

**IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
TENTH JUDICIAL DISTRICT OF KANSAS**

HIEU PHAN, *et al.*,

Plaintiffs

vs.

IVY INVESTMENT MANAGEMENT
COMPANY, *et al.*,

Defendants

IVY FUNDS, a Delaware Statutory Trust

Nominal Defendant

Case No. 16CV02338

Division 4

KSA Chapter 60

**AMENDED NOTICE OF PENDENCY AND SETTLEMENT
OF SHAREHOLDER DERIVATIVE ACTION**

TO: ALL RECORD AND BENEFICIAL OWNERS OF SHARES OF THE IVY ASSET STRATEGY FUND (THE “FUND”) AS OF APRIL 16, 2018 WHO CONTINUE TO HOLD THEIR FUND SHARES AS OF THE DATE OF THE SETTLEMENT HEARING (“FUND SHAREHOLDERS”).

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS MAY BE AFFECTED BY LEGAL PROCEEDINGS IN THIS ACTION. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT AND DISMISSAL OF A SHAREHOLDER DERIVATIVE ACTION AND CONTAINS IMPORTANT INFORMATION REGARDING YOUR RIGHTS.

IF THE COURT APPROVES THE SETTLEMENT AND DISMISSAL OF THE ACTION, FUND SHAREHOLDERS WILL BE FOREVER BARRED FROM CONTESTING THE APPROVAL OF THE PROPOSED SETTLEMENT AND FROM PURSUING THE SETTLED CLAIMS. THIS ACTION IS NOT A “CLASS ACTION.” THUS, THERE IS NO COMMON FUND UPON WHICH YOU CAN MAKE A CLAIM FOR MONETARY PAYMENT.

THE COURT HAS MADE NO FINDINGS OR DETERMINATIONS REGARDING THE MERITS OF THE ACTION. THE RECITATION OF THE BACKGROUND AND CIRCUMSTANCES OF THE SETTLEMENT DESCRIBED HEREIN DOES NOT CONSTITUTE THE FINDINGS OF THE COURT. IT IS BASED ON REPRESENTATIONS MADE TO THE COURT BY COUNSEL FOR THE PARTIES.

YOU ARE HEREBY NOTIFIED, pursuant to Kansas law and an order from the Honorable Rhonda K. Mason of the District Court of Johnson County, Kansas (the “Court”), that a proposed settlement agreement has been reached among Plaintiffs, derivatively on behalf of the Ivy Funds Trust (the “Trust”) for the benefit of the Fund, and Defendants in connection with the above-captioned shareholder derivative action (the “Action”).¹

Plaintiffs filed the Action derivatively on behalf of the Trust to remedy the alleged harms caused to the Fund by Defendants’ alleged breaches of contract and fiduciary duty. The proposed Settlement, if approved by the Court, would fully, finally, and forever resolve the Action upon the terms and subject to the conditions set forth in the Stipulation and summarized in this Notice, including the dismissal of the Action with prejudice.

As explained below, a Settlement Hearing will be held on July 30, 2018 at 9:30 a.m. before the Honorable Rhonda K. Mason of the District Court of Johnson County, Kansas, Johnson County Courthouse, 100 N. Kansas Avenue, Olathe, KS 66061, to determine, among other things: (i) whether the Settlement is fair, reasonable, and adequate to the Fund and Fund Shareholders and should be approved by the Court; (ii) whether a Final Order and Judgment, substantially in the form of Exhibit C attached to the Stipulation, finally approving the Settlement, dismissing the Action with prejudice, and releasing and enjoining the prosecution of any and all Released Claims should be entered; and (iii) whether the Court should approve Plaintiffs’ Counsel’s application for an Attorneys’ Fees and Expenses Award. The Court may hear or consider such other matters as the Court deems necessary and appropriate.

You have the right to object to the Settlement and/or any Attorneys’ Fees and Expenses Award in the manner provided in this Notice. If you fail to object in the manner provided in this Notice ***at least fourteen (14) calendar days prior to the Settlement Hearing***, you will be deemed to have waived your objections and will forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the Settlement or any Attorneys’ Fees and Expenses Award, including any Incentive Awards, as set forth in the Stipulation, unless otherwise ordered by the Court, but you will be forever bound by the Final Order and Judgment to be entered, the dismissal of the Action with prejudice, and any and all of the releases set forth in the Stipulation.

This Notice is not intended to be and should not be construed as an expression of any opinion by the Court with respect to the merits of the claims made in the Action. It is merely to advise you of the proposed Settlement and your rights as a Fund Shareholder.

