qualifying claimant or after a second distribution remaining monies may instead be donated *cy pres* to an organization(s) approved by the Court or to the Massachusetts IOLTA Committee pursuant to Mass. R. Civ. P. 23(e). No monies out of the Fund will revert back to MOHELA.

6. Taxes. Any person who receives a distribution from the Fund will be solely responsible for any taxes or tax-related expenses owed or incurred by that person by reason of that distribution.

7. Cy Pres Distribution. To the extent monies remain in the Fund after 120 calendar days have passed from the date on the checks mailed to Settlement Class Members, and the remaining monies in the Fund would not allow for a second distribution of at least \$5 to each Settlement Class Member after deducting the costs associated with such a distribution, such money remaining in the Fund will comprise the *Cy Pres* Distribution. The *Cy Pres* Distribution shall be made 60 calendar days after the last day for Settlement Class Members to cash their Settlement Awards, subject to the terms above. To the extent a second distribution is made to Settlement Class Members, any remaining monies in the Fund after 120 calendar days have passed from the date on the checks will constitute the *Cy Pres* Distribution.

G. Release of Released Claims. As of the Effective Date of the Settlement, the Releasing Parties shall be deemed to have fully, and forever released the Released Parties from all Released Claims described in Section II(A)(19) above. Without limiting the foregoing, the Released Claims released pursuant to this Settlement specifically extend to all claims and potential claims that the Releasing Parties do not know of or suspect to exist in their favor as of, or prior to, the Effective Date, within the definition of Released Claims.

In connection with such releases, waivers, and relinquishment, the Releasing Parties acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they now know or believe to be true with respect to the subject matter of

the Settlement, but that they release fully, finally and forever all Released Claims, and in furtherance of such intention, the release will remain in effect notwithstanding the discovery or existence of any such additional or different facts. Plaintiff acknowledges (and all Settlement Class Members by operation of law shall be deemed to have acknowledged) that the release of unknown Released Claims as set forth herein was separately bargained for and was a key element of the Settlement.

H. Attorneys' Fees and Costs. No later than 30 calendar days before the Objection Deadline, Plaintiff shall move the Court for an award of attorneys' fees, expenses and costs in the amount of one-third of the Fund to be paid to Class Counsel from the Fund. MOHELA will not object to attorneys' fees, expenses and costs up to that amount. The Parties agree that the Court (and only the Court) shall determine the final amount of the attorneys' fee award in this Action.

The Settlement Administrator will pay any award of attorneys' fees and costs from the Fund, within 21 calendar days of the Effective Date. Any award of attorneys' fees and costs may be paid by the Settlement Administrator as directed by Class Counsel in whole or in part either to Class Counsel or to a qualified settlement fund established under Internal Revenue Code § 468B or to another entity, foreign or domestic, over which Class Counsel has no control for the purpose of enabling future receipt of the fee in periodic payments rather than a lump sum. Class Counsel represent that such direction would be made for tax purposes. MOHELA is not aware of the tax implications of such direction, if any, and bears no responsibility for such direction whatsoever. However, Court approval of attorneys' fees, expenses and costs, or their amount, will not be a condition of the Settlement, and in no event will any award of attorneys' fees require MOHELA to pay more than the amount of the Fund.

I. Service Award. MOHELA will not object to a Service Award to Plaintiff of up to \$25,000, subject to Court approval. The Settlement Administrator will pay any Service Award, from the Fund, within 21 calendar days of the Effective Date. However, Court approval of the Service Award will not be a condition of the Settlement. In addition, no interest will accrue on such amount at any time.

J. Objections to the Settlement.

1. Right to Object. Any Settlement Class Member may appear at the Final Approval Hearing to object to the proposed Settlement and/or to the application of Class Counsel for an award of attorneys' fees, expenses and costs and/or the Service Award, but only if the Settlement Class Member has first filed a written objection with the Clerk of Court, in accordance with the requirements set forth below, by the Objection Deadline. Any Settlement Class Member who does not provide a written objection in the manner described in this Section shall be deemed to have waived any objection and shall forever be foreclosed from making any objection to the fairness, reasonableness or adequacy of the proposed Settlement, the plan of allocation, the award of any attorneys' fees and/or the Service Award. Further, any Settlement Class Member who intends to appear at the Final Approval Hearing must file with the Court and serve on all Parties a Notice of Intention to Appear.

2. Objection Requirements. To be heard at the Final Approval Hearing, the Settlement Class Member must make any objection in writing and file it with the Court by the Objection Deadline. The objection must also be mailed to each of the following, postmarked no later than the Objection Deadline: (a) Class Counsel – Sergei Lemberg, Lemberg Law LLC, 43 Danbury Road, Wilton, CT 06897; and (b) MOHELA's Counsel – Ryan P. McManus, Hemenway & Barnes LLP, 75 State Street, Boston, MA 02109. An objection must: (a) attach documents establishing, or provide information sufficient to allow the Parties to confirm, that the objector is a Settlement Class Member; (b) include a statement of such Settlement Class Member's specific objections; and (c) state the grounds for objection, as well as identify any documents that such objector desires the Court to consider. In order to be heard at the Final Approval Hearing, the person objecting also must file with the Court and serve on all Parties a Notice of Intention to Appear.

