

Exhibit 2

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

JUDITH J. JIMENEZ, KATHY FOGEL, and
STEPHANIE VIL, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

TD BANK, N.A.,

Defendant.

Case No. 1:20-cv-07699-NLH

**DECLARATION OF ELIZABETH ENLUND REGARDING
IMPLEMENTATION OF NOTICE AND ADMINISTRATION**

I, Elizabeth Enlund, hereby declare and state as follows:

1. I am a Senior Settlement Project Manager employed by Epiq Class Action & Claims Solutions, Inc. (“Epiq”). I am a certified Project Management Professional (PMP)[®] and hold a Bachelor of Science degree from Portland State University. Prior to joining Epiq in 2019, I managed a variety of complex projects in highly regulated environments through the government and private sectors. The statements of fact in this declaration are based on my personal knowledge and information provided to me by my colleagues in the ordinary course of business, and if called on to do so, I could and would testify competently thereto.

2. Epiq was retained by the Parties to be the Settlement Administrator pursuant to the Court’s Order Granting Plaintiffs’ Motion for Preliminary Approval of Settlement, Conditional Certification of the Settlement Class, and Approval of Notice Plan (Dkt. 96) (the “Order”) dated April 25, 2023, and in accordance with the Settlement Agreement and Release (Dkt. 95, Exhibit

2) (the “Agreement”) dated March 27, 2023.¹ I submit this Declaration in order to advise the Parties and the Court regarding the implementation of the Court-approved Notice Plan, and to report on Epiq’s handling to date of the Settlement administration, in accordance with the Order and the Agreement.

3. Epiq was established in 1968 as a client services and data processing company. Epiq has administered bankruptcies since 1985 and settlements since 1993. Epiq has routinely developed and executed notice programs and administrations in a wide variety of mass action contexts including settlements of consumer, antitrust, products liability, and labor and employment class actions, settlements of mass tort litigation, Securities and Exchange Commission enforcement actions, Federal Trade Commission disgorgement actions, insurance disputes, bankruptcies, and other major litigation. Epiq has administered more than 4,500 settlements, including some of the largest and most complex cases ever settled. Epiq’s class action case administration services include administering notice requirements; designing direct-mail notices; implementing notice fulfillment services; coordinating with the United States Postal Service (“USPS”); developing and maintaining notice websites and dedicated telephone numbers with recorded information and/or live operators; processing exclusion requests, objections, claim forms and correspondence; maintaining class member databases; adjudicating claims; managing settlement funds; and calculating claim payments and distributions. As an experienced neutral third-party administrator working with settling parties, courts, and mass action participants, Epiq has handled hundreds of millions of notices, disseminated hundreds of millions of e-mails, handled millions of phone calls, processed tens of millions of claims, and distributed hundreds of billions of dollars in payments.

¹ All capitalized terms not otherwise defined in this document shall have the same meanings ascribed to them in the Agreement.

OVERVIEW OF ADMINISTRATION

4. Pursuant to the Agreement and Order, Epiq was retained to provide the following administrative services for the benefit of Settlement Class Members, as they are defined in the Agreement:

- Send an E-Mail Notice to Notice Recipients for whom TD Bank has provided Epiq an e-mail address;
- Send a Mail Notice to Notice Recipients for whom TD Bank has not provided Epiq an e-mail address but has provided a valid mailing address, or whom Epiq has attempted to send email E-Mail Notice but it was returned undeliverable;
- Forty-five (45) and eighty (80) days after the Notice Deadline, e-mail a reminder Notice to all Notice Recipients who have not submitted a Claim;
- Establish and maintain a mailing address for receiving written requests for exclusion (“Opt Outs”) from the Settlement, or inquiries from the Settlement Class;
- Establish and maintain an official Settlement Website containing information about the Settlement and eligibility to file a Claim;
- Establish and maintain an official toll-free number that Notice Recipients may contact for additional information about the Settlement;
- Review, process, and report Opt Outs sent to or received by Epiq;
- Review, respond (as necessary), and report on Claim Forms sent to or received by Epiq;
- Process and transmit payments to Participating Settlement Class Members from the Settlement Fund Account.

