



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

NANTAHALA CAPITAL PARTNERS II
LIMITED PARTNERSHIP, on behalf of
itself and all other similarly situated
stockholders of QAD INC.,

Plaintiff,

C.A. No. 2021-0573-PAF

v.

QAD INC., PAMELA M. LOPKER,
ANTON CHILTON, SCOTT J.
ADELSON, KATHLEEN M. CRUSCO,
PETER R. VAN CUYLENBURG,
THOMA BRAVO, LP, QAD
ULTIMATE PARENT, LP (F/K/A
PROJECT QUICK ULTIMATE
PARENT, LP), QAD PARENT, LLC
(F/K/A PROJECT QUICK PARENT,
LLC)

Defendants.

**AFFIDAVIT OF JACK EWASHKO IN SUPPORT OF PLAINTIFF'S
[UNOPPOSED] MOTION FOR ADMINISTRATIVE ORDER**

STATE OF WISCONSIN)
) ss:
COUNTY OF MILWAUKEE)

I, Jack Ewashko, being duly sworn this 28th day of May 2024, hereby
depose and say:

1. I am a Director of Case Management at A.B. Data, Ltd.’s Class Action Administration Company (“A.B. Data”). I am over 21 years of age and am not a party to the above-captioned action (the “Action”).¹ My business address is 600 A.B. Data Drive, Milwaukee, Wisconsin 53217, and my direct telephone number is (414) 961-7555.

2. A.B. Data serves as the Settlement Administrator in connection with the Settlement of the Action. I respectfully submit this Affidavit in order to provide the Court with information regarding the proposed distribution of the Net Settlement Fund.

3. The following statements are based on my personal knowledge and information provided to me by A.B. Data employees working under my supervision, and if called on to do so, I could and would testify competently thereto.

**CALCULATION OF NET SETTLEMENT FUND
AND PER ELIGIBLE SHARE AMOUNT**

4. The Class is comprised of record holders and beneficial owners of QAD Inc.’s Class A common stock as of the closing of the Merger on November 5, 2021 (the “Closing Date”) who received \$87.50 in cash per Class

¹ Unless otherwise defined herein, all capitalized terms have the meaning set forth in the Stipulation and Agreement of Compromise and Settlement dated August 28, 2023 (Trans. ID 70679921) (the “Stipulation”).

A common stock as Merger consideration, excluding certain Excluded Persons defined in the Stipulation (hereinafter “Eligible Class Members”).

5. On September 5, 2023, A.B. Data received a copy of a list of Registered Holders from counsel for QAD, Inc. identifying each QAD Inc. Class A stockholder of record as of the Closing Date (the “Registered Holder List”). The Registered Holder List contains the names, addresses, and number of shares held by each QAD Inc. Class A stockholder of record. The Record Holder List identified 99 stockholders of record (each, a “Merger Record Holder”) holding a total of 31,013 shares of QAD Inc. Class A common stock. The Registered Holder List indicated that Cede & Co. was the stockholder of record for an additional 13,963,024 shares of QAD Inc. Class A common stock.

6. On February 2, 2024, A.B. Data received a DTCC Allocation Report from Defendants’ Counsel showing each DTCC Participant’s holdings of QAD Inc. Class A common stock as of the Closing Date. The DTCC Allocation Report contains each DTCC Participant’s identification number, name, and the number of shares held by the DTCC Participant. The DTCC Allocation Report identified 113 DTCC Participants holding a total of 13,963,024 shares of QAD Inc. Class A common stock.

7. Thus, in total, there were 13,994,037 shares of QAD Inc. Class A common stock outstanding on the Closing Date.

8. Consistent with the terms of the Settlement, counsel for Defendants provided A.B. Data with information concerning the shareholdings of Excluded Persons as of the Closing Date. In sum, a total of 2,122,801 shares have been identified as being held by 8 Excluded Persons as of the Closing Date (the “Excluded Shares”).

9. Accounting for the 2,122,801 Excluded Shares, there were 11,871,236 shares of QAD Inc. Class A common stock outstanding on the Closing Date (“Eligible Shares”). Therefore, each Eligible Class Member should receive a *pro rata* share of the Net Settlement Fund calculated by dividing each Eligible Class Member’s number of shares by the Net Settlement Amount.