K. Final Approval. By 14 days prior to the Final Approval Hearing, Plaintiff shall request that the Court enter the Final Approval Order, which shall specifically include provisions that: (a) finally approve the Settlement as fair, reasonable and adequate to the Settlement Class;

(b) find that the Class Notice as given was the best notice practicable under the circumstances, is due and sufficient notice to the Settlement Class and fully satisfies the requirements of due process and Mass. Gen. Laws. ch. 93A § 9; (c) approve the plan of distribution of the Fund and any interest accrued thereon; (d) finally certify the Settlement Class; (e) confirm that Plaintiff and the Settlement Class Members have released all of the Released Parties from all Released Claims and are permanently barred and enjoined from asserting, commencing, prosecuting or continuing any of the Released Claims against the Released Parties; and (f) dismiss the Action with prejudice, without costs to any of the Parties, except as provided in this Agreement, and subject to the Court retaining continuing jurisdiction over the Parties and the Fund for the purpose of enforcement of the terms of this Agreement.

L. Dismissal. Upon entry of the Final Approval Order, the Action shall be dismissed with prejudice as to Plaintiff and the Settlement Class Members.

M. Evidentiary Preclusion/No Admissions. MOHELA expressly disclaims and denies any wrongdoing or liability whatsoever. This Settlement, and any and all negotiations, statements, documents, and/or proceedings in connection with this Settlement, shall not be construed or deemed to be evidence of an admission or concession by MOHELA of any liability or wrongdoing by MOHELA or any of its respective members, officers, attorneys, affiliates, agents, representatives, vendors or any other person or entity acting on its behalf, and shall not be construed or deemed to be evidence of an admission or concession that any person suffered compensable harm or is entitled to any relief. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Released Parties; (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of the Released Parties in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal; (c) is or may be deemed a waiver of any right to challenge class certification if this Settlement for any reason does not become final; or (d) is or may be deemed to be a waiver of any right to seek to enforce any

arbitration provision in other cases. In addition, neither the fact of, nor any documents relating to, MOHELA's withdrawal from the Settlement, any failure of the Court to approve the Settlement and/or any objections or interventions may be used as evidence for any purpose whatsoever. The Released Parties may file this Agreement and/or the judgment in any action or proceeding that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

N. No Publicity Beyond Notice Procedures. Class Counsel and Plaintiff will not at any time issue press releases, initiate or make any public statements regarding the Settlement or engage in any discussions with any press or news organization, with the exception of neutrally-worded language consistent with that contained in the Class Notice, which Class Counsel may only use on their website following approval of the language by MOHELA. Class Counsel and Plaintiff will not make statements of any kind to any third party regarding the Settlement prior to the filing of a motion for entry of the Preliminary Approval Order, with the exception of the Settlement Administrator. After that time, the Parties may make public statements to the Court as necessary to obtain preliminary or final approval of the Settlement, and Class Counsel will not be prohibited from communicating with any person in the Settlement Class regarding the Action or the Settlement. However, in all communications, Class Counsel must comply with all confidentiality agreements in the Action and under this Settlement Agreement and not disclose information that is not a part of the public record.

O. Non-Disparagement. The Parties agree not to make any statements, written or verbal, or to cause or encourage any other person to make any statements, written or verbal, that defame or slander the Parties, the Released Parties and their respective counsel concerning all Released Claims, as well as the litigation of this Action, the Settlement, this Agreement and any discussions, interactions, or negotiations of the Settlement by the Parties and their counsel; provided, however, nothing herein shall preclude any party or its agents, representatives or counsel from any good faith response to any inquiries under oath or in response to a government inquiry

or from making statements in the course of legal proceedings, or from non-public privileged communications with Settlement Class Members with regard to the Settlement.

P. No Effect On Outstanding Debt. The Parties agree and acknowledge that nothing in this Settlement effects the obligation of any borrower to repay any amounts of outstanding student loan debt owned by or serviced by MOHELA.

IV. GENERAL PROVISIONS

A. Settlement Conditioned Upon Approval. The Settlement is conditioned upon entry of the Preliminary Approval Order and Final Approval Order without material modification by the Court. In the event of failure to obtain any of the required provisions of such orders, including, but not limited to, the denial of any motion seeking preliminary or final approval, either Party may terminate the Settlement by notifying the opposing party in writing within 30 calendar days of such failure to obtain approval. In the event of a termination under this section, the Parties will then return, without prejudice, to the *status quo ante* as if no Settlement had been negotiated or entered into.

B. No Construction Against Drafter. This Agreement will be deemed to have been drafted by the Parties, and any rule that a document shall be interpreted against the drafter will not apply.

C. Entire Agreement. This Agreement contains the entire agreement between the Parties and supersedes all prior understandings, agreements or writings regarding the subject matter of this Agreement. This Agreement may be amended or modified only by a written instrument signed by all Parties or their successors in interest or their duly authorized representatives and approved by the Court. The provisions of the Agreement may be waived only in a writing executed by the waiving party. The waiver by one party of any breach of this Agreement by any other party shall not be deemed a waiver, by that party or by any other party, of any other prior or subsequent breach of this Agreement.

D. Authority. Plaintiff and MOHELA represent and warrant that the persons signing this Agreement on their behalf have full power and authority to bind every person or entity. Any

person executing this Agreement in a representative capacity represents and warrants that he or she has done so freely and he or she is fully authorized to do so and intends to bind the party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

E. No Assignment. No party to this Agreement has heretofore assigned, transferred or granted, or purported to assign, transfer or grant, any of the rights, claims, demands or cause or causes of action disposed of by this Agreement.

F. Receipt of Advice of Counsel. Each party acknowledges, agrees and specifically warrants that he, she or it has fully read this Agreement and the Releases contained herein, received independent legal advice with respect to the advisability of entering into this Agreement and the Releases, and the legal effects of this Agreement and the Releases, and fully understands the effect of this Agreement and the Releases. Each party to this Agreement warrants that he, she or it is acting upon his, her or its independent judgment and upon the advice of his, her or its own counsel and not in reliance upon any warranty or representation, express or implied, of any nature or kind by any other party, other than the warranties and representations expressly made in this Agreement.

