

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
	)	
HANCOCK FABRICS, INC., <u>et al.</u> , <sup>1</sup>	)	Case No. 07-10353 (BLS)
	)	
Debtors,	)	(Jointly Administered)
_____	)	
	)	
KATHY ALIANO,	)	
Plaintiff,	)	Class Action
	)	
v.	)	<b>RE: Docket Item 2118</b>
	)	
HANCOCK FABRICS, INC., <u>et al.</u> ,	)	
Defendants.	)	
_____	)	

**ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION  
SETTLEMENT PURSUANT TO FED. R. BANKR. P. 7023 AND 9019**

Upon the Joint Motion of Debtor Hancock Fabrics, Inc. and Putative Class Representative Kathy Aliano for Preliminary and Final Approval of Class Action Settlement Pursuant to Fed. R. Bankr. P. 7023 and 9019 (D.I. 2118) (the "Motion")<sup>2</sup>, filed on January 7, 2008, by Hancock Fabrics, Inc. ("Hancock") and Kathy Aliano (the "Settlement Class Representative"), on behalf of herself and all of the proposed Settlement Class Members and with the assistance and approval of proposed Settlement Class Counsel; and upon (i) the

<sup>1</sup> The Debtors are the following entities: Hancock Fabrics, Inc. (Tax ID No. XX-XXX0905), One Fashion Way, Baldwin, Mississippi 38824; Hancock Fabrics of MI, Inc. (Tax ID No. XX-XXX5878), One Fashion Way, Baldwin, Mississippi 38824; HF Resources, Inc. (Tax ID No. XX-XXX9563), 103 Foulk Road, Suite 202, Wilmington, Delaware 19803-3742; Hancockfabrics.com, Inc. (Tax ID No. XX-XXX9698), One Fashion Way, Baldwin, Mississippi 38824; HF Merchandising, Inc. (Tax ID No. XX-XXX8522), One Fashion Way, Baldwin, Mississippi 38824; HF Enterprises, Inc. (Tax ID No. XX-XXX7249), 103 Foulk Road, Suite 202, Wilmington, Delaware 19803-3742; and Hancock Fabrics, LLC (Tax ID No. XX-XXX9837), One Fashion Way, Baldwin, Mississippi 38824.

<sup>2</sup> Capitalized terms used, but not defined, herein shall have the meanings set forth in the Settlement Agreement or the Motion, as appropriate.

Date Filed 01/23/08

Docket No. 2202

Declaration of Thomas A. Zimmerman, Jr., in Support of the Joint Motion of Debtor Hancock Fabrics, Inc. and Putative Class Representative Kathy Aliano for Preliminary and Final Approval of Class Action Settlement Pursuant to Fed. R. Bankr. P. 7023 and 9019, attached to the Motion as Exhibit B, and (ii) the Declaration of Jeff Nerland in Support of the Joint Motion of Debtor Hancock Fabrics, Inc. and Putative Class Representative Kathy Aliano for Preliminary and Final Approval of Class Action Settlement Pursuant to Fed. R. Bankr. P. 7023 and 9019, attached to the Motion as Exhibit C; and due and sufficient notice of the Motion and the Preliminary Approval Hearing having been given and no other or further notice need be provided of the Preliminary Approval Hearing; and good cause appearing therefore; it is hereby

FOUND, CONCLUDED AND DECLARED THAT:<sup>3</sup>

A. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and 1334.

B. In order to avoid the cost and risk inherent in any litigation, after arm's-length negotiations, the Settling Parties agreed to compromise, settle and release fully and finally the Released Claims and the Litigation for the mutual promises and undertakings set forth in the Settlement Agreement and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Settling Parties.

C. Consistent with and in furtherance of their desire to settle the Litigation and following arm's-length negotiations, on or about January 7, 2008, the Settling Parties entered into the Settlement Agreement, attached to the Motion as Exhibit A, which sets forth the terms and conditions of the Settling Parties' proposed settlement.

D. For the purpose of approving the proposed settlement set forth in the Settlement Agreement only and for no other purpose and with no other effect on the Litigation

---

<sup>3</sup> Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Fed. R. Bankr. P. 7052.

should the proposed settlement not ultimately be approved or should the Effective Date not occur, the proposed Settlement Class likely meets the requirements for certification under Bankruptcy Rule 7023 in that: (i) the proposed Settlement Class is ascertainable and so numerous that joinder of all members of the class is impracticable; (ii) there are questions of law or fact common to the proposed Settlement Class and there is a well-defined community of interest among Settlement Class Members with respect to the subject matter of the Litigation; (iii) the claims of the Settlement Class Representative are typical of the claims of the members of the proposed Settlement Class; (iv) the Settlement Class Representative will fairly and adequately protect the interests of the Settlement Class Members; (v) a class action is superior to other available methods for an efficient adjudication of this controversy; (vi) the proposed Settlement Class Counsel is qualified to serve as counsel for the Settlement Class; and (vii) common issues will likely predominate over individual issues.