DATA TRANSFER

5. On June 26, 2023, the Defendant provided Epiq with one electronic file containing Notice Recipients (“Notice Recipient List”). The file contained 92,226 rows containing account numbers, primary account holders, additional account holders, last known mailing addresses, and last known e-mail addresses (if available).

6. Epiq loaded the information provided by the Defendant into a database created for the purpose of administration of the Settlement. Epiq assigned unique identifiers to all records it received in order to maintain the ability to track them throughout the Settlement administration process.

DISSEMINATION OF E-MAIL NOTICE

7. Pursuant to Section VII of the Agreement and Paragraph 13 of the Order, Epiq was to cause the Court-approved E-mail Notice to be formatted for electronic distribution by e-mail to Notice Recipients for whom an e-mail address was included in the Notice Recipient List. Attached hereto as **Attachment 1** is the template of the Court-approved E-Mail Notice that Epiq electronically disseminated to Notice Recipients for whom an e-mail address was provided in the Notice Recipient List.

8. The E-Mail Notice contained substantial, easy-to-read, information to make potential Notice Recipients aware of their rights under the Settlement; a hyperlink to the Settlement Website with the Long-Form Notice; and instructions on how to obtain more information by visiting the Settlement Website or calling a toll-free number. The E-Mail Notice was formatted with easy-to-read text without graphics, tables, images and other elements that would increase the likelihood that the message could be blocked by Internet Service Providers (“ISPs”) or SPAM

filters. Epiq also followed standard e-mail protocols, including utilizing “unsubscribe” links and including Epiq’s contact information in the E-Mail Notice.

9. Before sending the E-Mail Notice, Epiq received 23,454 potential Notice Recipient e-mail addresses in the Notice Recipient List, including duplicates. Epiq also attempted to verify whether the email addresses it received in the Notice Recipient List still existed and were valid. Upon completing the validation process with the various ISPs, it was confirmed to Epiq that 21,976 e-mail addresses in the Notice Recipient List were potentially valid and 1,478 e-mail addresses in the Notice Recipient List were invalid or no longer existed.

10. Epiq sent the E-Mail Notice to the 21,976 potentially valid e-mail addresses on July 24, 2023. Each E-Mail Notice was transmitted with a unique message identifier. If the receiving e-mail server could not deliver the message, a “bounce code” was returned along with the unique message identifier.

11. For all Notice Recipients with potentially valid e-mail addresses in the Notice Recipient List, Epiq closely monitored all deliverability attempts of the E-Mail Notice throughout the E-Mail Notice campaign. A total of 18,649 E-mail Notices were delivered. Of the 3,327 E-mail Notices that could not be delivered, 670 of them were undeliverable because the e-mail address no longer existed, the e-mail account was closed, or the e-mail address had a bad domain name or address error (collectively, “Hard Bouncebacks”). After three attempts, the remaining 2,657 E-mail Notices could not be delivered because of an inactive or disabled account, the recipient’s mailbox was full, technical auto-replies, or the recipient server was busy or unable to deliver (collectively, “Soft Bouncebacks”). Ultimately, Epiq was able to deliver direct E-mail Notice to 84.86% of the facially valid e-mail address provided in the Notice Recipient List, and 79.51% of the overall e-mail address population provided in the Notice Recipient List.

12. On August 7, 2023, Epiq sent Mail Notice to each of the 4,700 unique Notice Recipients whose e-mail address “bounced” back as undeliverable in the E-Mail Notice campaign, or who did not have a valid e-mail address on file and who have a valid physical mailing address on file.

DISSEMINATION OF THE MAIL NOTICE

13. Pursuant to Section VII of the Agreement and Paragraph 13 of the Order, Epiq was responsible for sending the Mail Notice via U.S. First Class Mail to all Notice Recipients for whom TD Bank was unable to provide an e-mail address. Attached hereto as **Attachment 2** is the template of the Court-approved Mail Notice that Epiq disseminated by mail to Notice Recipients.

