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17 **UNITED STATES DISTRICT COURT**

18 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

19 ANDRÉ FLEURY, d/b/a SWISS WATCH)
20 CO., MIKE MERTABAN, d/b/a WATCH)
EXPERTS, DENNIS WARNER, and)
21 CHARLES CLEVES, on behalf of)
themselves and all other similarly situated)
22 watchmakers, and LIZ HART, on behalf of)
herself and all others similarly situated)
23 consumers,)

24 Plaintiffs,

25 vs.

26 RICHEMONT NORTH AMERICA, INC.,)

27 Defendant.)

Case No. C05-04525 EMC

**~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF
PROPOSED CLASS SETTLEMENT**

1 Plaintiffs Mike Mertaban, Dennis Warner, Charles Cleves, and Liz Hart ("Settling
2 Plaintiffs"), on the one hand, and Defendant Richemont North America, Inc. on the other
3 hand, entered into a Stipulation of Settlement dated September 12, 2007. The same day,
4 the Settling Plaintiffs and Defendant filed a Joint Motion for Preliminary Approval of
5 Proposed Class Settlement. The Court heard oral arguments on this Joint Motion on
6 October 17, 2007 and November 7, 2007. In addition, the Court considered supplemental
7 briefing from all parties.

8 Thereafter, the Settling Plaintiffs and Defendant entered into an Amended
9 Stipulation of Settlement dated November 21, 2007 ("Amended Settlement Agreement").
10 The Amended Settlement Agreement provides for the Settling Plaintiffs to settle all of
11 their individual claims, as well as the claims of the sub-classes they seek to represent. The
12 Amended Settlement Agreement, together with the documents and exhibits incorporated
13 therein, sets forth the terms and conditions for the proposed settlement.

14 Having considered the Joint Motion for Preliminary Approval, the Amended
15 Settlement Agreement, the pleadings and other papers on file in this action, the statements
16 of counsel and the parties, the Court finds that the Joint Motion for Preliminary Approval
17 should be GRANTED and that this Order should be entered. Terms and phrases used in
18 this Order shall have the same meaning ascribed to them in the Amended Settlement
19 Agreement.

20 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

21 1. The Court hereby gives its preliminary approval to the Amended Settlement
22 Agreement, subject to the Final Approval Hearing for purposes of deciding whether to
23 grant final approval to the settlement. Based on the parties' submissions, *see* Docket Nos.
24 179, 184, the Court understands that the settlement and any final approval thereof will
25 include provisions for monitoring and reporting.

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1 2. Pursuant to Federal Rule of Civil Procedure 23, the Court conditionally
2 certifies for settlement purposes only the following Settlement Class:

3 Watchmaker Settlement Sub-Class: All watchmakers or watch
4 repairers in the United States operating as of the date of Preliminary
5 Approval which are not authorized Cartier dealers or authorized
6 Cartier repair shops as of the date of Preliminary Approval.

7 Consumer Settlement Sub-Class: All persons who currently own or
8 previously owned a Cartier watch and who had their Cartier watch
9 repaired or serviced in the United States at a Defendant-owned Cartier
10 boutique or directly by Defendant at any time between January 1,
11 2003 and the date of Preliminary Approval of the Settlement.

12 The Court expressly reserves the right to determine, should the occasion arise, whether the
13 above-captioned lawsuit may be certified as a class action for purposes other than
14 settlement, and Defendant retains the right to assert that the lawsuit may not be certified as
15 a class action except for settlement purposes.

16 3. The Court hereby appoints the following attorneys to act as Settlement Class
17 Counsel:

18 Bruce L. Simon
19 Esther L. Klisura
20 PEARSON, SIMON, SOTER, WARSHAW & PENNY, LLP
21 44 Montgomery Street, Suite 1200
22 San Francisco, CA 94104

23 Geoffrey Spellberg
24 MEYERS, NAVE, RIBACK, SILVER & WILSON
25 575 Market Street, Suite 2600
26 San Francisco, CA 94105

27 4. The Court hereby appoints Mike Mertaban, Dennis Warner, and Charles
28 Cleves as the representatives of the Watchmaker Settlement Sub-Class.

29 5. The Court hereby appoints Liz Hart as the representative of the Consumer
30 Settlement Sub-Class.

31 6. The Court finds that the proposed settlement is sufficiently fair, reasonable
32 and adequate to allow dissemination of notice of the proposed settlement to the members
33 of the Settlement Class. The Court finds that the notice plan set forth in the Amended
34 Settlement Agreement is the best practicable notice and that it complies with due process.

