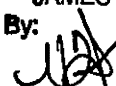


FILED IN OPEN COURT
U.S.D.C. Atlanta
JUL 20 2020
JAMES N. HATTEN, Clerk
By:  Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

In re SunTrust Banks, Inc. 401(k) Plan
Affiliated Funds ERISA Litigation

CIVIL ACTION FILE NO.
1:11-CV-784-ODE

FINAL ORDER AND JUDGMENT

Wherefore, this 20 day of July, 2020, upon consideration of the Plaintiffs' motion for final approval of the settlement (the "Settlement") of this litigation (the "Action"), as previously certified as a non-opt-out class action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(1); the proposed Plan of Allocation in accordance with the terms of a Class Action Settlement Agreement dated March 11, 2020, (the "Settlement Agreement"); and Class Representatives' motion for an award of attorneys' fees and reimbursement of expenses, and for Incentive Awards for Class Representatives; and the Court having read and considered these motions, heard any arguments of counsel, granted preliminary approval of the Settlement by Order dated March 18, 2020 (ECF No. 290), subsequently amending its order to correct certain clerical errors (ECF No. 291) (the "Preliminary Approval Order"), and considered any objections raised; and

all Parties having consented to the entry of this Order;

IT IS HEREBY ORDERED AND ADJUDGED:

1. For purposes of this Final Order and Judgment, capitalized terms used herein have the Definitions in the Settlement Agreement, which is incorporated herein by reference.

2. The Court has jurisdiction over the subject matter of this Action and over all Parties to this Action, including all members of the Class.

3. The Court determines that Class Representatives are asserting claims on behalf of the SunTrust Banks, Inc. 401(k) Savings Plan (the "Plan") pursuant to ERISA §§ 502(a)(2) & 502(a)(3), 29 U.S.C. §§ 1132(a)(2) and 1132(a)(3), to recover losses alleged to have occurred as a result of Defendants' breaches of fiduciary duty and to seek other equitable relief.

4. The Court determines that the Settlement, which includes the payment of twenty-nine million dollars (\$29,000,000) by Defendants, has been negotiated vigorously and at arm's length by and between Class Counsel and Defense Counsel under the supervision of Robert A. Meyer, Esq., an experienced mediator in ERISA and other complex class actions. The Court finds that, at all times, Class Representatives have acted independently, and that Class Representatives and Class Counsel have fairly and adequately represented the Class in connection with the

Action and the Settlement Agreement. The Court further finds that the Settlement arises from a genuine controversy between the Parties and is not the result of collusion, nor was the Settlement procured by fraud or misrepresentation.

5. The Court hereby approves and confirms the Settlement embodied in the Settlement Agreement as constituting a fair, reasonable and adequate settlement and compromise in this Action in accordance with all applicable laws, including Federal Rule of Civil Procedure 23, and orders that the Settlement Agreement shall be effective, binding and enforced according to its terms and conditions. The Settling Parties are hereby directed to take the necessary steps to effectuate the terms of the Settlement Agreement.

6. In accordance with the Court's Order, notice was timely distributed by first-class mail to all members of the Class who could be identified with reasonable effort, and notice was published on the website maintained by Class Counsel. In addition, as required by the Class Action Fairness Act, 29 U.S.C. § 1711, *et seq.*, Defendants have provided notice to the Attorneys General for each of the states in which a Class Member resides, the Attorney General of the United States, and the United States Secretary of Labor.

7. The form and methods of notifying the Class of the terms and conditions of the proposed Settlement Agreement met the requirements of Fed. R. Civ. P. 23(c)(2), any other applicable law, and due process, and constituted the

best notice practicable under the circumstances; and due and sufficient notices of the fairness hearing and the rights of all Class Members have been provided to all people, powers and entities entitled thereto.

8. The Court hereby approves the maintenance of the Action as non-opt-out classes under Federal Rules of Civil Procedure 23(a) and 23(b)(1), with the classes already having been certified and Class Representatives appointed as follows:

(1) All participants and beneficiaries in the SunTrust Banks, Inc. 401(k) Plan, excluding Defendants, who had a balance through their Plan accounts in the STI Classic Capital Appreciation Fund at any time from March 11, 2005 to December 31, 2012 and were injured by Defendants' conduct.

Class one represented by Plaintiffs Jefferson, Kennedy, and Williams

(2) All participants and beneficiaries in the SunTrust Banks, Inc. 401(k) Plan, excluding Defendants, who had a balance through their Plan accounts in the STI Classic Small Cap Growth Fund at any time from March 11, 2005 to December 31, 2012 and were injured by Defendants' conduct.

