

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

(Class Action)
SUPERIOR COURT

No: 500-06-000754-156

STEVE ABIHSIRA

Representative Plaintiff

v.

TICKETMASTER CANADA LTD.
ET ALS.

Defendants

**APPLICATION TO REDISTRIBUTE THE REMAINDER OF THE SETTLEMENT
AMOUNT TO CLASS MEMBERS**
(Article 596 al. 3 CCP)

**TO THE HONOURABLE PIERRE-C. GAGNON, J.S.C., DESIGNATED JUDGE IN THIS
CLASS ACTION, THE REPRESENTATIVE PLAINTIFF SUBMITS:**

I. INTRODUCTION

1. This application relates to the Court-approved Settlement Agreement entered into between the Representative Plaintiff, individually and as the representative of the class, and the following Defendants: Ticketmaster Canada Ltd., Ticketmaster Canada ULC, Ticketmaster Canada Holdings ULC, Ticketmaster LLC and TNOW Entertainment Group, Inc. (collectively, "**Ticketmaster**", and together with the Representative Plaintiff, the "**Parties**").
2. The Representative Plaintiff seeks a judgment ordering the redistribution of the remainder of the settlement amount to Settlement Class Members following the conclusion of the distribution process set out in the Court-approved Settlement Agreement.

II. CONTEXT

3. On November 14, 2019, the Court approved the Settlement Agreement between the Parties and ordered notices be sent to the Settlement Class Members informing them of the issuance of the compensation provided under the settlement (see: *Abihsira c. Stubhub inc.*, 2019 QCCS 5659).

4. The Settlement Agreement, as amended on April 30, 2018 and June 7, 2019 (the “**Settlement Agreement**”) communicated as **Exhibit R-1**, provides, *inter alia*:
 - a) for the issuance to the account of each Settlement Class Member (as defined in the Settlement Agreement, the “**Settlement Class Members**”) of a \$7 credit to be used towards a future ticket purchase on www.ticketmaster.ca (the “**Credits**”); and
 - b) that Collectiva Class Action Services Inc., as Settlement Administrator at the time (the “**Administrator**”), would send the notices regarding the Credits to the email address used for the Settlement Class Members’ most recent transaction with Ticketmaster, without the need to present a claim (because the Credits would automatically be applied to their future purchase(s) on www.ticketmaster.ca).

III. ISSUANCE OF CREDITS TO THE SETTLEMENT CLASS MEMBERS

5. The Credits were activated in the accounts of each Settlement Class Member on February 12, 2020.
6. Later the same day, the Administrator sent notice by email directly to the **137,040** Settlement Class Members advising them of the issuance of the Credits. Of those, 4,389 emails bounced back, according to the Administrator.
7. The Credits issued pursuant to the Settlement Agreement were valid for a period of three (3) years.
8. Any Credits used to purchase tickets for events that were later cancelled or refunded (due to the public health emergency related to Covid-19, for example) were reinstated to the account of the Settlement Class Member who had used them and were available again for use.
9. On February 26, 2021, March 1, 2022, and January 24, 2023, reminder notices were sent out to Settlement Class Members who had not yet used their Credits.
10. On March 28, 2023, there were 93,291 Credits that had not yet been used by Settlement Class Members, and these Credits were removed from their accounts on that day, as per the terms of the Settlement Agreement.
11. Of the Settlement Class Members that used their Credits, 203 were among the 4,390 Members whose notification emails on February 12, 2020 had bounced back. The dedicated email addresses created by Ticketmaster (reglement.quebec@ticketmaster.ca and Quebec.Settlement@ticketmaster.ca) received 39 emails since February 12, 2020, according to Ticketmaster.

IV. THE VALUE OF THE REMAINING CREDITS

12. The value of the 93,291 unused Credits removed from the accounts of the Class on March 28, 2023 corresponds to \$653,037.00 (= \$7.00 x 93,291).
13. Pursuant to the Settlement Agreement (sections 34A and 45), this amount was to be paid to the *Fonds d'aide aux actions collectives* and to the charities to be chosen by the Parties and approved by the Court.
14. However, given that there remains a significant balance and given the recent judgment of the Court of Appeal rendered in another matter after the Settlement was entered into by the Parties and the judgment approved it (*Option consommateurs c. Infineon Technologies*, 2019 QCCA 2132, par. 52), the parties have agreed to redistribute the \$653,037.00 remaining to the 93,291 Settlement Class Members who did not use their Credits.

