

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION**

Benjamin Reetz, individually and as the
representative of a class of similarly situated
persons, and on behalf of the Lowe's 401(k) Plan,

Plaintiff,

v.

Lowe's Companies, Inc., Administrative
Committee of Lowe's Companies, Inc., and Aon
Hewitt Investment Consulting, Inc.,

Defendants.

Case No. 5:18-cv-00075-KDB-DCK

**DECLARATION OF
KAI RICHTER IN SUPPORT OF
PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF PARTIAL
CLASS ACTION SETTLEMENT
WITH LOWE'S DEFENDANTS**

I, Kai Richter, declare and state as follows:

1. I am a partner at the law firm of Nichols Kaster, PLLP, and am one of the attorneys representing Plaintiff Benjamin Reetz and the class in the above-captioned action.

2. For the reasons stated in my earlier Declaration in support of Plaintiff's Motion for Preliminary Approval of Partial Class Action Settlement with Lowe's Defendants (*Dkt. 221-1*), I believe that the Settlement is fair, reasonable, and adequate.

Report of the Independent Fiduciary

3. Pursuant to Prohibited Transaction Exemption 2003-39 (PTE 2003-39)¹ and Paragraph 2.2 of the Settlement Agreement, an Independent Fiduciary (Jim Carroll of Carroll Services LLC) reviewed the Settlement on behalf of the Lowe's 401(k) Plan ("Plan"). As part of this review, the Independent Fiduciary personally discussed the Settlement with me (and separately with defense counsel) by telephone, and subsequently issued a letter after the review. A true and correct copy of the letter is attached hereto as **Exhibit 1**. In the letter, the Independent Fiduciary

¹ See 68 Fed. Reg. 75632, as amended, 75 Fed. Reg. 33830.

stated that (1) “[t]he Settlement is fair and balanced and . . . is advantageous to the Plan”: (2) “[t]he terms of the release . . . are determined to be reasonable”: (3) “[t]he Plan of Allocation is reasonable . . . and is cost effective as Participant Class Members will be funded directly into their Plan accounts and Former Participant Class Members will have the opportunity to elect a rollover or receive a direct cash payment”: and (4) “[c]onsidering the work performed, the extensive defenses that were raised, the results achieved, and the litigation risk assumed by Class Counsel, . . . the requested attorneys’ fees are reasonable.” *Ex. 1 at 5–6, 8–9*. The Independent Fiduciary indicated that it does not object to any aspect of the Settlement, and approved and authorized the Settlement on behalf of the Plan. *Id. at 12–13*.

Reaction of the Settlement Class to the Settlement

4. The reaction of the Settlement Class to the Settlement also has been favorable overall. As of this filing, only one Settlement Class member out of more than 74,000 has lodged an objection. The period to timely object to the Settlement ends today, August 12, 2021. *See Dkt. 234 at ¶ 8*. The only objection received as of the time of this filing is attached as **Exhibit 2**, and is addressed in our accompanying Memorandum of Law. I am not aware of any other objections to the Settlement at this time.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 12, 2021

/s/ Kai H. Richter
Kai H. Richter