G. Agreement Binding on Successors in Interest. This Agreement is binding on and shall inure to the benefit of the respective heirs, successors and assigns of the Parties.

H. Undertakings of the Parties. The Parties agree to the approval of this Settlement. The Parties further agree to undertake all steps necessary to effectuate the terms and purposes of this Agreement in good faith, to secure the Court's approval of same, and contemplate that they will oppose any objections to the Settlement and oppose any appeals from any Final Approval Order.

I. Effect of Agreement/Regulatory Proceedings: Nothing in this Settlement is intended to affect the existing rights of persons in the Settlement Class to participate in any investigation or suit initiated by a state or federal agency or any existing rights of MOHELA to defend any such investigation or suit.

J. Execution in Counterparts. The Parties may execute this Agreement in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

K. Notices. All notices to counsel provided for herein shall be sent by e-mail with a hard copy sent by overnight mail to:

As to Plaintiff and the Settlement Class:

Lemberg Law LLC
Sergei Lemberg
Stephen Taylor
43 Danbury Road
Wilton, CT 06897
slemberg@lemborglaw.com
staylor@lemborglaw.com

As to MOHELA:

Hemenway & Barnes LLP
Ryan P. McManus
75 State Street
Boston, MA 02109
rmcmanus@hembar.com

L. Retention of Jurisdiction. The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed
as of 09/01/2021, 2021:

PLAINTIFF:

marie a coughlin

Marie Coughlin

**HIGHER EDUCATION LOAN
AUTHORITY OF THE STATE OF
MISSOURI**

By: *Raymond A. Baynes*
Its: *Executive Director and CEO*

APPROVED AS TO FORM AND CONTENT:

CLASS COUNSEL
LEMBERG LAW LLC

Dated: 08/18/2021, 2021

By:


Sergei Lemberg

APPROVED AS TO FORM:

Dated: 9-10-, 2021

MOHELA'S COUNSEL
HEMENWAY & BARNES LLP

By:


Ryan M. McManus

Exhibit A

Claim Forms

(Postcard format &
Online Format)

Postcard Claim Form – Included in Direct Postcard Notice

If you wish to claim your share of the settlement fund, please complete, sign, and return this **Settlement Claim Form** or submit an Online Claim Form.

XXXXXXXXXXXXXX
For Official Use Only

You must complete and submit a Claim Form by _____. You may submit a Claim Form online at www.XYZ.com or by completing and submitting this Claim Form to receive your share. The final amount per class member will depend on the total number of valid claim forms received. To complete this form, provide the information below and execute the certification.

First Name: _____ Last Name: _____

Claim ID or phone number MOHELA called: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Current Phone Number (optional) _____

Email (optional) _____

Certification

By signing and submitting this Claim Form, I certify and affirm that the information I am providing is true and correct to the best of my knowledge and belief, I am over the age of 18, and between May 13, 2016 and [date of preliminary approval], I am aware of more than two call attempts to my telephone number in a seven-day period regarding a loan serviced by Higher Education Loan Authority of the State of Missouri (MOHELA).

Signature: _____

Date: _____

Claim Form – Available Online

Marie Coughlin v. Higher Education Loan Authority of the State of Missouri (MOHELA), 2083CV00381A
(Plymouth County Superior Court)

If you wish to claim your share of the settlement fund, please complete, sign, and return this **Settlement Claim Form** or submit an Online Claim Form

You must complete and submit a Claim Form by _____. You may submit a Claim Form online at www.xyz.com or by completing and submitting this Claim Form to receive your share. The final amount per class member will depend on the total number of valid claim forms received. To complete this form, provide the information below and execute the certification.

First Name: _____ Last Name: _____

Claim ID or phone number MOHELA called: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Current Phone Number (optional) _____

Email (optional) _____

Certification

By signing and submitting this Claim Form, I certify and affirm that the information I am providing is true and correct to the best of my knowledge and belief, I am over the age of 18, and between May 13, 2016 and [date of preliminary approval], I am aware of more than two call attempts to my telephone number in a seven-day period regarding a loan serviced by Higher Education Loan Authority of the State of Missouri (MOHELA).

Signature: _____ Date: ___/___/___

Exhibit B

Final Approval Order

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
Civil Action No.: 2083CV00381A

MARIE COUGHLIN, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

HIGHER EDUCATION LOAN AUTHORITY
OF THE STATE OF MISSOURI (MOHELA),

Defendant.

[PROPOSED] FINAL APPROVAL ORDER

WHEREAS, on _____, a Preliminary Approval Order was entered by the Court preliminarily approving the proposed Settlement pursuant to the terms of the Class Action Settlement Agreement between plaintiff Marie Coughlin (“Plaintiff”) and defendant Higher Education Loan Authority of the State of Missouri (“MOHELA”), and directing that notice be given to the Settlement Class;

WHEREAS, pursuant to the notice requirements set forth in the Settlement Agreement and in the Preliminary Approval Order, the Settlement Class was notified of the terms of the proposed Settlement, of the right of members of the Settlement Class to be heard at a Final Approval Hearing to determine, inter alia: (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable and adequate for the release of the claims contemplated by the Settlement Agreement; and (2) whether judgment should be entered dismissing this Action with prejudice;

WHEREAS, a Final Approval Hearing was held on _____, 202____. Prior to the Final Approval Hearing, a declaration of compliance with the provisions of the Settlement Agreement and Preliminary Approval Order relating to notice was filed with the Court as prescribed in the Preliminary Approval Order. Class Members were therefore notified of their right to appear at the Final Approval Hearing in support of or in opposition to the proposed Settlement, the award of Attorney's Fees and Costs to Class Counsel, and the payment of an Incentive Award.