1 This determination permitting notice to the Settlement Class is not a final finding, but a
2 determination that there is probable cause to submit the proposed Amended Settlement
3 Agreement to the Settlement Class Members and to hold a Final Approval Hearing to
4 consider the fairness, reasonableness, and adequacy of the proposed Settlement.

5 7. The Court appoints as Settlement Administrator:

6 The Garden City Group, Inc.
7 P.O. Box 9196
8 Dublin, OH 43017-4196

8 8. The Court approves the form of long form notice attached hereto as Exhibit
9 A ("Long Form Notice"), and the Court approves the form of publication notice attached
10 hereto as Exhibit B ("Publication Notice").

11 9. Within ten (10) calendar days after the date of this Order, Defendant shall
12 deliver to the Settlement Administrator what Defendant believes in good faith to be a
13 complete listing of the names and last known addresses of those persons who are members
14 of the Consumer Settlement Sub-Class.

15 10. Within forty-five (45) calendar days after the date of this Order ("Notice
16 Date"), the Settlement Administrator shall mail the Long Form Notice by United States
17 first class mail, postage pre-paid by Defendant, to each member of the Consumer
18 Settlement Sub-Class as identified by Defendant. The Settlement Administrator shall
19 promptly re-mail any notices returned by the Postal Service with forwarding addresses.
20 The costs of administration shall be borne by the Defendant.

21 11. On or before the Notice Date, the Settlement Administrator shall publish the
22 Publication Notice in one issue each of *Horological Times*, *Watch Time*, *Watch & Jewelry*
23 *Review*, *Clocks magazine*, *hr:WATCHES*, and two consecutive issues of *The Wall Street*
24 *Journal*.

25 12. On or before the Notice Date, the Settlement Administrator shall establish an
26 Internet website that includes, at a minimum, downloadable copies of the Long Form
27 Notice and the Settlement Agreement (including exhibits). This website shall be
28 maintained through at least the date of the Final Approval Hearing. In addition, the

1 Settlement Administrator shall transmit a copy of the Long Form Notice to the American
2 Watchmakers-Clockmakers Institute to be posted on its official website (www.awci.com).

3 13. The Court finds that taken together, mailing of the Long Form Notice,
4 publication of the Publication Notice, and Internet postings of the Long Form Notice are:
5 (i) the best practicable notice; (ii) reasonably calculated, under the circumstances, to
6 apprise Settlement Class Members of the pendency of the Lawsuit and of their right to
7 object or to exclude themselves from the proposed settlement; (iii) reasonable and
8 constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and
9 (iv) meet all applicable requirements of due process and any other applicable requirements
10 under federal and California law.

11 14. Any Settlement Class Member who wishes to be excluded from the
12 Settlement Class must comply with the terms set forth in the Long Form Notice and the
13 Publication Notice and submit an appropriate and timely request for exclusion postmarked
14 no later than sixty (60) calendar days after the Notice Date to the Settlement Administrator
15 at the address provided in the notice.

16 15. Any Settlement Class Member who does not timely request exclusion as set
17 forth in the Long Form Notice and Publication Notice shall be preliminarily enjoined from:
18 (i) filing, commencing, prosecuting, intervening in, or participating as plaintiff, claimant,
19 or class member in any other lawsuit or administrative, regulatory, arbitration, or other
20 proceeding in any jurisdiction based on, relating to, or arising out of the claims and causes
21 of action, or the facts and circumstances relating thereto, in the lawsuit and/or the Released
22 Claims, as defined in the Settlement Agreement; (ii) filing, commencing, or prosecuting a
23 lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on
24 behalf of any member of the Settlement Class who have not timely excluded themselves
25 (including by seeking to amend a pending complaint to include class allegations or seeking
26 class certification in a pending action), based on, relating to, or arising out of the claims
27 and causes of action, or the facts and circumstances relating thereto, in the lawsuit and/or
28 the Released Claims; and (iii) attempting to effect an opt-out of a class of individuals in

1 any lawsuit or administrative, regulatory, arbitration, or other proceeding based on,
2 relating to, or arising out of the claims and causes of action, or the facts and circumstances
3 relating thereto, in the lawsuit and/or the Released Claims.

4 16. Any Settlement Class Member who does not timely request exclusion as set
5 forth in the Long Form Notice and Publication Notice shall be bound by all proceedings,
6 orders, and judgments in the Lawsuit, even if such member of the Settlement Class has
7 previously initiated or subsequently initiates individual litigation or other proceedings
8 encompassed by the Released Claims.