Class two represented by Plaintiffs Jefferson, Kennedy, and Williams

(3) All participants and beneficiaries in the SunTrust Banks, Inc. 401(k) Plan, excluding Defendants, who had a balance through their Plan accounts in the STI Classic Growth and Income Fund at any time from March 11, 2005 to December 31, 2012 and were injured by Defendants' conduct.

Class three represented by Plaintiffs Kennedy, Williams, and Fuller

4) All participants and beneficiaries in the SunTrust Banks, Inc. 401(k) Plan, excluding Defendants, who had a balance through their Plan accounts in the STI Classic Mid-Cap Equity Fund at any time from March 11, 2005 to December 31, 2012 and were injured by Defendants' conduct.

Class four represented by Plaintiffs Jefferson, Kennedy, and Williams

5) All participants and beneficiaries in the SunTrust Banks, Inc. 401(k) Plan, excluding Defendants, who had a balance through their Plan accounts in the STI Classic Investment Grade Bond Fund at any time from March 11, 2005 to December 31, 2012 and were injured by Defendants' conduct.

Class five represented by Plaintiffs Pruitt, Jefferson, and Williams

6) All participants and beneficiaries in the SunTrust Banks, Inc. 401(k) Plan, excluding Defendants, who had a balance through their Plan accounts in the STI Classic Short-Term Bond Fund at any time from March 11, 2005 to December 31, 2012 and were injured by Defendants' conduct.

Class six represented by Plaintiffs Jefferson and Fuller

7) All participants and beneficiaries in the SunTrust Banks, Inc. 401(k) Plan, excluding Defendants, who had a balance through their Plan accounts in the STI Classic Prime Quality Money Market Fund at any time from March 11, 2005 to December 31, 2012 and were injured by Defendants' conduct.

Class seven represented by Plaintiffs Pruitt, Jefferson, and Fuller

8) All participants and beneficiaries in the SunTrust Banks, Inc. 401(k) Plan, excluding Defendants, who had a balance through their Plan accounts in the STI Classic International Equity Index Fund at any time from March 11, 2005 to December 31, 2012 and were injured by Defendants' conduct.

Class eight will be represented by Plaintiffs Jefferson, Kennedy, and Williams

Pursuant to Federal Rule of Civil Procedure 23(g), the Court also appointed J. Brian McTigue and James Moore of McTigue Law LLP and Karen Handorf and Scott Lempert of Cohen Milstein Sellers & Toll PLLC as Class Counsel and Alan Perry of the law firm of Page Perry as local counsel and class liaison.

9. The Court determines that Defendants have fully complied with all requirements of the Class Action Fairness Act, 29 U.S.C. § 1711, *et seq.*

10. Members of the Class had the opportunity to be heard on all issues regarding the resolution and release of their claims by submitting objections to the Settlement Agreement to the Court.

11. Any Objection to the settlement is overruled with prejudice.

12. Based on the Settlement, the Court hereby dismisses the operative Complaint, all claims asserted at any point in the Action, and the Action with prejudice on the merits and without costs to any of the Settling Parties other than as provided for in this Settlement Agreement.

13. The Court approves the releases and covenant not to sue set forth in Paragraph 8, Section 8.1 through 8.3 of the Settlement Agreement.

14. The Plan, the Class Representatives, and the Class Members (and their respective heirs, beneficiaries, executors, administrators, estates,

predecessors, successors, assigns, agents and attorneys) on their own behalves and on behalf of the Plan, hereby fully, finally, and forever settle, release, relinquish, waive and discharge the Defendants, the Plan, and all Released Parties from the Released Claims, regardless of, *e.g.*, whether or not such Class Members have filed an objection to the Settlement or to any application by Class Counsel for an award of Attorneys' Fees and Costs, or whether or not the objections or claims for distribution of such Class Members have been approved or allowed.

15. The Class Representatives, Class Members and the Plan acting individually or together, or in combination with others, are hereby barred from suing or seeking to institute, maintain, prosecute, argue, or assert in any action or proceeding (including but not limited to an IRS determination letter proceeding, a Department of Labor proceeding, an arbitration or a proceeding before any state insurance or other department or commission), any cause of action, demand, or claim on the basis of, connected with, or arising out of any of the Released Claims. Nothing herein shall preclude any action to enforce the terms of the Settlement Agreement in accordance with the procedures set forth in the Settlement Agreement.