NOW, THEREFORE, the Court having heard the presentation of Class Counsel and counsel for MOHELA, having reviewed all of the submissions presented with respect to the proposed Settlement, having determined that the Settlement is fair, adequate and reasonable, having considered the Attorney's Fees and Cost application made by Class Counsel and the application for an Incentive Award to the Settlement Class Representative, and having reviewed the materials in support thereof, and good cause appearing:

THIS COURT FINDS AND ORDERS AS FOLLOWS:

1. The capitalized terms used in this Final Approval Order shall have the same meaning as defined in the Settlement Agreement except as may otherwise be indicated.
2. The Court has jurisdiction over the subject matter of this Action and over all claims raised therein and all Parties thereto, including the Settlement Class.
3. The Court hereby approves the Settlement, including the plans for implementation and distribution of the settlement relief, and finds that the Settlement is, in all respects, fair, reasonable and adequate to the Class Members, within the authority of the parties and the result of extensive arm's-length negotiations. In reaching this conclusion, the Court considered the nine *Grinnell* factors, including: "(1) the complexity, expense and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class action through the trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible

recovery in light of all the attendant risks of litigation.” *City of Detroit v. Grinnell Corp.*, 495 F.2d 448 (2d Cir. 1974), *abrogated on other grounds by Goldberger v. Integrated Res., Inc.*, 209 F.3d 43 (2d Cir. 2000); *see also Roberts v. TJX Companies, Inc.*, 2016 WL 8677312, n.8 (D. Mass. Sept. 30, 2016) (“courts in this Circuit frequently employ the Second Circuit’s *Grinnell* factors or some version of it.”).

4. The Parties shall effectuate the Settlement Agreement in accordance with its terms. The Settlement Agreement and every term and provision thereof shall be deemed incorporated herein as if explicitly set forth and shall have the full force of an Order of this Court.

5. The Court has considered all objections to the Settlement, including the objections of _____. The Court finds these objections do not counsel against Settlement approval and they are hereby overruled in all respects.

6. For purposes of the Settlement and this Final Approval Order, the Court hereby certifies the following Settlement Class:

(a) consumers associated in MOHELA’s records with addresses in the Commonwealth of Massachusetts; (b) to whom MOHELA directed in excess of two telephone calls within a seven-day period to their residence, cellular telephone or other provided telephone number between May 13, 2016 and the date of preliminary approval.

7. For purposes of Settlement only, Plaintiff is certified as representative of the Settlement Class and Class Counsel is appointed counsel to the Settlement Class. The Court concludes that Class Counsel and the Class Representative have fairly and adequately represented the Settlement Class with respect to the Settlement.

8. Notwithstanding the certification of the foregoing Settlement Class and appointment of the Class Representative for purposes of effecting the Settlement, if this Order is reversed on appeal or the Settlement is terminated or is not consummated for any reason, the foregoing certification of the Settlement Class and appointment of the Class Representative shall be void and of no further effect, and the parties to the proposed Settlement shall be returned to the status each occupied before entry of this Order without prejudice to any legal argument that any

of the parties to the Settlement might have asserted but for the Settlement.

9. The Court finds that the plan for Notice, set forth in Article III(E) of the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order, was the best notice practicable under the circumstances, was reasonably calculated to provide and did provide due and sufficient notice to the Settlement Class of the pendency of the Action, certification of the Settlement Class for settlement purposes only, the existence and terms of the Settlement Agreement, and of their right to object and to appear at the Final Approval Hearing.

10. The Settlement Agreement is, in all respects, fair, reasonable and adequate, is in the best interests of the Settlement Class, and is therefore approved.

11. All persons who have not made their objections to the Settlement in the manner provided in the Settlement Agreement are deemed to have waived any objections by appeal, collateral attack, or otherwise.

12. As set forth in Article III(F)(5) of the Settlement Agreement, the cash distributions provided for in the Settlement Agreement shall be paid to the various Settlement Class members submitting Valid Claim Forms, pursuant to the terms and conditions of the Settlement Agreement.

13. Upon the Effective Date, members of the Settlement Class, by operation of this Final Approval Order, have fully, finally and forever released, relinquished and discharged the Released Parties from the Released Claims as specified in the Release set forth in Article III(G) of the Settlement Agreement.

14. Plaintiff and each Settlement Class Member are hereby permanently barred and enjoined from filing, commencing, prosecuting, maintaining, intervening in, participating in, conducting or continuing, either directly or in any other capacity, any action or proceeding in any court, agency, arbitration, tribunal or jurisdiction, asserting any claims released pursuant to the Settlement Agreement, or seeking an award of fees and costs of any kind or nature whatsoever and pursuant to any authority or theory whatsoever, relating to or arising from the Action and/or as a result of or in addition to those provided by the Settlement Agreement. In addition, Plaintiff and each Settlement Class Member are hereby enjoined from asserting as a defense, including as a

setoff or for any other purpose, any argument that if raised as an independent claim would be a Released Claim.

15. The terms of the Settlement Agreement, this Final Approval Order and the Judgment to be entered hereon shall have maximum res judicata, collateral estoppel, and all other preclusive effect in any and all claims for relief, causes of action, suits, petitions, demands in law or equity, or any allegations of liability, damages, debts, contracts, agreements, obligations, promises, attorney's fees, costs, interest or expenses which were or could have been asserted in the Action or are in any way related to the calls at issue in the Action.