14. Prior to mailing the Mail Notice to the Notice Recipients for whom TD Bank had not provided an e-mail address, all eligible Notice Recipients’ mailing addresses were checked against the National Change of Address (“NCOA”) database maintained by USPS.² In addition, the addresses were processed via the Coding Accuracy Support System (“CASS”) to ensure the accuracy of the zip codes, and verified through Delivery Point Validation (“DPV”) to verify the accuracy of the addresses. To the extent that any Settlement Class Member had filed a USPS change of address request, and the address was certified and verified, Epiq used the current address listed in the NCOA database in connection with the Mail Notice mailing. This address updating process is standard for the industry and for the majority of promotional mailings that occur today. A total of 11,880 records in the Notice Recipient List were updated with new addresses after going through the USPS NCOA, CASS, and DPV verification processes.

² The NCOA database contains records of all permanent change of address submissions received by USPS for the last four years. USPS makes this data available to mailing firms and lists submitted to it are automatically updated with any reported move based on a comparison with the person’s name and last known address.

15. Prior to commencing any mailings for this matter, Epiq established a dedicated post office (“P.O.”) box to mail notices from and to allow Notice Recipients to contact the Settlement Administrator or submit documents by mail. Epiq has and will continue to maintain the P.O. Box throughout the Settlement administration process.

16. On July 24, 2023, Epiq mailed 68,876 Mail Notices via USPS First-Class Mail to Notice Recipients on the Notice Recipient List for whom TD Bank did not have, and thus had not provided, an e-mail address and who had a facially valid mailing address.

17. In addition, a Claim Package (consisting of a Long-Form Notice and Claim Form) will be mailed via USPS First-Class Mail to all persons who submitted a request for one. As of August 8, 2023, 48 Claim Packages have been requested and will be mailed as a result of such requests.

18. The return address on the Mail Notices is the P.O. Box maintained by Epiq. Any Mail Notices that are reported by USPS as undeliverable with forwarding address information will be promptly re-mailed to the forwarding address. Epiq will continue to resend postal forward Mail Notices every two weeks as updated addresses are located through October 22, 2023.

19. Any Mail Notices which are returned to Epiq without forwarding address information will be sent for a skip trace search using a third-party lookup service. For records that return an updated address, Mail Notices will be re-mailed to the updated address. Address updating and re-mailing for undeliverable Notices is ongoing and will continue every two weeks as updated addresses are located through October 22, 2023.

SETTLEMENT WEBSITE

20. Pursuant to Section VII of the Agreement, on June 9, 2023, Epiq launched a website, www.TDaccountreopeningsettlement.com, that Notice Recipients can visit to obtain

additional information about the proposed Settlement, as well as important documents, including the Agreement, the Long-Form Notice, the Order, the Claim Form, and any other documents that Class Counsel and TD Bank agree, or that the Court orders, to post. The Settlement Website contains a summary of options available to Notice Recipients, deadlines to act, and answers to frequently asked questions. On July 21, 2023, Epiq launched a dynamic module on the Settlement Website for Notice Recipients to file a Claim via the Settlement Website. References to the Settlement Website were prominently displayed in the E-Mail Notice, Mail Notice, and Long-Form Notice.

21. As of August 8, 2023, the Settlement Website has received 6,023 unique visitors and 20,610 website pages have been viewed. Epiq has maintained and will continue to maintain and update the Settlement Website through the Effective Date of the Settlement. Ownership of the Settlement Website URL will be transferred to TD Bank within ten (10) days of the Settlement Website being inactivated.

TOLL-FREE INFORMATION LINE

22. Pursuant to Section VII of the Agreement, on June 9, 2023, Epiq established and is maintaining a toll-free interactive Voice Response Unit (“VRU”) telephone number to provide information to and accommodate inquiries from Notice Recipients. Callers hear an introductory message and then are provided with scripted information about the Settlement in the form of recorded answers to frequently asked questions. On July 21, 2023, the ability to speak to a live operator during normal business hours was added. Additionally, callers have the option of requesting that a Claim Package (which includes a Long-Form Notice and Claim Form) be sent to them via USPS First-Class Mail. The toll-free number was included in the E-Mail Notice and Mail

Notice sent to Notice Recipients, and the automated telephone system is available 24 hours per day, seven days per week.

23. As of August 8, 2023, the toll-free interactive VRU telephone number has received 275 calls, representing 1,674 total minutes, and call center representatives have handled 81 inbound calls, representing 902.62 minutes of use. Epiq has and will continue to maintain and update the Settlement toll-free telephone line through the Effective Date of the Settlement.