V. REDISTRIBUTION

15. Velvet Payments Inc. ("**Velvet**") has agreed to act as the Settlement Administrator for the purposes of redistributing the remaining balance of \$653,037.00 to the 93,291 remaining Settlement Class Members.
16. Rather than pay the remaining balance of \$653,037.00 to the Fonds d'aide and to charity, as provided in the Settlement Agreement, the redistribution plan provides that Ticketmaster will pay this amount to Velvet, who shall hold it in trust for the beneficiaries pursuant to the Redistribution Plan communicated herewith as **Exhibit R-2**.
17. Velvet will send an initial email to inform the 93,291 remaining Settlement Class Members why they are receiving the Interac e-transfer, as well as providing them with contact information to obtain support from Velvet. This email will also include their password to complete their deposit. The Parties have agreed on the form and content of this email, which is communicated herewith as **Exhibit R-3**.
18. Interac e-transfers are valid for 30 days. Members who are registered for automatic deposit will not be required to enter this password to complete the deposit within 30 days.
19. Velvet will initiate a bulk Interac e-transfer to the addresses of the 93,291 Settlement Class Members that did not bounce back when the first email was sent, with a payout of \$5.00 per member. The e-transfer will come directly from Interac.
20. Velvet's fees will vary based on the deposit rate and will be paid entirely from the remaining balance of \$653,037.00, without any obligation on the part of the Parties to pay any costs or fees whatsoever, as appears from the Redistribution Plan (Exhibit R-2). Velvet's fees are inclusive of all of their costs associated with the Redistribution Plan, without any further amounts payable.

21. After the e-transfers have expired, Velvet will prepare a report for the Court on the number and amount of the successful Interac e-transfers, and of those that are unsuccessful, and the other aspects of the Redistribution Plan. The report will include an accounting of the use of the amount of \$653,037.00 which Velvet received from Ticketmaster.
22. Should there be any amount remaining after the redistribution by e-transfer and payment of Velvet's fees (as result, *inter alia*, of unaccepted or incomplete e-transfers), then that amount will constitute a new remaining balance to be distributed first as a Fund Levy pursuant to section 1(1°) of the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, C.Q.L.R., c. F-3.2.0.1.1, r. 2, and then as a donation to the charities agreed by the Parties, subject to Court approval.
23. Class Counsel is not requesting and shall not receive any further fees as a result of the redistribution, including any time expended related thereto.
24. The Representative Plaintiff is asking the Court to approve the Redistribution Plan (Exhibit R-2), which is in the best interests of the Settlement Class Members as per article 596 al. 3 C.C.P. Ticketmaster has reviewed the Redistribution Plan and this application and has no objection, provided that it shall have no further obligations once payment is made of the current remaining balance to Velvet.

PAR CES MOTIFS, PLAISE AU TRIBUNAL :	FOR THESE REASONS, MAY IT PLEASE THE COURT:
[1] ACCUEILLIR la présente demande;	GRANT the present application;
[2] APPROUVER le plan de redistribution déposé comme pièce R-2;	APPROVE the Redistribution Plan filed as Exhibit R-2;
[3] NOMMER Paiements Velvet inc. comme administrateur du règlement aux fins d'accomplir les tâches qui lui sont dévolues en vertu du présent jugement;	APPOINT Velvet Payments Inc. as Settlement Administrator for the purposes of accomplishing the tasks that devolve to it pursuant to the present judgement;
[4] ORDONNER à Ticketmaster de payer 653 037,00 \$, soit le solde du montant du règlement, à l'administrateur du règlement (Paiements Velvet inc.) en règlement total et complet de toutes les obligations restantes qu'ils peuvent avoir découlant de l'entente de règlement ou du jugement approuvant le règlement;	ORDER Ticketmaster to pay \$653,037.00, being the remaining balance of the settlement amount, to the Settlement Administrator (Velvet Payments Inc.) in full and complete satisfaction of any and all remaining obligations which they may have arising from the Settlement Agreement or the judgement approving the Settlement;
[5] DÉCLARER que, sous réserve du paiement ordonné ci-dessus, Ticketmaster	DECLARE that, subject to making the payment ordered above, Ticketmaster have