16. The Final Approval Order, the Judgment to be entered hereon, the Settlement Agreement, the Settlement which it reflects and all acts, statements, documents or proceedings relating to the Settlement are not, and shall not be construed as, used as, or be deemed to be evidence of, an admission by or against MOHELA of any fault, wrongdoing, or liability on the part of MOHELA or of the validity or certifiability for litigation of any claims that have been, or could have been, asserted in the Action. The Settlement's terms shall be forever binding on, and shall have res judicata and preclusive effect in, all pending and future lawsuits or other proceedings as to Released Claims and other prohibitions set forth in this Order that are maintained by, or on behalf of, the Settlement Class Members or any other person subject to the provisions of this Order.

17. The above-captioned Action is hereby dismissed in its entirety with prejudice. Without affecting the finality of this Final Order in any way, the Court reserves jurisdiction over all matters relating to the interpretation, administration, implementation, effectuation and enforcement of this Order and the Settlement.

Let judgment be entered accordingly.

DATED: _____, 20__

By: _____

Exhibit C

Postcard Mail Notice

NOTICE FROM SUPERIOR COURT OF
THE COMMONWEALTH OF
MASSACHUSETTS

(not a lawyer solicitation)

*Marie Coughlin v. Higher Education Loan Authority
of the State of Missouri (MOHELA)*

A settlement has been reached in a class action lawsuit alleging that Higher Education Loan Authority of the State of Missouri ("MOHELA") violated the law by placing in excess of two telephone calls in a seven-day period to Massachusetts consumers to collect a debt. MOHELA's records show that you may be a class member and may be entitled to payment under the Settlement Agreement reached in the case. A settlement fund of \$600,000 has been established to pay valid claims, attorney's fees, costs, any incentive award to the Class Representative and settlement administration costs. Each Class Member is entitled to one equal share of the fund. The final cash payment for Class Members will depend on the total number of valid and timely claims filed by all Class Members. Your legal rights are affected whether you act or don't act so read this notice carefully.

This Postcard Notice contains limited information about the Settlement. For more information or to submit an online Claim Form, visit www.xyz.xyz.com.

[[[Admin Address]]]

[CLAIM ID IN DIGITS]

[CLAIM ID IN BARCODE]

Postal Service: Please Do Not Mark or Cover Barcode

[FIRST1] [LAST1]
[BUSINESSNAME]
[ADDR1] [ADDR2]
[CITY] [ST] [ZIP]

PRESORTED
FIRST-CLASS
MAIL

U.S. POSTAGE
PAID

If you wish to claim your share of the settlement fund, please complete, sign, and return this Settlement Claim Form or submit an Online Claim Form.

XXXXXXXXXXXXXXXXXX
For Official Use Only

You must complete and submit a Claim Form by _____. You may submit a Claim Form online at www.xyz.com or by completing and submitting this Claim Form to receive your share. The final amount per class member will depend on the total number of valid claim forms received. To complete this form, provide the information below and execute the certification.

First Name: _____ Last Name: _____

Claim ID or phone number MOHELA called: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Current Phone Number (optional) _____

Email (optional) _____

Certification

By signing and submitting this Claim Form, I certify and affirm that the information I am providing is true and correct to the best of my knowledge and belief, I am over the age of 18, and between May 13, 2016 and [date of preliminary approval], I am aware of more than two call attempts to my telephone number in a seven-day period regarding a loan serviced by MOHELA.

Signature: _____

Date: _____

Marie Coughlin v. Higher Education Loan Authority of the State of Missouri (MOHELA)
(Plymouth County Superior Court)

THIS POSTCARD PROVIDES LIMITED INFORMATION ABOUT THE SETTLEMENT.

VISIT www.xyz.com FOR MORE INFORMATION

In the lawsuit, Plaintiff alleges that MOHELA violated the Massachusetts Consumer Protection Act, Mass. Gen. Laws ch. 93A § 1, *et seq.* ("MCPA"), and the Massachusetts Debt Collection Regulations, 940 Mass. Code Regs. § 7.00, *et seq.* ("MDCR"), by placing in excess of two calls regarding a debt within a seven-day period to Plaintiff and other Massachusetts consumers. MOHELA denies any wrongdoing, and denies that it violated the MCPA, the MDCR or any other law. The Parties have agreed to settle the lawsuit to avoid the cost, delay and uncertainty of further litigation. You can read Plaintiff's Complaint, the Settlement Agreement and other case documents, and submit a claim form at www.xyz.com

Who's Included in the Settlement Class? (a) consumers associated in MOHELA's records with addresses in the Commonwealth of Massachusetts; (b) to whom MOHELA directed in excess of two telephone calls within a seven-day period to their residence, cellular telephone or other provided telephone number between May 13, 2016 and [date of preliminary approval].

What Can You Get? Class Members who submit a valid and timely Claim Form are entitled to one share from the Settlement Fund. The final cash payment will depend on the total number of valid and timely claims filed by all Class Members. Each claiming Class Member will be entitled to an equal share of the Settlement Fund (\$600,000.00), after deductions from the fund for administrative costs, attorney's fees and expenses, and any incentive award to the Class Representative (Marie Coughlin). The final cash payment will depend on the total number of valid and timely claims filed by all Class Members and the fees, costs and incentive awards approved by the Court. The Settlement is explained in detail in the Full Notice and in the Settlement Agreement available at www.xyz.com.

How to Get Money? To obtain payment, you must submit a valid Claim Form to [///] or submit an Online Claim Form by DATE.