16. Class Counsel, the Class Representatives, the Class Members, or the Plan may hereafter discover facts in addition to or different from those that they know or believe to be true with respect to the Released Claims. Such facts,

if known by them, might have affected the decision to settle with the Defendants, the Plan and the Released Parties or the decision to release, relinquish, waive, and discharge the Released Claims, or might have affected the decision of a Class Member not to object to the Settlement. Notwithstanding the foregoing, each Class Representative, Class Member and the Plan has hereby fully, finally and forever settled, released, relinquished, waived and discharged any and all Released Claims, and each Class Representative, Class Member and the Plan has hereby acknowledged that the foregoing waiver was bargained for separately and is a key element of the Settlement embodied in the Settlement Agreement of which this release is a part.

17. The Class Representatives, Class Members and the Plan hereby settle, release, relinquish, waive and discharge any and all rights or benefits they may now have, or in the future may have, under any law relating to the releases of unknown claims, including without limitation, Section 1542 of the California Civil Code, which provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor." The Class Representatives, Class Members and the Plan with respect to the Released Claims also hereby waive any and all provisions, rights and benefits conferred by any law or of any State or territory within the United

States or any foreign country, or any principle of common law, which is similar, comparable or equivalent in substance to Section 1542 of the California Civil Code.

18. Defendants absolutely and unconditionally release and forever discharge Class Representatives, the Class and Plaintiffs' Counsel (collectively, the "Plaintiff Released Parties") from any and all claims relating to the institution or prosecution of the Action or the settlement of any Released Claims, except that this release shall not include any claims relating to the covenants or obligations set forth in the Settlement Agreement

19. Notwithstanding any other provision of the Settlement Agreement, the Class Representatives and members of the Class shall not be deemed to have waived or released any claim by any individual Plan participant concerning his or her right to vested benefits under the Plan or to contest the correct amount of such benefit, except to the extent that such claim may relate to the Released Claims.

20. The Court expressly retains its subject matter jurisdiction over the claims herein and personal jurisdiction over Class Members for purposes of enforcing this Final Order and the Settlement Agreement. Any motion to enforce paragraphs 12 through 18 of this Final Order or the Settlement Agreement, including by way of injunction, may be filed in this Court, and the

provisions of the Settlement Agreement and/or this Final Order may also be asserted by way of an affirmative defense or counterclaim in response to any action that is asserted to violate the Settlement Agreement.

21. Class Counsel are hereby awarded attorneys' fees in the amount of \$ 9,666,657.00 (the "Attorneys' Fees"). The Attorneys' Fees have been determined by the Court to be fair, reasonable and appropriate. No other fees may be awarded to Class Counsel in connection with the Settlement Agreement. The Attorneys' Fees shall be paid to Class Counsel in accordance with the terms of the Settlement Agreement.

22. Class Counsel are hereby awarded reimbursement of expenses in the sum of \$ 732,306.17 (the "Attorneys' Expenses"). The Attorneys' Expenses have been determined by the Court to be fair, reasonable and appropriate. No other costs or expenses may be awarded to counsel in connection with the Settlement Agreement.

23. Each Class Representative is hereby awarded an Incentive Award in the amount of \$ 15,000. The Incentive Awards have been determined by the Court to be fair, reasonable and appropriate. In addition to her Incentive Award, each Class Representative is also eligible for a share of the payment from the Settlement Fund as member of the Class. Other than these payments, no other award shall be awarded to the Class Representatives in connection

with the Settlement Agreement. The Incentive Awards shall be paid to the Class Representatives in accordance with the terms of the Settlement Agreement.

24. Each member of the Class shall hold harmless Defendants, defense counsel, the Released Parties, and the Plan for any claims, liabilities, attorneys' fees and expenses arising from the allocation of the Gross Settlement Amount or Net Settlement Amount and for all tax liability and associated penalties and interest as well as related attorneys' fees and expenses.

25. The Plan of Allocation for the distribution of the Net Settlement Fund, as submitted by the Parties, is approved as fair, reasonable and adequate.

26. The Settlement Administrator shall have final authority to determine the share of the Net Settlement Amount to be allocated to each Current and Former Participant.

27. The Court finds that the payment and distribution of the Settlement Amount, as allocated in the Settlement Agreement, is a "restorative payment" as defined in IRS Revenue Rule 2002-45.

28. Within twenty-one calendar days following the issuance of all settlement payments to Class Members, the Settlement Administrator shall prepare and provide to Class Counsel and Defense Counsel a list of each person who was issued a settlement payment and the amount of such payment in

accordance with the Plan of Allocation.

29. Upon entry of this Order, all Class Members and the Plan shall be bound by the Settlement Agreement (including any amendments) and by this Final Order.

SO ORDERED:

DATED: July 20, 2020



Hon. Orinda D. Evans
United States District Court Judge