<p>a entièrement satisfait à toutes ses obligations en vertu de l'entente de règlement conclu le 15 décembre 2017 (tel qu'amendé le 30 avril 2018 et le 7 juin 2019) et du jugement d'approbation rendu le 14 novembre 2019;</p>	<p>completely satisfied all of their obligations pursuant to the Settlement Agreement entered into on December 15, 2017 (as amended on April 30, 2018 and June 7, 2019) and the approval judgment rendered on November 14, 2019;</p>
<p>[6] ORDONNER que Paiements Velvet inc. en tant qu'administrateur du règlement, détienne lesdits montants en fiducie pour les bénéficiaires conformément au plan de redistribution (pièce R-2), y compris le paiement de ses propres honoraires comme indiqué dans le plan, sous réserve de toute autre ordonnance que la Cour pourrait rendre à l'avenir;</p>	<p>ORDER that Velvet Payments Inc., as Settlement Administrator, holds the said amounts in trust for the beneficiaries thereof pursuant to the Redistribution Plan (Exhibit R-2), including payment of its own fees as set out therein, subject to such other order(s) as the Court may make in the future;</p>
<p>[7] ORDONNER que dans les dix (10) jours suivant le présent jugement, Ticketmaster divulgue à l'administrateur du règlement les noms et les courriels des 93 291 membres restants du Groupe que Ticketmaster détient, ce qui est nécessaire pour les informer de la redistribution par virement électronique approuvée dans le présent jugement et pour redistribuer le reliquat découlant du règlement conformément au plan de redistribution (pièce R-2);</p>	<p>ORDER that within ten (10) days of the present judgment, Ticketmaster disclose to the Settlement Administrator the names and emails of the 93,291 remaining Settlement Class Members that Ticketmaster hold, that are required in order to notify them of the redistribution by e-transfer approved in the present order and to redistribute the balance arising from the Settlement Agreement pursuant to the Redistribution Plan (Exhibit R-2);</p>
<p>[8] ORDONNER Paiements Velvet inc. à émettre les virements électroniques Interac de 5,00 \$ à chacun des 93 291 membres restants dans les 30 jours suivant le présent jugement;</p>	<p>ORDER Velvet Payments Inc. to issue Interac e-transfers of \$5.00 to each of the 93,291 remaining Settlement Class Members within 30 days of the present judgment;</p>
<p>[9] ORDONNER que l'Administrateur du règlement maintienne la confidentialité et ne partage pas les informations fournies en vertu du présent jugement avec toute autre personne, à moins que cela ne soit strictement nécessaire pour exécuter le plan de redistribution (pièce R-2), y compris l'envoi des avis y afférents;</p>	<p>ORDER Velvet Payments Inc. to maintain confidentiality over and not to share the information provided to it by Ticketmaster pursuant to this judgment with any other person, unless doing so is strictly necessary for executing the Redistribution Plan (Exhibit R-2), including sending the notices thereof;</p>
<p>[10] ORDONNER que Paiements Velvet inc. utilise les informations qui lui sont fournies conformément au présent</p>	<p>ORDER Velvet Payments Inc. to use the information provided to it pursuant to this judgment for the sole purpose of executing</p>