Your Other Rights. If you do not agree with the settlement, you may object to the settlement by DATE. The Full Notice, located at the website listed below, explains how to object to the settlement. The Court will hold a hearing in this case on DATE at TIME p.m. to consider whether to approve the settlement, plan of allocation, and a request by the lawyers representing all Class Members for fees and expenses of up to 33% of the Settlement Fund and for an Incentive Award to the Class Representative of up to \$25,000.. You may attend the hearing and ask to be heard by the Court, but you do not have to.

For more information or a Claim Form, call 800-xxx-xxxx or visit www.xyz.com

Do not contact the Court, Defendant or its counsel with questions.

AFFIX
POSTAGE
HERE

SETTLEMENT NAME
c/o Claims Administrator
[[[address]]]

Exhibit D

Preliminary Approval Order

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
Civil Action No.: 2083CV00381A

MARIE COUGHLIN, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

HIGHER EDUCATION LOAN AUTHORITY
OF THE STATE OF MISSOURI (MOHELA),

Defendant.

[PROPOSED] PRELIMINARY APPROVAL ORDER

WHEREAS, the above-referenced putative class action is pending in this Court;

WHEREAS, plaintiff Marie Coughlin (“Plaintiff”) and defendant Higher Education Loan Authority of the State of Missouri (“MOHELA”) have agreed, subject to Court approval following notice of the proposed Settlement and a hearing, to settle this Action upon the terms and conditions set forth in the Settlement Agreement and Release lodged with this Court (the “Agreement”);

WHEREAS, this Court has reviewed the Agreement, as well as the files, records and proceedings to date in this matter;

WHEREAS, for purposes of this order, capitalized terms used below shall have the meaning ascribed to them in the Agreement, unless otherwise defined herein; and

WHEREAS, for purposes of this Action only, and not construing MOHELA’s participation in this settlement as a waiver of MOHELA’s prior arguments in this Court regarding sovereign immunity, this Court has subject matter and personal jurisdiction over the Parties, including all persons in the Settlement Class.

NOW, THEREFORE, based on this Court's review of the Agreement and all of the files, records and proceedings herein, the Court concludes, upon preliminary examination, that the Agreement and Settlement appear fair, reasonable and adequate, and within the range of reasonableness for preliminary settlement approval, and that a hearing should and will be held after notice to the Settlement Class to confirm that the Agreement and Settlement are fair, reasonable and adequate and to determine whether the Settlement should be approved and final judgment entered in the Action based upon the Agreement.

IT IS HEREBY ORDERED THAT:

Preliminary Approval of Proposed Settlement. The Agreement, including all exhibits thereto, is preliminarily approved as fair, reasonable and adequate and within the range of reasonableness for preliminary settlement approval. The Court finds that: (a) the Agreement resulted from arm's length negotiations; and (b) the Agreement is sufficient to warrant notice of the Settlement to persons in the Settlement Class and a full hearing on the approval of the Settlement.

Class Certification for Settlement Purposes Only. Pursuant to Mass. Gen. Laws ch. 93A § 9, the Court conditionally certifies, for settlement purposes only, the following Settlement Class:

(a) consumers associated in MOHELA's records with addresses in the Commonwealth of Massachusetts; (b) to whom MOHELA directed in excess of two telephone calls within a seven-day period to their residence, cellular telephone or other provided telephone number between May 13, 2016 and the date of preliminary approval.

In connection with this conditional certification, the Court makes the following preliminary findings for settlement purposes only:

1. The Settlement Class appears to be so numerous that joinder of all members is impracticable;

2. There appear to be questions of law or fact common to the Settlement Class for purposes of determining whether this Settlement should be approved;

3. Plaintiff's claims appear to be typical of the claims being resolved through the proposed settlement;

4. Plaintiff appears to be capable of fairly and adequately protecting the interests of the Settlement Class in connection with the proposed settlement;

5. Common questions of law and fact appear to predominate over questions affecting only individual persons in the Settlement Class. Accordingly, the Settlement Class appears to be sufficiently cohesive to warrant settlement by representation; and

6. Certification of the Settlement Class appears to be superior to other available methods for the fair and efficient resolution of the claims of the Settlement Class.

Class Representative. Plaintiff is designated as class representative for the Settlement Class.

Class Counsel. The Court appoints Lemberg Law LLC as counsel for the Settlement Class. The Court finds that counsel is competent and capable of exercising all responsibilities as Class Counsel for the Settlement Class.

Final Approval Hearing. A final approval hearing (the "Final Approval Hearing") shall be held on _____ at _____ to determine whether the Agreement is fair, reasonable and adequate and should be approved. Papers in support of final approval of the Agreement, the Service Award to Plaintiff, and Class Counsel's application for an award of attorneys' fees, costs and expenses (the "Fee Application") shall be filed with the Court according to the schedule set forth below. The Final Approval Hearing may be postponed, adjourned or continued by order of the Court without further notice to the Settlement Class. After the Final Approval Hearing, the

Court may enter a Final Approval Order in accordance with the Agreement that will adjudicate the rights of the Settlement Class Members with respect to the Released Claims.

Class Notice. Class Notice shall be sent within 30 calendar days following entry of this Preliminary Approval Order (the “Notice Deadline”).

1. Mail Notice. The Settlement Administrator will provide individual Mail Notice pursuant to the Agreement to all persons in the Settlement Class identified through the electronic records reasonably available to MOHELA.

2. Website Notice. The Settlement Administrator will establish and maintain a Settlement Website using a domain name dedicated to the Settlement, posted on which will be the Website Notice and other settlement-related documents. The Mail Notice shall direct recipients to the location of the Website Notice. The Settlement Website will be established no later than 30 calendar days following the date of this Order and shall remain active at least until the date of Final Approval.