10. Pursuant to the Settlement, Defendants caused \$65,000,000 in cash to be deposited into the Escrow Account. Stipulation ¶2.1. As described in the Stipulation, the Settlement Fund is \$65,000,000 plus any interest earned thereon. Stipulation ¶¶I.1.31, J. The Net Settlement Fund is calculated by deducting Taxes from interest income, Banking Costs, Notice and Administration Costs and Attorneys’ Fees and Litigation Expenses from the Settlement Fund. Stipulation ¶¶1.15, 10.7.

(a) Interest Earned on the Settlement Fund. As of April 30, 2024, the Settlement Fund has earned \$1,060,256.00 in interest payable to Eligible Class Members. The Settlement Fund has incurred \$6,028 in banking fees and costs (“Banking Costs”) in connection with the Settlement.

(b) Taxes. As of April 30, 2024, the Settlement Fund has earned \$366,130.00 in estimated tax withholding.

(c) Notice and Administration Costs. A.B. Data’s total fees and out-of-pocket expenses in connection with Notice and Administration of the Settlement to date are \$80,226.77. A.B. Data anticipates that its fees and expenses for the work performed in connection with the Initial Distribution of the Net Settlement Amount will be \$11,060.24. The total amount of the actual and anticipated fees and expenses payable to A.B. Data is \$91,287.01.

(d) Attorneys’ Fees and Litigation Expenses. Pursuant to the Final Order and Judgment, the Court awarded Plaintiff’s counsel a total of \$15,363,369.80 for Attorneys’ Fees and Litigation Expenses.

11. After deducting Notice and Administration Costs (\$91,287.01), Banking Costs (\$6,028), Taxes (\$366,130.00) and Attorneys’ Fees and Litigation Expenses (\$15,363,369.80) from the Settlement Fund, the Net Settlement Fund is \$50,233,411.19.

12. As noted above, there are 11,871,236 Eligible Shares. Dividing the Net Settlement Fund by the number of Eligible Shares produces a Per Eligible Share Amount of approximately \$4.23 per share.

DISTRIBUTION OF NET SETTLEMENT FUND

13. Pursuant to the Stipulation and the Plan of Allocation, the Net Settlement Fund will be distributed on a *pro rata* basis to Eligible Class Members according to the number of Eligible Shares held by each Eligible Class Member. Stipulation ¶10.6; Long-Form Notice ¶¶25-28. Eligible Class Members will receive the Per Eligible Share Amount for each Eligible Share held. *Id.*

14. The Settlement does not entail a claims process. Instead, payments from the Net Settlement Fund will be made in the same manner in which Eligible Class Members received Merger consideration. *Id.* Subject to Court approval, distributions from the Net Settlement Fund will be made to Eligible Class Members either (1) directly, for Eligible Class Members who were Merger Record Holders of Eligible Shares, or (2) by making payment to DTCC Participants at which Eligible Class Members beneficially owned Eligible Shares.

15. Pending this Court's approval, A.B. Data will conduct an initial distribution ("Initial Distribution") of the Net Settlement Fund to Eligible Class Members via the Merger Record Holders and DTCC Participants that

are undisputed and have been identified. A.B. Data will provide each Merger Record Holder and DTCC Participant its share of the Net Settlement Fund (*i.e.*, the Per Eligible Share Amount multiplied by the number of Eligible Shares held) by check or wire transfer. In connection therewith, A.B. Data will instruct that it is the responsibility of the Merger Record Holder or DTCC Participant to distribute the Per Eligible Share Amount to the beneficial owner(s), if any, that are Eligible Class Members and held Eligible Shares.

16. If there is any balance in the Escrow Account attributable to the Net Settlement Fund after six (6) months following the date of the Initial Distribution, A.B. Data will reallocate, if feasible, such balance among the Eligible Class Members who have been identified and located and cashed the initial payment. If such reallocation is not feasible, any remainder in the Account attributable to the Net Settlement Fund will be contributed to the Combined Campaign for Justice (subject to Court approval).

Executed this 28th day of May, 2024.

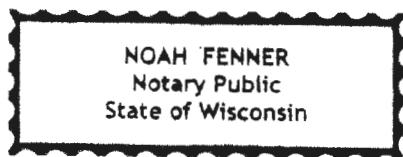


Jack Ewashko

Sworn to and subscribed before me
this 28th day of May, 2024



Noah T. Fenner



My commission expires August 29, 2026