jugement dans le seul but d'exécuter le plan de redistribution (pièce R-2) et à aucune autre fin;	the Redistribution Plan (Exhibit R-2) and for no other purpose;
[11] ORDONNER ET DÉCLARER que le présent jugement constitue un jugement obligeant la production des informations par les défenderesses au sens des lois applicables en matière de protection de la vie privée, et que le présent jugement satisfait aux exigences de toutes les lois applicables en matière de protection de la vie privée;	ORDER AND DECLARE that this judgment constitutes a judgment compelling the production of information by Ticketmaster within the meaning of applicable privacy laws, and that this judgment satisfies the requirements of all applicable privacy laws;
[12] ORDONNER à Paiements Velvet Inc. de déposer un rapport à la Cour dans les trente (30) jours suivant l'envoi des virements électroniques Interac, détaillant la quantité et la valeur des virements électroniques Interac réussis, ainsi que le nombre de virements non réussis, et les autres aspects du plan de redistribution (pièce R-2), et incluant également un compte-rendu de l'utilisation du montant de 653 037,00 \$ qu'elle a reçu de Ticketmaster;	ORDER Velvet Payments Inc. to file a report to the Court within thirty (30) days of the Interac e-transfers being sent, detailing the quantity and value of successful Interac e-transfers, along with the number of unsuccessful transfers, and the other aspects of the Redistribution Plan (Exhibit R-2), and including also an accounting of the use of the amount of \$653,037.00 which it received from Ticketmaster;
[13] ORDONNER aux parties de faire rapport à la Cour après l'exécution du plan de redistribution en vue de l'obtention d'un jugement de clôture;	ORDER the Parties to report to the Court after the redistribution plan has been executed in view of obtaining a closing judgment;
[13] LE TOUT , sans frais de justice.	THE WHOLE , without costs.

Montreal, July 24, 2023

(s) LPC Avocat Inc.

LPC AVOCAT INC.

Mtre Joey Zukran

Attorney for the Representative Plaintiff

276 Saint-Jacques Street, Suite 801

Montréal, Québec, H2Y 1N3

Telephone: (514) 379-1572

Telecopier: (514) 221-4441

Email: jzukran@lpclex.com

CANADA

**PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL**

**(Class Action)
SUPERIOR COURT**

No: 500-06-000754-156

STEVE ABIHSIRA

Representative Plaintiff

v.

**TICKETMASTER CANADA LTD.
ET ALS.**

Defendants

LIST OF EXHIBITS

- Exhibit R-1:** Copy of the Settlement Agreement signed by the Parties and approved by the Court;
- Exhibit R-2:** Velvet Payment Inc.'s Redistribution Plan;
- Exhibit R-3:** Email notice to be sent to Class Members concerning their Interac e-Transfer payment of \$5.00.

Montreal, July 24, 2023

(s) LPC Avocat Inc.

LPC AVOCAT INC.

Mtre Joey Zukran

Attorney for the Representative Plaintiff

276 Saint-Jacques Street, Suite 801

Montréal, Québec, H2Y 1N3

Telephone: (514) 379-1572

Telecopier: (514) 221-4441

Email: jzukran@lpclex.com

NOTICE OF PRESENTATION

TO: Mtre Christopher Richter
crichter@torys.com
TORYS LLP
Attorneys for the Defendants

Mtre Frikia Belogbi / Mtre Nathalie Guilbert
Fonds d'aide aux actions collectives
1, rue Notre-Dame Est, bureau 10.30
Montréal (Québec) H2Y 1B6
frikia.belogbi@justice.gouv.qc.ca / nathalie.guilbert@justice.gouv.qc.ca
Attorneys for the Fonds d'aide aux actions collectives

TAKE NOTICE that the present *Application to Redistribute the Remainder of the Settlement Amount to Class Members* shall be presented for adjudication before the Honourable Pierre-C. Gagnon, **on a date and time to be determined**, at the Montreal Courthouse.

Montreal, July 24, 2023

(s) LPC Avocat Inc.

LPC AVOCAT INC.

Mtre Joey Zukran
Attorney for the Representative Plaintiff
276 Saint-Jacques Street, Suite 801
Montréal, Québec, H2Y 1N3
Telephone: (514) 379-1572
Telecopier: (514) 221-4441
Email: jzukran@lpclex.com

500-06-000754-156

(Class Action)
SUPERIOR COURT
DISTRICT OF MONTREAL

STEVE ABIHSIRA

Representative Plaintiff

v.

**TICKETMASTER CANADA LTD.
ET ALS.**

Defendants

**APPLICATION TO REDISTRIBUTE THE REMAINDER OF
THE SETTLEMENT AMOUNT TO CLASS MEMBERS**
(Article 596 al. 3 CCP)

ORIGINAL

Me Joey Zukran
LPC AVOCAT INC.
276, rue Saint-Jacques, Suite 801
Montréal, Québec, H2Y 1N3
Telephone: (514) 379-1572 Fax: (514) 221-4441
Email: jzukran@lpclex.com

BL 6059

N/D: JZ-103