9 17. Any Settlement Class Member who does not timely request exclusion as set
10 forth in the Long Form Notice and Publication Notice, and who wishes to object to the
11 fairness, reasonableness, or adequacy of the proposed settlement must submit to the
12 Settlement Administrator (who shall forward it to Settlement Class Counsel and Counsel
13 for Defendant) and to file with the Court no later than sixty (60) calendar days after the
14 Notice Date, a statement of the objection as well as the specific reasons (if any) for each
15 objection, including any legal support the Settlement Class Member wishes to bring to the
16 Court's attention and all evidence the Settlement Class Member wishes to introduce in
17 support of his or her objection or be forever barred from objection.

18 18. Any attorney hired by a Settlement Class Member at the sole expense of that
19 Settlement Class Member for the purpose of objecting to the proposed settlement shall
20 provide to the Settlement Administrator (who shall forward it to Settlement Class Counsel
21 and Counsel for Defendant) and file with the Clerk of the Court a notice of appearance no
22 later than sixty (60) calendar days after the Notice Date or as the Court may otherwise
23 direct. Attorneys who do not adhere to these requirements will not be heard at the Final
24 Approval Hearing.

25 19. Any Settlement Class Member who files and serves a written objection and
26 who intends to make an appearance at the Final Approval Hearing, either in person or
27 through personal counsel hired at the sole expense of that Settlement Class Member, shall
28 provide to the Settlement Administrator (who shall forward it to Settlement Class Counsel

1 and Counsel for Defendants) and file with the Court a notice of intention to appear no later
2 than sixty (60) calendar days after the Notice Date or as the Court otherwise may direct.
3 Settlement Class Members and their attorneys who do not adhere to these requirements
4 will not be heard at the Final Approval Hearing.

5 20. The Settlement Administrator shall promptly furnish Settlement Class
6 Counsel, counsel for Defendant, and any counsel for Plaintiffs or Settlement Class
7 Members with copies of any and all objections, written requests for exclusion, notices of
8 intention to appear, or other communications from Settlement Class Members or their
9 representatives that come into its possession, except as otherwise provided in the
10 Settlement Agreement.

11 21. At or before the Final Approval Hearing, the Settlement Administrator shall
12 file proof of mailing of the Long Form Notice, publication of the Publication Notice,
13 maintenance of the Internet website, and transmission of the Long Form Notice to the
14 American Watchmakers-Clockmakers Institute.

15 22. Any petition for award of attorneys' fees or reimbursement of litigation costs
16 and expenses shall be filed prior to the Final Approval Hearing.

17 23. A Final Approval hearing shall be held on **April 23, 2008 at 10:30 a.m.**
18 before the undersigned for the purpose of determining (a) whether the proposed settlement
19 is fair, reasonable, and adequate and should be finally approved by the Court; (b) whether
20 to issue a final judgment without material alteration from the form attached as Exhibit A to
21 the Settlement Agreement; and (c) whether to approve the Attorneys' Fee Award to
22 Settlement Class Counsel as set forth in the Settlement Agreement. The Court reserves the
23 authority to defer for a reasonable period a final ruling on the attorneys' fee award pending
24 submission of any monitoring reports regarding the implementation of the settlement as the
25 Court may order.

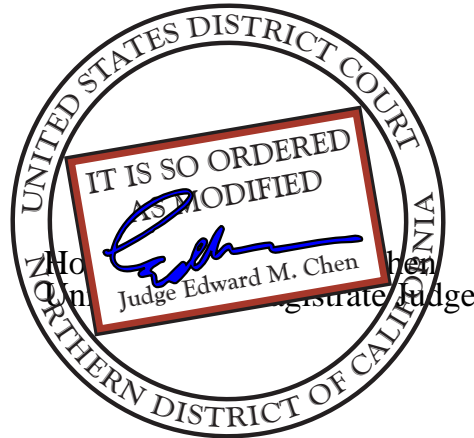
26 24. The Court reserves the right to adjourn or continue the Final Approval
27 Hearing, or any further adjournment or continuance thereof, without further notice other
28 than announcement at the Final Approval Hearing or at any adjournment or continuance

1 thereof, and to approve the settlement with modifications, if any, consented to by the
2 counsel for the Settlement Class and Defendants without further notice.

3 25. All pretrial proceedings in the lawsuit are stayed and suspended until further
4 order of this Court.

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6 SO ORDERED

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8 Date: November 28, 2007



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