3. Telephone Number. The Settlement Administrator will establish and maintain a toll-free telephone number which Settlement Class Members may call to receive more information regarding the Settlement. The Mail Notice shall inform Settlement Class Members of the toll-free number. The toll-free number will be established no later than 30 calendar days following the date of this Order and shall remain active at least until the date of the Final Approval.

Findings Concerning Class Notice. The Court finds that the foregoing Notice Program and the manner of its dissemination is the best practicable notice under the circumstances and is reasonably calculated to apprise the Settlement Class of the pendency of this Action, their right to object to the Settlement and the manner and means for Settlement Class Members to submit claims. The Court further finds that the Notice Program is reasonable, that it constitutes due, adequate and

sufficient notice to all persons entitled to receive notice and that it meets the requirements of due process and Mass. Gen. Laws ch. 93A § 9. The Court hereby approves the notices in substantially the same forms as those attached as Exhibits A & C to the Agreement.

Administration. The Settlement Award distribution process described in the Agreement is hereby approved. Settlement Class Members wishing to submit claims must do so by 60 days following the Notice Deadline (the “Claim Deadline”). Claims must be submitted through the Settlement Website, or postmarked, by the Claim Deadline.

Objections and Appearances.

1. Any Settlement Class Member may appear at the Final Approval Hearing to argue that the proposed Settlement should not be approved and/or to oppose the Fee Application of Class Counsel, and the Service Award to Plaintiff.

2. In order to be heard at the Final Approval Hearing, the person must make any objection in writing and mail it to counsel for the Parties and the clerk of this Court not later than 60 days following the Notice Deadline (the “Objection Deadline”). Any objections that are not timely filed and mailed shall be forever barred. All objections must comply with the directives contained in the Agreement or will otherwise be invalid and barred.

3. In order to be heard at the Final Approval Hearing, the person also must file with the Court and serve on all Parties a Notice of Intention to Appear with the Court.

4. Settlement Class Members who do not object to the Settlement need not appear at the Final Approval Hearing or take any other action to indicate their approval of the proposed class action settlement.

Further Papers in Support of Settlement and Fee Application. By no later than 30 calendar days before the Objection Deadline, Class Counsel shall file its Fee Application. No later than 14

calendar days before the Final Approval Hearing, Class Counsel and/or MOHELA's Counsel shall file with the Court any papers in support of final approval of the Settlement, including any response to any timely filed objections to the Settlement.

Effect of Failure to Approve the Agreement. In the event the Agreement is not approved by the Court, or for any reason the Parties fail to obtain a final judgment as contemplated in the Agreement, or the Agreement is terminated for any reason, then the following shall apply:

1. All orders and findings by this Court entered in connection with the Agreement shall become null and void and have no further force and effect, shall not be used or referred to for any purposes whatsoever and shall not be admissible in any proceeding;

2. The conditional certification of the Settlement Class pursuant to this Order shall be vacated automatically and void; no doctrine of waiver, estoppel or preclusion shall be asserted in any litigated certification proceedings in the Action; and the Agreement and its existence shall be inadmissible to establish any fact relevant to class certification or any alleged liability of MOHELA for the matters alleged in the Action or for any other purpose;

3. Nothing contained in this Order is, or may be construed as, an admission or concession by or against MOHELA or Plaintiff on any point of fact or law.

IT IS SO ORDERED THIS _____ DAY OF _____, 2021

Hon. _____

Exhibit E

Website long-form notice

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
Civil Action No.: 2083CV00381A

MARIE COUGHLIN, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

HIGHER EDUCATION LOAN AUTHORITY
OF THE STATE OF MISSOURI (MOHELA),

Defendant.

**NOTICE REGARDING RIGHT TO BENEFIT FROM
CLASS ACTION SETTLEMENT**

A settlement has been reached in a class action lawsuit alleging that Higher Education Loan Authority of the State of Missouri (“MOHELA”) violated the law by placing in excess of two telephone calls in a seven-day period to Massachusetts consumers to collect student loan debt.

A settlement fund of \$600,000 has been established to pay valid claims, attorney’s fees, costs, any incentive award to the Class Representative (Marie Coughlin) and settlement administration costs. If you received in excess of two telephone calls within a seven-day period **to your residence, cellular or other telephone number at some point between March 13, 2016 and [date] from MOHELA, you may be entitled to** receive an equal share of the fund. The final cash payment will depend on the total number of valid and timely claims filed by all Class Members. Your legal rights are affected whether you act or don’t act so read this notice carefully.

YOUR OPTIONS

Option 1: Submit a Claim Form Deadline: _____	Complete and submit a Claim Form and receive an equal share of the Settlement Fund By completing and submitting a Claim Form you may recover an equal share of the Settlement Fund. This is the only way to claim and receive from the Fund.
Option 2: Do Nothing	If you do nothing, you will not receive a share of the settlement fund, but you will release claims you may have against MOHELA related to this case.
Option 3: Object Deadline: _____	Object to the terms of the Settlement Agreement. You may object to the terms of the Settlement Agreement and have your objections heard at the _____ Fairness Hearing.

1. What is this lawsuit about?

In the lawsuit, Plaintiff alleges that MOHELA violated the Massachusetts Consumer Protection Act, Mass. Gen. Laws ch. 93A § 1, *et seq.* (“MCPA”), and the Massachusetts Debt Collection Regulations, 940 CMR § 7.00, *et seq.* (“MDCR”), by placing in excess of two calls regarding a debt within a seven-day period to Plaintiff and other Massachusetts consumers.

MOHELA denies any wrongdoing, and denies that that it violated the MCPA, the MDCR or any other law.

Both sides have agreed to settle the lawsuit to avoid the cost, delay and uncertainty of further litigation.