E-MAIL INBOX

24. Epiq established and maintains an e-mail inbox, Info@TDAccountReopeningSettlement.com, for Notice Recipients to ask questions regarding the Settlement. As of August 8, 2023, Epiq has received a total of 53 incoming e-mails. Epiq will continue to maintain this inbox throughout the Settlement administration.

REQUESTS FOR EXCLUSION

25. Pursuant to Section VIII of the Agreement and Paragraph 19 of the Order, Notice Recipients who wish to be excluded from the Settlement are required to mail a written Opt-Out or request for exclusion statement to Epiq, with a postmark date on or before September 22, 2023. As of August 8, 2023, Epiq is not aware of or nor has received any timely written requests for exclusion from the Settlement.

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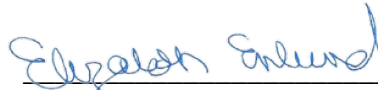
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OBJECTIONS RECEIVED

26. Pursuant to Section VIII of the Agreement and Paragraph 21 of the Order, Notice Recipients who wish to object to the Settlement are required to submit written objections by electronically filing or by first-class mail to the Clerk of the Court, with a copy to Class Counsel and TD Bank’s Counsel. Objections must be filed or postmarked on or before the objection deadline of September 22, 2023. As of August 8, 2023, Epiq is not aware of or nor has received any timely written objections to the Settlement.

I declare under penalty of perjury under the laws of the United States and the State of New Jersey that the foregoing is true and correct and that this declaration was executed on August 9, 2023, in Tucson, Arizona.



Elizabeth Enlund, PMP
Senior Project Manager
Epiq Class Action & Claims Solutions, Inc. (“Epiq”)

Attachment 1

[Click here](#) to view this message in a browser window.

ATTENTION: {{Name}}

Unique ID: {{ACCT}}

LEGAL NOTICE OF CLASS ACTION SETTLEMENT

If you had a TD Bank consumer checking account between June 24, 2014, and April 25, 2023, you may be entitled to benefits from a proposed class action settlement.

This is a court-authorized Notice of a proposed class action settlement. This is not a solicitation from an attorney, and you are not being sued.

PLEASE READ THIS NOTICE CAREFULLY, AS IT EXPLAINS YOUR RIGHTS AND OPTIONS AND THE DEADLINES TO EXERCISE THEM.

For more information, including a more detailed description of your rights and options, please click [here](#) or visit TDAccountReopeningSettlement.com.

What is the Settlement about? A Settlement has been reached in a class action lawsuit challenging the reopening of consumer checking accounts by TD Bank, N.A. ("TD Bank"). The lawsuit contends that TD Bank acted improperly by reopening consumer checking accounts without customer authorization, allowing transactions to post to the reopened accounts. TD Bank disputes that contention and denies that it engaged in any wrongdoing. The Court has not decided which side is right. Full information regarding the Settlement can be found at www.TDAccountReopeningSettlement.com.

Why am I being contacted? TD Bank's records show that the person to whom this notice is addressed is a potential member of the Settlement Class. The Settlement Class includes all current and former holders of a TD Bank consumer checking account that, between June 24, 2014, and April 25, 2023 ("Class Period"), was reopened by TD Bank without customer authorization after the account's closure, and had a debit, credit, or fee post to the account after that reopening.

What are the Settlement terms? TD Bank agreed to provide \$4,900,000 ("Cash Settlement Amount") to the Settlement Class, which includes money for (a) payments to Settlement Class Members, (b) attorneys' fees, costs, and expenses, (c) settlement administration costs, and (d) service awards to the Plaintiffs.

How do I get my Settlement payout? You must submit a Claim to be eligible for a payment. You have the option to submit a Claim Form requesting either a Basic Payment or an Enhanced Payment. Once the Court approves the Settlement, your Claim will be reviewed and, if approved, you will receive a check. If you submit a Basic Claim and there are sufficient funds, you will receive a Basic Payment equal to \$125. If you submit additional information and documentation for an Enhanced Claim and there are sufficient funds, you will receive an Enhanced Payment equal to any losses you sufficiently documented. If in either case there are not sufficient funds, the Settlement Agreement provides for proportional reductions in payments. In no instance will the Enhanced Payment be less than the Basic Payment. The Claim Form is available at the Settlement Website, listed below. For additional information about how the payments will be calculated, including in the event of the proportional reductions described above, please visit www.TDAccountReopeningSettlement.com.