E. The settlement proposed in the Settlement Agreement has been negotiated at arm's-length and is preliminarily determined to be fair, reasonable, adequate and in the best interests of the Settlement Class Representative, the Settlement Class, the Debtors and the Debtors' estates, creditors and other stakeholders pursuant to Bankruptcy Rules 7023 and 9019.

F. The Settlement Class Notice, the Settlement Class Publication Notice and the notice procedures set forth in the Settlement Agreement and the Motion comply fully with the requirements of Bankruptcy Rule 7023 and constitutional due process, constitute the best notice practicable under the circumstances and is due and sufficient notice to all persons entitled to notice of the settlement of the Litigation.

IT IS HEREBY ORDERED that:

1. Preliminary Approval. The relief requested in the Motion with respect to preliminary approval of the settlement set forth in the Settlement Agreement is granted and the

proposed settlement and the Settlement Agreement are preliminarily approved pursuant to Bankruptcy Rules 7023 and 9019.

2. Preliminary Certification and Appointment. For purposes of effectuating the Settlement Agreement only, (a) the Settlement Class is certified preliminarily and (b) the Settlement Class Representative and the Settlement Class Counsel are appointed subject to the terms and conditions set forth in the Settlement Agreement. In the event that the Settlement Agreement is terminated pursuant to its terms or is not approved in all material respects by the Court, or is reversed, vacated or modified in any material respect by this Court or any other court, the certification of the Settlement Class shall be deemed to be vacated, the Litigation shall proceed as though the Settlement Class had never been certified, and no reference to the prior Settlement Class or any documents related thereto shall be made for any purpose.

3. Approval of Notice. The Settlement Class Notice and the Settlement Class Publication Notice in substantially the forms attached to the Motion and the notice procedures set forth in the Settlement Agreement are approved. By the Settlement Class Publication Deadline of **February 5, 2008**, (a) Hancock shall cause the publication of the Settlement Class Publication Notice once in the national edition of *USA Today* and shall be responsible for paying all costs related to the publication of the Settlement Class Publication Notice and (b) the Settling Parties shall post the Settlement Class Notice on the following websites: (i) Hancock's website at [www.hancockfabrics.com](http://www.hancockfabrics.com); (ii) the website maintained by the Official Committee of Unsecured Creditors appointed in the Chapter 11 case at [www.hancockcreditorscommittee.com](http://www.hancockcreditorscommittee.com); (iii) the website of Donlin, Rccano & Company, Inc., the noticing agent appointed in the Chapter 11 Case, at [www.donlinrecano.com](http://www.donlinrecano.com); and (iv) Settlement Class Counsel's website at [www.attorneyzim.com](http://www.attorneyzim.com), which websites shall be identified in the Settlement Class Publication Notice.

4. Rights of Exclusion. Settlement Class Members shall have until the Settlement Class Response Deadline of **March 21, 2008** to "opt out" of the Settlement Class. All Settlement Class Members who properly file a written request for exclusion from the Settlement Class as described below shall: (a) be excluded from the Settlement Class, (b) have no rights as Settlement Class Members pursuant to the Settlement Agreement and (c) receive no benefits as provided therein. The Settlement Class Notice and the Settlement Class Publication Notice will advise Settlement Class Members of this option.

5. Opt-Out Procedures. Settlement Class Members who wish to opt out of the settlement set forth in the Settlement Agreement must submit a written request for exclusion that: (a) states the name, address and phone number of the person(s) seeking exclusion; (b) includes a copy of a Receipt attributable to the credit card(s) or debit card(s) of that person(s) or other documentation evidencing the receipt of a Receipt by such person(s); and (c) contains a signed statement that: "I/we hereby request that I/we be excluded from the proposed Settlement Class in the Hancock Fabrics, Inc. FACTA Litigation." The request for exclusion must be mailed to Settlement Class Counsel and Hancock Counsel at the addresses provided in the Settlement Class Publication Notice and the Settlement Class Notice and must be received on or by the Settlement Class Response Deadline of **March 21, 2008**. No Settlement Class Member may opt-out through an actual or purported agent or attorney acting on behalf of the Settlement Class Member unless a fully lawful power of attorney, letters testamentary or other comparable documentation or court order accompanies the request. Requests for exclusion will not be accepted if sent by electronic mail, facsimile or other electronic means.

