

Second Report of Settlement Administrator

Kincaid v. City of Fresno

May 21, 2008

Following the approval of the Kincaid Settlement Agreement by the Court on July 25, 2008 the Settlement Administrator began administering the settlement in accordance with the terms of both the Settlement Agreement and the Settlement Plan. Pursuant to the Plan, this report is the Second Report of the Settlement Administrator.

The first report covered the period from the inception of the administration of the settlement through October 31, 2008. The disbursement of benefits to class members began on October 2, 2008 (other than the *Incentive Payments to Class Representatives Pursuant to Court Order* that were paid on August 21).

The first report provided an overview of the process used to evaluate claims, which included individually scheduled interviews with claimants, consultation with others knowledgeable about homeless in Fresno, and interviews with landlords (to confirm homeless status during the class period). It also reported the final assignment of claimants to Levels 1-5 or disqualification and provided a calculation of settlement payments. The first report also provided details regarding the first month of payments to class members, which amounted to more than \$0.5 million.

The focus of this report, the second report, is on the ongoing disbursement of settlement payments.

Disbursement of Settlement Payments

Kincaid v. City of Fresno, et al., Class Settlement Cash Fund

A key concern of the Settlement Administrator was to distribute the \$485,000 from the *Cash Fund* in a manner that would protect class members from becoming targets of crime. Checks from the *Cash Fund* were limited in size until the Settlement Administrator determined that it was safe to make large lump sum payments. The Settlement Administrator also worked with United Security Bank to make it easy for class members to establish savings accounts.

The efforts of the Settlement Administrator were successful. The distribution of funds from the Cash Fund—a total of \$441,962.81 to date—has been accomplished without incident. Additional details are provided in Exhibit A.

Kincaid v. City of Fresno, et al., Class Settlement Living Allowance Fund

Disbursements from the *Living Allowance Fund* were made directly to third parties to cover basic living expenses. The largest categories of payments included rent (\$390,332.82), transportation (\$147,645.43), and household items including furniture, appliances, and clothing (\$118,614.37). Additional details are provided in Exhibit B.

Administrative Costs

Although the settlement provides that administrative costs may be up to 3% of the total in the Cash Fund and Living Allowance Fund, the Settlement Administrator has donated 100% of her time and has obtained volunteer time from others to keep the costs of administering the

settlement at the lowest level possible. She has arranged for cost-free office space and has used her own home and resources for record-keeping where possible and has absorbed many of the costs of administration herself. As a result of these efforts, as of April 30, 2009 administrative expenses amounted to \$3,310.16 or 0.275% (less than 3/10 of 1%) of disbursements to class members through the same period. Additional details are provided in Exhibit C.

Goals of Settlement Plan—Reflections of the Settlement Administrator

As Settlement Administrator for Kincaid v. The City of Fresno, my main goal is to facilitate the empowerment of each individual awarded cash and life allowance funds to help ensure for them a better quality of life and a hope for the future. To secure this goal, I have made it my primary concern to help procure “housing first” for each class member.

At Levels 1 and 2, where a significant number of class members expressed disappointment at the amount of their award, I helped them to see the possibilities and opportunities available, even with few hundred dollars. Seeing their award as “seed money” toward a better life empowered these class members to find ways to use this money for their betterment. For class members who are in Levels 1 and 2, receiving direct cash payments of \$689.85 and \$1379.71 respectively, their available funds for housing are limited. Nevertheless, many class members, with my encouragement, found housing (rooms in houses, board and care, or single occupancy rooms). This housing, although not long term, gave these class members much-needed relief from living on the streets, procuring for them the security and safety they needed to help them get off the streets permanently. Others used the money to obtain transportation (bicycles, FAX bus passes), pay off bills, or start a bank account. One homeless class member started a bank account with her Level 1 award and planned on saving a portion of her recycling money hoping to save enough to get a permanent place to live.

Most class members at Levels 1 and 2 chose withdrawals of the cash awards, in increments or the entire sum, to be used at their discretion. In the case of class members with mental health challenges, the amount released to the class member is determined in the class member’s best interest. For instance, “Terrence,” a disabled and mentally ill homeless man with a cash settlement of \$1,379.71 received his award in increments of \$100.00 a week. This helped protect “Terrence” on the street and in the management of his money.

Class members at Levels 3, 4 and 5 also were awarded “Life Allowance Funds.” The Settlement Administrator enforced the goal of “housing first” with the 90 class members awarded Life Allowance Funds. All 87 who have claimed benefits to date have procured some type of permanent housing be it an apartment, house, guest house, shared house, etc. This was achieved with the Settlement Administrator’s encouragement and help in facilitating permanent housing for the class members. Some of the class members resisted this prioritizing and considered housing a “waste of money.” They demanded that the Settlement Administrator give them their

money to use in any way they wanted. Class members also requested money for items that did not qualify for "Life Allowance Funds" as defined by the Settlement Plan.

One class member, angered at being denied money for months of "motel living" (which is not permanent housing and would have used all of her award), screamed: "Who gave you the right to decide how I spend my money?" The Settlement Administrator, unmoved by her vented anger, answered, "A federal judge, "Mary." "Mary" and her boyfriend "Tom" are both class members (Level 4 and 3 respectively) and have a 2-year-old son. They had resisted finding an apartment for four months; Tom struggled with drug addiction. Ultimately, with encouragement and supportive measures of the Settlement Administrator (a list of apartments for rent, talking to landlords, etc.), "Mary" and "Tom" signed a year's lease for an apartment. After the signing, "Mary" and "Tom" both thanked me for, as "Tom" put it, "not letting us do something stupid, like spending the money on shit!" "Mary" and "Tom" have a nice two bedroom apartment for one year.