2. Why is this a class action?

In a class action, a Class Representative (in this case, Plaintiff Marie Coughlin) sues on behalf of a group (or a “Class”) of people. Here, the Class Representative sued on behalf of people who have similar claims regarding allegedly excessive debt collection calls.

3. Why is there a settlement?

To avoid the cost, risk and delay of litigation, the Parties reached a settlement agreement as to Plaintiff’s and the Class claims.

4. How do I know if I am a part of the settlement?

For settlement purposes, the Court has certified a Class consisting of all people who meet the following definition:

- (a) consumers associated in MOHELA’s records with addresses in the Commonwealth of Massachusetts; (b) to whom MOHELA directed in excess of two telephone calls within a seven-day period to their residence, cellular telephone or other provided telephone number between May 13, 2016 and [[the date of preliminary approval]].

5. What does the settlement provide?

MOHELA will establish a Settlement Fund in the amount of \$600,000. The fund will pay:

- a. Settlement compensation to the class members who submit valid and timely claims;
- b. The costs and expenses of administrating the class action settlement;
- c. An award of attorneys’ fees, costs and expenses in an amount up to one-third of the settlement fund, subject to the Court’s approval; and
- d. A service award to the Class Representative in an amount up to \$25,000, subject to the Court’s approval.

Any amounts in the Settlement Fund remaining from uncashed checks following the claims process may be distributed *cy pres* subject to court approval.

6. How do I recover?

Submit a Claim Form. This is the only way to get a payment. You have the right as a member of the Settlement Class to receive an equal share of the Settlement Fund.

The final cash payment will depend on the total number of valid and timely claims filed by all Class Members. Each claiming Class Member will be entitled to an equal share of the Settlement Fund, after deductions from the fund for administrative costs, attorney's fees and expenses and any incentive award to the plaintiff.

You can submit a claim form online at www.xyz.com

Or, you can download the Claim Form online and mail it to:

[[[]]]

All claim forms must be mailed or filed online no later than _____.

After all valid claim forms are counted, and the settlement is given final approval by the Court, the Settlement Administrator will provide each claiming Settlement Class Member his or her share of the Settlement Fund after the deductions above.

Any remaining monies from uncashed settlement awards may be redistributed in a second distribution to class members who submitted a valid and timely claim. However, if a second distribution is not economically feasible, the remaining monies may be donated to a *cy pres* recipient subject to Court approval.

7. What rights am I giving up in this settlement?

You will be considered a member of the class, which means you give up your right to sue or continue a lawsuit against MOHELA over the released claims. Giving up your legal claims is called a release.

For more information on the release, released parties and released claims, you may obtain a copy of the class action settlement agreement from on the settlement website, www.xyz.com.

8. How much will the Class Representative receive?

The Class Representative will receive her portion of the settlement as a Class Member and an incentive award for having pursued this action. Any incentive payment is subject to Court Approval. The Class Representative will request an Incentive Award of up to \$25,000. This application will be filed with the Court and posted to the Settlement Website by [_____].

9. Do I have a lawyer in this case?

To represent the class, the Court has appointed attorneys with the law firm of Lemberg Law LLC, 43 Danbury Road, Wilton, CT 06897 as "Class Counsel." Class Counsel will request an award of attorney's fees and expenses of up to 33% of the Settlement Fund. This application will be filed with the Court and posted to the Settlement Website by [_____]. Any attorney's fee and expense award is subject to Court Approval. You may hire your own attorney,

but only at your own expense.

10. How do I object?

You can object to the settlement if you do not believe it is fair, reasonable and adequate. If you wish to object, you must mail a written notice of objection, postmarked by **[date], 2021**, to Class Counsel, MOHELA's Counsel, and to the Court, at the following addresses:

Class Counsel:
Sergei Lemberg
Stephen Taylor
Lemberg Law LLC
43 Danbury Road
Wilton, CT 06897

MOHELA's Counsel:
Ryan P. McManus
Hemenway & Barnes LLP
75 State Street
Boston, MA 02109

Court:
Commonwealth of
Massachusetts,
Plymouth County
Superior Court
72 Belmont Street
Brockton, MA 02301

You must include in your objection your:

- a. Full name;
- b. Address;
- c. Telephone number called by MOHELA to demonstrate that you are a person in the Settlement Class;
- d. A statement of the specific objection(s);
- e. The grounds for the objection(s);
- f. Identification of any documents to show that you are a person in the Settlement Class or which you want the Court to consider; and
- g. A statement noting whether you intend to appear at the fairness hearing.

Any class member who objects to the settlement and wishes to enter an appearance must do so by **[date], 2021**. To enter an appearance, you must file with the Clerk of the Court a written notice of your appearance and you must serve a copy of that notice, by U.S. mail or hand-delivery, upon Class Counsel and MOHELA's Counsel, at the addresses set forth above.

11. What if I do nothing?

If you do nothing and the Court approves the settlement agreement, you will not receive a share of the Settlement Fund, but you will release any claim you have against MOHELA related to the allegations.

The Fairness Hearing

The Court will hold a fairness hearing on _____, **2021** at Plymouth County Superior Court, 72 Belmont Street, Brockton, MA 02301. The purpose of the hearing will be for the Court to determine whether the proposed settlement is fair, reasonable and adequate and in the best interests of the Class and to rule on applications for compensation for Class Counsel and an incentive award for the Class Representative. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the proposed settlement. **YOU ARE NOT REQUIRED TO ATTEND THIS HEARING TO BENEFIT FROM THIS SETTLEMENT.** The hearing may be postponed to a later date without notice.

FOR MORE INFORMATION

Additional information and documents, including case documents, are available at www.xyz.com, or you can call [[[]].