

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION**

Case No. 1:10-cv-00090-GRJ

**SHANE SWIFT, on Behalf of
Himself and All Others Similarly
Situated,**

Plaintiff,

vs.

BANCORPSOUTH BANK,

Defendant.

FINAL JUDGMENT

The Court, having entered the Order Granting Final Approval of Settlement, Authorizing Service Award, and Granting Application For Attorneys' Fees dated July 15, 2016 (ECF No. 102), hereby **ORDERS AND ADJUDGES** as follows:

1. The Court incorporates herein by reference the Order Granting Final Approval of Settlement, Authorizing Service Award, and Granting Application For Attorneys' Fees dated July 15, 2016 ("Final Approval Order") in its entirety. (ECF No. 102).

2. Except as specifically modified by the Final Approval Order, all capitalized terms used herein shall have the meaning set forth in the

Settlement Agreement and Release between the Parties (“Agreement” or “Settlement”). (ECF No. 94-1).

3. This Court has personal jurisdiction over each and all of the Settlement Class Members because, among other things, they received the best practicable notice of the Settlement, which notice was reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the Action and the terms of the Settlement, and to afford them an opportunity to present their objections or to request exclusion from the Settlement. The Court also has jurisdiction over BancorpSouth Bank (“BancorpSouth”) and over the Plaintiff, both of whom have personally appeared in the Action pending before this Court. The Court has subject matter jurisdiction over the Action pursuant to 28 U.S.C. §§ 1332(d)(2) and (6).

4. For purposes of effectuating the Settlement, and in accordance with Federal Rules of Civil Procedure 23(a) and 23(b)(3), the Court certifies the Settlement Class defined as:

All Account Holders of a BancorpSouth Account who, during the Class Period applicable to the state in which the Account was opened, incurred one or more Overdraft Fees as a result of BancorpSouth’s High-to-Low Posting.¹ Excluded from the Class

¹ The Settlement Class consists solely of the 190,953 identifiable current and former BancorpSouth Account Holders identified based on the analysis set forth in the Expert

are all current BancorpSouth officers and directors, and the judge presiding over this Action.

Agreement ¶ 64.²

5. The Action, defined in the Settlement as *Swift v. BancorpSouth Bank*, N.D. Fla. Case No. 1:10-cv-90-GRJ, is hereby dismissed with prejudice, each side to bear its own fees and costs, except as otherwise provided in the Final Approval Order.

6. Without modifying the scope of Section XIV of the Settlement, as of the Effective Date, Plaintiff and all Settlement Class Members (who did not timely opt-out of the Settlement), each on behalf of himself or herself and on behalf of his or her respective heirs, assigns, beneficiaries, and successors, shall automatically be deemed to have fully and irrevocably released and forever discharged BancorpSouth and each of its

Report of Arthur Olsen dated November 8, 2012, as supplemented by the Supplemental Expert Report of Arthur Olsen dated August 28, 2014, excluding the 238 class members who previously exercised their right to opt out of the certified class.

² “Class Period” means: (a) for Settlement Class Members who opened accounts in Louisiana, the period from May 18, 2003 through August 13, 2010; (b) for Settlement Class Members who opened accounts in Alabama or Tennessee, the period from May 18, 2004 through August 13, 2010; (c) for Settlement Class Members who opened accounts in Arkansas, the period from May 18, 2005 through August 13, 2010; (d) for Settlement Class Members who opened accounts in Florida or Texas, the period from May 18, 2006 through August 13, 2010; and (e) for Settlement Class Members who opened accounts in Mississippi or Missouri, the period from May 18, 2007 through August 13, 2010. Agreement ¶ 32.

present and former parents, subsidiaries, divisions, affiliates, predecessors, successors and assigns, and the present and former directors, officers, employees, agents, insurers, shareholders, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, predecessors, successors, and assigns of each of them, of and from any and all liabilities, rights, claims, actions, causes of action, demands, damages, costs, attorneys' fees, losses, and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties or matters at any time from the beginning of the Class Period through the date an order preliminary approving the Settlement Agreement is entered by the Court, that were or could possibly have been claimed, raised, or alleged in this Action to the extent they relate in any way to Overdraft Fees, or debit transaction sequencing or posting order, including, without limitation, any claims, actions, causes of action, demands, damages, losses, or remedies relating to, based upon, resulting from, or arising out of (a) the notation or assessment of one or multiple Overdraft Fees on Settlement Class Members' Accounts, (b) the amount of one or more Overdraft Fees

assessed on Settlement Class Members' Accounts, or (c) debit transaction sequencing or posting order on Settlement Class Members' Accounts. The foregoing release includes any and all of the following to the extent they involve, result in, or seek recovery or relief for notation or assessment of Overdraft Fees or debit transaction sequencing or posting order: (1) the authorization, approval or handling of any Debit Card Transaction, (2) any failure to notify or to obtain advance approval when a Debit Card Transaction would or might cause Settlement Class Members' Accounts to become overdrawn or further overdrawn or an Overdraft Fee to be noted or assessed, (3) any failure to allow Settlement Class Members to opt-out of overdrafts, or to publicize or disclose the ability of the holder of any BancorpSouth Account to opt-out of overdrafts, (4) any failure to adequately or clearly disclose, in one or more agreements, posting order, debit re-sequencing, overdrafts, Overdraft Fees, or the manner in which Debit Card Transactions are or would be approved, processed, noted, or posted to Settlement Class Members' Accounts; (5) any conduct or statements encouraging the use of BancorpSouth Debit Cards, (6) the assessment of any Overdraft Fee, and (7) any advertisements relating to any of the foregoing.

7. Those persons identified on the List of Exclusions attached hereto as Exhibit A are hereby excluded from the Settlement, shall not receive any distribution from the Settlement, and are not bound by this Judgment.

8. The Parties to the Settlement submit to, and this Court expressly reserves and retains, exclusive jurisdiction over the Action and the Parties, including BancorpSouth, Plaintiff, and all Settlement Class Members, to administer, implement, supervise, construe, enforce and perform the Settlement in accordance with its terms, and to enforce the Final Approval Order. Without limiting the foregoing, and by way of example only, the Court retains jurisdiction to adjudicate any suit, action, proceeding, or dispute arising out of the Settlement. The Court shall also retain jurisdiction over all questions and disputes related to the Notice Program, Settlement Administrator, the Notice Administrator and the Tax Administrator.

9. Nothing in the Settlement, the Final Approval Order, or this Judgment shall be deemed to be an admission, or to constitute an adjudication by the Court, of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by BancorpSouth or

any party of any fault, liability or wrongdoing of any kind whatsoever or of any violation of statute, regulation or law.

10. Plaintiff, all Settlement Class Members, and all Releasing Parties are hereby barred and enjoined from asserting any of the Released Claims and from pursuing any Released Claims against BancorpSouth (as provided in paragraphs 30 and 105 of the Agreement) at any time, including, but without limitation, during any appeals from the Final Approval Order and this Judgment. The Court shall retain jurisdiction over the enforcement of these injunctions.

DONE AND ORDERED at Gainesville, Florida, this 15th day of July, 2016.

Gary R. Jones

GARY R. JONES

United States Magistrate Judge