"Ronald," a Level 5 class member with multiple sclerosis, spent months trying to convince the Settlement Administrator that no one would rent an apartment to him. He kept after me to use his "Life Allowance Funds" to stay at a motel. As Settlement Administrator, I established a boundary concerning motels and Kincaid class members with Life Allowance Funds. A class member's Life Allowance Funds could initially be used for one to thirty days in a motel, after that permanent housing must be obtained by the class member. This ensured that Life Allowance Funds would not be used up by the exorbitant cost of motel rooms and that class members would seek permanent housing and not be taken advantage of by motel owners. Ronald continued to pressure me, but through counseling and encouragement, "Ronald" obtained permanent housing. "Ronald" arranged to rent a guest house from a Bay Area landlord whom he met in Fresno. I met with "Ronald" and the landlord and they signed a rental agreement for 27 months. "Ronald" was overjoyed. Not only did he have a permanent place to live but a change of venue! He could now focus on getting treatment for his MS, pursuing his art, and avoiding the "addictions scene" he grew up with in Fresno.

The Life Allowance Funds have been primarily used to obtain permanent housing for each class member and supportive resources for that housing which include, but are not limited to, payments for utilities (PGE, water and trash, telephone, etc.), household goods, food, transportation (FAX passes, bikes, motorized bikes, cars and trucks) and tools for maintenance of residence and or job-related necessities. The Settlement Administrator facilitates the purchase of these life necessities for each class member in Levels 3, 4 and 5. Many of the class members were wise and judicious with these funds. For example, "Paula" who obtained an apartment and furnished it with the Life Allowance Funds, also purchased a motorized bicycle with those funds so that she could travel to and from work inexpensively. Imagine my surprise at seeing her out and about at Fig Garden Village on a Friday night. She had just gotten off work and had gone to the grocery store. Her hot pink motorized bike and matching helmet were a sight to behold;

especially since I remember first meeting her on Santa Clara Street, strung out and living in a tent in front of Poverello House. She now has a new and very different life thanks to the Kincaid Settlement.

At times, though, it was very challenging for this Settlement Administrator to work with persons with active addictions, mental illness, and a lack of trust that a lot of the poor and homeless have toward those who are trying to help them. Because I refused compensation for this position of Settlement Administrator, class members expressed a level of trust with me that would not have been possible if I had been viewed as just another paid "poverty pimp" (this expression is used by some homeless people referring to those who make a living from "helping" the homeless with no real interest in the homeless other than as a source of income). Being non-salaried allowed me to work with class members who understood that I was working solely in their best interests. Barriers of mistrust have broken down and these class members know that the Settlement Administrator and my co-worker, Bryan Apper, are working for them for a better quality of life.

As Settlement Administrator, however, I do see where the administration of settlement funds falls short. Even though the "housing first" priority was established and, for the most part carried out (at least among Levels 3,4, and 5), there must be, in my opinion, the inclusion of other supportive services (counseling, life skills management, psychological assessment and treatment services, etc.) to strengthen and support those who are in permanent housing.

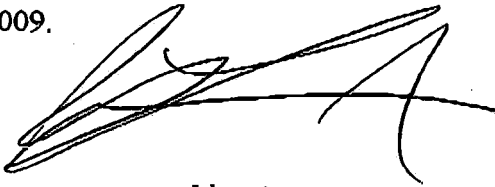
I am reminded that this settlement is not the whole answer to the issue of homelessness. It is, after all, a settlement with limited funds and personnel. It is not meant to eliminate homelessness. The Kincaid Settlement is, however, a beginning, a start, a "seed of hope" that gives promise to the ending of homelessness in the city of Fresno.

That "seed of hope" came to me in the person of "Ray," a wheelchair bound homeless man who has serious mental health and hygiene issues. As Settlement Administrator, I worried about "Ray" on the streets. He is a Level 4 class member who had no interest in obtaining permanent housing. He barely could manage the \$100 a week from his cash fund, which "disappeared" within days after he received it. His only transportation was the FAX bus pass he purchased, after much persuasion, with his Life Allowance Funds. He had no ID and was not able to get himself together to apply for one at the DMV. I wondered, "What good was his settlement if he was so disabled that he could not use the funds to help himself?" His social worker, whom I consulted with, expressed the same frustration over, and concern for, "Ray." Was he too ill to use this opportunity the settlement gave him?

Then one day "Ray" came into my office. He was clean shaven, wearing cleaned and pressed clothes and a big smile on his face. He reached into his pants pocket and pulled out a DMV ID card. "I got my ID," he said proudly. I looked in disbelief. "Yeah, he got it last week," said a diminutive woman standing next to him in my office. "Ray" had met her at a bus stop. She had

become his life line and was helping him with his life needs. They left my office that day with a month's rent on a room in a house and are now, as of this writing, looking for an apartment for "Ray." The seed of hope has been planted.

Dated this 18th day of May, 2009.

A handwritten signature in black ink, appearing to read 'Liza Apper', written over a horizontal line.

Liza Apper
Settlement Administrator