

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
SOUTHERN DIVISION

In re SANCTUARY BELIZE LITIGATION

No: 18-cv-3309-PJM

FEDERAL TRADE COMMISSION

Plaintiff,

v.

AMERIDEBT, INC. et al.
Defendants.

No: 03-cv-3317-PJM

**FTC'S MOTION TO USE REMAINING *POLACSEK* PROCEEDS TO REDRESS
SANCTUARY BELIZE VICTIMS**

Last October, the Court ordered future proceedings to determine: (1) whether Andris Pukke had satisfied his financial obligations related to Sanctuary Belize; and (2) whether he, the FTC, or another third party should hold funds remaining after a third round of distributions made to members of the *Polacsek* class. *See* DE 1300 at 3. Such a proceeding was to occur after class counsel delivered the remaining funds to the FTC. *Id.* Class counsel has transferred \$238,663.40 to the FTC. In the meantime, Andris Pukke has not made any payments towards his three financial obligations related to Sanctuary Belize: (1) the \$120.2 million *de novo* judgment, DE 1194; (2) his overlapping \$120.2 million civil compensatory sanction; or (3) any amount Pukke paid to John Vipulis since May 31, 2007 in excess of \$4,112,000.00, DE 1113 at 3 (approximately \$148,000, *see* DE 1020 at 177). Accordingly, the FTC moves to retain the remaining funds in its possession from the redress process in *Polacsek* for future redress to consumer victims in *Sanctuary Belize*.

I. BACKGROUND OF THE POLACSEK FUNDS

During trial in the *Sanctuary Belize* matter, class counsel in *Polacsek v. Debticated Consumer Counseling, Inc.*, Case No. 8:03-cv-03317-PJM (D. Md.),¹ asked to make a second distribution to Andris Pukke’s victims in *Polacsek* and remit any excess funds to a *cy pres* recipient. *See generally* DE 861. The FTC objected to excess funds being distributed to a *cy pres* recipient. *Id.* After class counsel agreed that the funds should not be distributed to a *cy pres* recipient, class counsel and the FTC submitted joint filings regarding distribution of funds to the *Polacsek* class and what to do with these funds after further distribution. *See* DE 965, DE 1068, and DE 1072. On November 4, 2020, this Court entered its Final Order Concerning Second Polacsek Distribution and Further Distribution of Excess Fund. DE 1080 (denying distribution to a *cy pres* recipient). Following further briefing from the FTC and class counsel about a third distribution to the *Polacsek* class, DE 1287, the Court entered its Final Order Concerning the Third Polacsek Distribution September 10, 2021. *See* DE 1300 (the “Order”).

In the Order, the Court directed the *Polacsek* class administrator, KCC, to: (1) make a third distribution of funds to the *Polacsek* class; (2) deliver any remaining funds from the third distribution to the FTC; and (3) provide the FTC with its final list of Non-AmeriDebt class members and a check register showing which class members cashed checks. DE 1300 at 3. The Court then directed, as referenced above, that “[a]fter the remaining funds are delivered, the Court will hold further proceedings in [*Sanctuary Belize*] to determine if Andris Pukke has satisfied all of his financial obligations related to *Sanctuary Belize*. At that point, the Court will

¹ The consumers who received redress checks as part of the *Polacsek* class were non-AmeriDebt customers of DebtWorks, and the consumers who received redress checks from the FTC were AmeriDebt consumers. *See* Polacsek DE 461 at 19-20 (describing the redress programs).

determine whether these remaining funds should be remitted to Andris Pukke, or if they should be transferred to the FTC because of a financial obligation imposed on Pukke as a result of *Sanctuary Belize*, or if they should be held by another party.” *Id.*

KCC has made the third distribution and remitted the remaining funds (\$238,663.40) to the FTC. It has also provided the FTC with the information required by the Order. KCC’s data indicates that 43,893 people cashed a check in the third round of distributions, and there are 222,913 potential claimants in the *Polacsek* class. Additionally, the FTC has consulted with its redress office about its last distribution to AmeriDebt victims. The FTC has names and address for 49,487 people who cashed a check in its last round of distributions (which occurred in 2014), and approximately 11,000 people who did not cash their check. Thus, there are over 280,000 people who would potentially be eligible to receive another check for these matters.

Even before accounting for the costs of administering the class, each potential claimant would receive less than one dollar per person. If checks were only sent to the people who cashed their checks in the last round of distributions, there would be 93,470 claimants, meaning each person would only receive a check for just over two dollars (assuming that the cost of administering the class were zero). The FTC therefore submits that it is not economically feasible to make further distribution to members of the *Polacsek* and *AmeriDebt* classes, and that the Court should determine the disposition of these funds.