6. Failure to Comply with Opt-Out Procedures. A request for exclusion that (a) does not include all of the foregoing information, (b) is sent to any address other than the ones designated in the Settlement Class Publication Notice and the Settlement Class Notice, (c)

is sent by electronic means rather than by mail, (d) is not received on or by the Settlement Class Response Deadline or (e) fails to comply in some other way with the opt-out procedures set forth herein, shall be invalid and the person(s) serving such a request shall be a Member(s) of the Settlement Class and shall be bound as a Settlement Class Member(s) by the settlement set forth in the Settlement Agreement if approved by this Court.

7. Objection Procedures. Settlement Class Members shall have until the Settlement Class Response Deadline of **March 21, 2008**, to object to the settlement set forth in the Settlement Agreement. Any Settlement Class Member who objects to the settlement may appear in person or through counsel, at his or her own expense, at the Final Approval Hearing to present any evidence or argument that may be proper or relevant. No Settlement Class Member shall be heard and no papers, briefs, pleadings or other documents submitted by any Settlement Class Member shall be received and considered by the Bankruptcy Court unless, prior to the Settlement Class Response Deadline, the Settlement Class Member files with the Bankruptcy Court and serves upon Settlement Class Counsel and counsel for Hancock, a written objection that includes: (a) a notice of intention to appear at the Final Approval Hearing; (b) a statement of membership in the Settlement Class; (c) a copy of a Receipt attributable to the credit card or debit card of the objecting Settlement Class Member or other documentation evidencing the receipt of a Receipt by such objecting Settlement Class Member; (d) the specific legal and/or factual grounds for the objection; and (e) all documents or writings that such Settlement Class Member intends to rely upon at the Final Approval Hearing and/or submit to the Bankruptcy Court for consideration. Any Settlement Class Member who fails to object in the manner prescribed herein shall be deemed to have waived his or her objection to entry of the Approval Order and forever be barred from making any such objections in the Litigation or in any other

action or proceeding. The Settlement Class Notice and the Settlement Class Publication Notice will advise Settlement Class Members of this option.

8. Final Approval Hearing. The Final Approval Hearing shall be held before this Court on **April 17, 2008, at 10:00 a.m. (ET)** to consider whether the settlement should be given final approval by the Court.

9. Release of Released Claims. Upon the Effective Date, the Settlement Class Representative and each of the Settlement Class Members (and only these persons) shall be deemed to have, and by operation of the Approval Order shall have, fully, finally, and forever released, dismissed with prejudice, relinquished and discharged all Released Claims, including the Unknown Claims.

10. Settlement Agreement Is Conditional and Subject to Bankruptcy Court Approval. In the event that the Court does not execute and enter the Approval Order or that such order does not become Final for any reason or the Effective Date does not occur for any reason, the Settlement Agreement shall (a) be deemed null and void *ab initio*, (b) be of no force or effect whatsoever and (c) not be referred to or utilized for any purpose whatsoever.

11. No Waiver by Hancock or the Settlement Class Representative. To the extent the Settlement Agreement is deemed void or the Effective Date does not occur:

(a) Hancock does not waive, but rather expressly reserves, all rights to challenge any and all claims and allegations in the Litigation upon all procedural and factual grounds, including, without limitation, the ability to object to any claim filed or asserted in the Chapter 11 Case by or on behalf of the Settlement Class Representative and the Settlement Class Members and/or challenge class action treatment on any grounds or assert any and all defenses or privileges under the Bankruptcy Code, FACTA or any other applicable law.

(b) The Settlement Class Representative does not waive, but rather expressly reserves, all rights, claims and defenses in the Litigation under the Bankruptcy Code, FACTA or any other applicable law.

12. Limited Modification of the Automatic Stay. The automatic stay under section 362 of the Bankruptcy Code is modified only to the extent necessary to effectuate the terms of the Settlement Agreement.

13. CAFA Notice. By causing service of the CAFA Notice on or by January 7, 2008, the Settling Parties have complied fully with the requirements of 28 U.S.C. § 1715(b).

14. Injunction. The Settlement Class Representative and the Settlement Class Members shall be preliminarily enjoined and barred from commencing or prosecuting any action or filing any claim in the Chapter 11 Case asserting any of the Released Claims, either directly, representatively, derivatively, or in any other capacity, whether by a proof of claim, motion, complaint, counterclaim, defense or otherwise, in any local, state or Federal court, or in any agency or other authority or forum wherever located; and any person or entity who knowingly violates such injunction shall pay the fees and costs incurred by the Settling Parties as a result of any violation of the foregoing; provided that the foregoing shall not be construed to prevent a Settlement Class Member from filing an objection to the settlement with the Court as set forth herein.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]



15. This Court shall retain jurisdiction over any matters related to or arising from the implementation or interpretation of the Settlement Agreement or this Preliminary Approval Order.

Dated: January 22, 2008  
Wilmington, Delaware

  
THE HONORABLE BRENDAN L. SHANNON  
UNITED STATES BANKRUPTCY JUDGE

1308293.5