Your other options. If you do not want to be bound by the Settlement, you may exclude yourself by **September 22, 2023**. If you do not exclude yourself, you will release your claims against TD Bank. Alternatively, you may object to the Settlement by **September 22, 2023**. The Long Form Notice available at the Settlement Website, listed below, explains how to exclude yourself or object. The Court will hold a hearing on **November 7, 2023, at 2:00 p.m. ET** to consider whether to approve the Settlement and to consider a request by counsel for the Settlement Class for attorneys' fees of up to one third of the Cash Settlement Amount;

class counsel's expenses; and service awards of up to \$8,000 for Judith Jimenez and up to \$5,000 for Kathy Fogel and Stephanie Vil, who brought this case for the benefit of the Settlement Class. Details about the hearing are in the Long Form Notice. You may appear at the hearing, but you are not required to do so. You may hire your own attorney, at your own expense, to appear for you at the hearing.

Questions? If you have questions, please visit the Settlement Website at www.TDAccountReopeningSettlement.com. You may write with questions by email to info@TDAccountReopeningSettlement.com, or by mail to Jimenez v. TD Bank, N.A. Settlement Administrator, PO Box 2167, Portland, OR 97208-2167, or call the toll-free number at 888-831-6427. **Please do not contact TD Bank or the Court for information.**

A1992_v03

{{Account.COMPANY}}
{{Account.BIZ_ADDRESS}}

If you do not wish to receive future email, [click here](#).
(You can also send your request to **Customer Care** at the street address above.)

Attachment 2

Jimenez, et al. v. TD Bank, N.A.
Settlement Administrator
PO Box 2167
Portland, OR 97208-2167

**BARCODE NO
PRINT ZONE**

FIRST-CLASS MAIL
U.S. POSTAGE
PAID
Portland, OR
PERMIT NO. 2882

Unique ID: <<Unique ID>>

**Important Notice About
Class Action Settlement**

You are receiving this Notice because you may be entitled to benefits from a proposed class action settlement. This Notice explains what the class action is about, what the Settlement will be, and how your rights may be affected. More information about the Settlement and the Settlement Agreement are available at www.TDAccountReopeningSettlement.com.

*A federal court authorized this Notice.
This is not a solicitation from a lawyer.*

<<MAIL ID>>
<<NAME 1>>
<<NAME 2>>
<<NAME 3>>
<<NAME 4>>
<<ADDRESS LINE 1>>
<<ADDRESS LINE 2>>
<<ADDRESS LINE 3>>
<<ADDRESS LINE 4>>
<<ADDRESS LINE 5>>
<<CITY, STATE ZIP>>
<<COUNTRY>>

Barcode No-Print Zone

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How do I get my Settlement payout? You must submit a Claim to be eligible for a payment. You have the option to submit a Claim Form requesting either a Basic Payment or an Enhanced Payment. Once the Court approves the Settlement, your Claim will be reviewed and, if approved, you will receive a check. If you submit a Basic Claim and there are sufficient funds, you will receive a Basic Payment of \$125. If you submit additional information and documentation for an Enhanced Claim and there are sufficient funds, you will receive an Enhanced

Payment equal to any losses you can properly document. In either case there are not sufficient funds, the Settlement Agreement provides for proportional reductions in payments. In no instance will the Enhanced Payment be less than the Basic Payment. The Claim Form is available on the Settlement Website, listed below. For additional information about how the payments will be calculated, including in the event of the proportional reductions described above, please visit www.TDAccountReopeningSettlement.com.

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Questions? If you have questions, please visit the Settlement Website at www.TDAccountReopeningSettlement.com. You may write with questions by email to info@TDAccountReopeningSettlement.com, or by mail to Jimenez v. TD Bank, N.A. Settlement Administrator, PO Box 2167, Portland, OR 97208-2167, or call the toll-free number, 888-831-6427. **Please do not contact TD Bank or the Court for information.**