II. PUKKE HAS NOT SATISFIED HIS FINANCIAL OBLIGATIONS RELATED TO SANCTUARY BELIZE

Accordingly, the question becomes whether Andris Pukke has satisfied his *Sanctuary Belize* financial obligations. Pukke has three such financial obligations: (1) the equitable monetary judgment; (2) the civil compensatory remedy; and (3) the excess funds paid to John Vipulis in contempt of this Court’s prior orders. *See* DE 1194 at 8 (entering \$120.2 million equitable

monetary judgment); DE 1113 at 3 (entering \$120.2 million civil contempt compensatory sanction in *Sanctuary Belize*); DE 1113 at 3 (noting that Pukke must pay to the FTC any amount he, or any other person or entity acting on his behalf, at his direction, or under his control, have paid to John Vipulis since May 31, 2007 in excess of \$4,112,000.00. This amount is approximately \$148,000).² Pukke has made no payments to the FTC since entry of these orders. Therefore, he has not satisfied all of his financial obligations related to *Sanctuary Belize*.³ Thus, the FTC should be permitted to retain the \$238,663.40 in funds remaining from the *Polacsek* third distribution for future redress to *Sanctuary Belize* victims.

Pukke may contend that he has appealed these orders and that the funds should revert to him in the interim. His history of concealing assets makes this outcome untenable. Most notably, following entry of the Stipulated Final Judgment in *AmeriDebt*, “he was charged with, and in this Court, pled guilty to, was convicted of, and went to prison for obstruction of justice for concealing assets in *AmeriDebt* as well as in a related bankruptcy case.” *See generally* DE 1020 at 176. He also “diverted enormous sums of sales revenue away from the [*Sanctuary Belize*] development, i.e. some \$18 million or about 12.8% of the total sales revenue, for his own benefit and that of his friends and family.” DE 1020 at 45. In the unlikely event that Pukke won all of his appeals, the FTC would promptly turn the remaining *Polacsek* funds to Pukke.

² In its memorandum opinion, the Court noted that Pukke “must account for the difference between the \$4.26 million that Pukke, through SBE, paid Vipulis and the \$4.112 million Vipulis paid the FTC, approximately \$148,000 – the exact number to be determined after an accounting.” ECF 1020 at 177.

³ Pukke also owes the FTC the remainder of the \$172 million judgment entered in *AmeriDebt*. *See* DE 1113 at 3.

III. CONCLUSION

The FTC should continue to hold the \$238,663.40 in funds remaining from *Polacsek* for future distribution to his *Sanctuary Belize* victims.

Dated: July 28, 2022

Respectfully Submitted,

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Certificate of Service

I certify that on July 28, 2022, I served the foregoing filing, and all related documents through the Court's electronic filing system ("ECF") and otherwise on the following people and entities by email at the email addresses provided:

Gary Caris, James E. Van Horn, and Kevin Driscoll, counsel for the Receiver, by ECF or at gcaris@btlaw.com; jvanhorn@btlaw.com; kevin.driscoll@btlaw.com;

John B. Williams, by ECF or at jbwilliams@williamslopatto.com, counsel for Defendants;

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Shon Hopwood and Kyle Singhal, by ECF or at shon@hopwoodsinghal.com and kyle@hopwoodsinghal.com, counsel for proposed intervenors

Garrett M. Smith, David J. Vendler, and Gregory S. Duncan, Class Counsel for the Polacsek Class, by email at gsmith@garrettsmithlaw.com; djvlegal@gmail.com; and gregdun@ntelos.net;

/s/ Christopher J. Erickson

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**[PROPOSED] ORDER REGARDING DISPOSITION OF REMAINING FUNDS FROM
POLACSEK DISTRIBUTION**

On July 28, 2022, Plaintiff the Federal Trade Commission (“FTC”) submitted a motion requesting that it use the funds remaining after the third *Polacsek* distribution to redress Sanctuary Belize victims. For good cause shown,

IT IS HEREBY ORDERED:

- A. The FTC’s motion is **GRANTED**.
- B. The FTC shall continue to hold the \$238,663.40 in funds remaining from *Polacsek* for future distribution to Sanctuary Belize victims.

SO ORDERED, this ____ day of _____, 2022.

UNITED STATES DISTRICT JUDGE