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Attorneys for Plaintiff and the Class

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

IRENE O. BRITTON, Individually and in
Her Representative Capacity, on Behalf of
Herself and all Others Similarly Situated,

Plaintiffs,

vs.

CASTLE & COOKE WAIKOLOA, LLC. a
Domestic Limited Liability Company;
CASTLE & COOKE HOMES HAWAII
INC., a Domestic Corporation; and DOES 1-
10,

Defendants.

CIVIL NO. 13-1-2277-08 GWBC
(Construction Defects)

**ORDER GRANTING THE CLASS'
MOTION FOR APPROVAL OF FINAL
DISTRIBUTIONS FROM
SETTLEMENT FUNDS**

GWBC

HEARING MOTION:

Date: March 21, 2023
Time: 3:00 p.m.
Judge: Hon. Gary W.B. Chang
Trial: None set

PLEASE NOTE CHANGES

**ORDER GRANTING THE CLASS' MOTION FOR APPROVAL OF FINAL
DISTRIBUTIONS FROM SETTLEMENT FUNDS**

GWBC

On March 21, 2023, the Honorable Gary W.B. Chang heard and decided the Class' Motion for Approval of Final Distributions from Settlement Funds filed on February 8, 2023 by Plaintiff Irene O. Britton, individually and in her representative capacity, on behalf of herself and all others similarly situated, (the "Class"). The Class appeared by and through Class Counsel, Graham B. LippSmith of LippSmith LLP. Defendants Castle & Cooke Waikoloa, LLC and Castle & Cooke Homes Hawaii, Inc. (collectively "Defendants") appeared by and through their attorney, Wayne R. Wagner of Goodsill Anderson Quinn & Stifel LLP. Tom Matsuda, Program Director of the Hawai'i Community Foundation, was present at the hearing.

WHEREAS the Class applied to the Court pursuant to Rule 7 of the Hawai'i Rules of Civil Procedure; all applicable Rules of the Circuit Courts of the State of Hawai'i; Paragraph 125 of the Court-approved Settlement Agreement; and Paragraph 21 of this Court's Order Granting Final Approval of Settlement dated October 11, 2021, for an order granting the Class' Motion for Approval of Final Distributions from Settlement Funds; and

WHEREAS the Court has read and considered all parties' memoranda and declarations and has heard argument of counsel.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

The Court GRANTS the Class' Motion for Approval of Final Distributions from Settlement Funds and orders the following:

- 1) Settlement beneficiaries who have not submitted a valid IRS Form W-9 by February 8, 2023 are deemed to have forfeited their settlement benefits totaling \$5,072.00;
- 2) The Court-appointed Administrator shall make the following distributions:
 - a. \$2,368.00 in reimbursements of additional unanticipated administration costs to the Court-appointed Administrator;

- b. \$520.83 of attorney costs shortfall to LippSmith LLP for costs advanced by LippSmith LLP to update Class Member Data for Settlement notice to reflect the most recent taxpayer and contact information for Class Members, pursuant to Settlement Agreement ¶ 54(e);
- c. \$2,715.83 of attorney fees held (to each Class Counsel pro rata by percentage of initial award) for additional charges for Settlement notice and administration as set forth below, pursuant to Settlement Agreement ¶ 55:
 - i. \$678.96 to the Law Offices of Melvin Y. Avena,
 - ii. \$678.96 to the Law Office of Glenn K. Sato,
 - iii. \$1,281.34 to LippSmith LLP, and
 - iv. \$76.57 to Kasdan Turner Thompson Booth LLC;
- d. \$113.30 in held GET associated with the above-referenced attorney fees as set forth below (previously calculated at 4.172% in error):
 - i. \$28.33 to the Law Offices of Melvin Y. Avena,
 - ii. \$28.33 to the Law Office of Glenn K. Sato,
 - iii. \$53.45 to LippSmith LLP, and
 - iv. \$3.19 to Kasdan Turner Thompson Booth LLC;
- e. \$308.14 in GET Correction on Attorney Fees (0.540% on all Attorney Fees) as set forth below:
 - i. \$77.03 to the Law Offices of Melvin Y. Avena,
 - ii. \$77.03 to the Law Office of Glenn K. Sato,
 - iii. \$145.38 to LippSmith LLP, and
 - iv. \$8.70 to Kasdan Turner Thompson Booth LLC; and

f. \$1,875.03 in *cy pres* distribution of Settlement Funds to the Hawai'i

Community Foundation which HCF shall be earmarked for food services for

its program participants, pursuant to Settlement Agreement ¶ 55(c).

- 3) The Court-appointed Administrator shall close the escrow account once the Settlement Fund has a balance of \$0.
- 4) The Court-appointed Administrator shall update the Settlement Website to post an order from this Court approving final distributions from the Settlement Funds, indicating that the settlement administration period closed and indicating that no more benefits to Class Members will be provided.

IT IS SO ORDERED.

Dated: Honolulu, Hawai'i, April 25, 2023.

/s/ Gary W. B. Chang



HON. GARY W.B. CHANG
JUDGE OF THE CIRCUIT COURT

APPROVED AS TO FORM:

By: /s/ Wayne R. Wagner
WAYNE R. WAGNER
CALVIN E. YOUNG
Attorneys for Defendants
Castle & Cooke Waikoloa, LLC and
Castle & Cooke Homes Hawaii Inc.

DATED: April 17, 2023

IRENE O. BRITTON, Individually and in Her Representative Capacity, on Behalf of Herself and all Others Similarly Situated vs. CASTLE & COOKE WAIKOLOA, LLC., et al., CIVIL NO. 13-1-2276-08 JMT; **ORDER GRANTING THE CLASS' MOTION FOR APPROVAL OF FINAL DISTRIBUTIONS FROM SETTLEMENT FUND**