¹ For purposes of this Notice, the Court incorporates by reference the definitions in the Parties’ Amended Stipulation and Agreement of Settlement, fully executed as of May 2, 2018 (the “Stipulation”). All capitalized terms used in this Notice, unless otherwise defined, shall have the same meanings as set forth in the Stipulation. A copy of the Stipulation may be inspected at the Clerk of the Court’s Office for the District Court of Johnson County, Kansas, Johnson County Courthouse, 100 N. Kansas Avenue, Olathe, KS, 66061 or may be viewed and/or downloaded at <https://www.zamansky.com/ivy-stipulation/>.

I. BACKGROUND

The Fund is one in a series of open-end mutual funds offered by the Trust, which is organized as a Delaware statutory trust and registered as an investment company under the Investment Company Act of 1940. IICO is the investment adviser for the Trust and manages the Fund's investments pursuant to an investment management agreement. The Fund is a "go anywhere" fund and seeks to provide total return by allocating its assets among a broad range of investment instruments.

On April 18, 2016, Hieu Phan, Saket Kapoor, and Peter Brockett filed a Petition purporting to bring derivative claims against 19 defendants relating to an investment in a boxing venture now known as Haymon Holdings, LLC ("Haymon Holdings"). In addition to the claims involving the Trust and the Fund, the original plaintiffs also brought claims involving the Waddell & Reed Advisors Funds Trust (together with the Trust, the "Trusts") and the Waddell & Reed Advisors Asset Strategy Fund (together with the Fund, the "Asset Strategy Funds"), which also invested in Haymon Holdings.

Specifically, the original plaintiffs brought breach of contract and breach of fiduciary duty claims against the defendants, alleging that the Haymon Holdings investment was improper because: (1) it was impermissible and inconsistent with the Asset Strategy Funds' stated investment objectives; (2) the boxing venture itself was an illegal operation; (3) the investment was the product of a conflict of interest; (4) the investment was the product of insufficient due diligence; (5) the investment was insufficiently disclosed to the Asset Strategy Funds' shareholders; and (6) the Trusts' independent trustees improperly approved and failed to supervise the investment.

On August 22, 2016, Plaintiffs' Counsel filed an Amended Petition adding Audrey Ohman as a plaintiff and removing former plaintiffs Saket Kapoor and Peter Brockett, who did not own shares in either of the Asset Strategy Funds at the time the challenged investment was made and therefore lacked standing to bring the claims. Plaintiffs' Counsel filed a Second Amended Petition on November 30, 2016, once again naming Hieu Phan and Audrey Ohman as plaintiffs.

On April 27, 2017, the Court held that Audrey Ohman also lacked standing to bring claims on behalf of the Trusts and dismissed her claims with prejudice. Since Ohman was the only plaintiff who asserted (or could assert) claims on behalf of the Waddell & Reed Advisors Funds Trust or the Waddell & Reed Advisors Asset Strategy Fund, the Court dismissed all claims involving those entities with prejudice. Accordingly, the eight defendants against whom claims were made only by virtue of their connection to the Waddell & Reed Advisors Funds Trust or the Waddell & Reed Advisors Asset Strategy Fund were also dismissed with prejudice.

On February 21, 2018, pursuant to a stipulation of the Parties, a Third Amended Petition was filed with the Court naming Michael J. Morris, a shareholder in the Fund, as an additional named plaintiff. Plaintiffs Hieu Phan and Michael J. Morris are currently the only named plaintiffs in the Action pursuing claims on behalf of the Trust, and the only claims remaining relate to the Trust and the Fund.

In response to the Action, the Boards of Trustees of the Trusts authorized and created a Special Litigation Committee (the “SLC”) to investigate the claims alleged in the Action and determine what course of action, if any, the Trusts should take in response. The SLC, which was composed of three independent, disinterested trustees of the Trusts, hired Williams & Connolly LLP as counsel in April 2017 to assist with its investigation. Counsel for the SLC interviewed 19 individuals and analyzed more than 90,000 documents totaling more than 1,000,000 pages relating to all aspects of the Asset Strategy Funds’ investment in Haymon Holdings and other private equity investments. Following its investigation, the SLC produced a 114-page draft report. The SLC concluded that the evidence does not support Plaintiffs’ allegations and that continued litigation would not be in the best interests of the Trusts.

In addition to the investigation by the SLC, Plaintiffs’ Counsel also conducted its own investigation into the claims relating to the investment in Haymon Holdings. Among other things, Plaintiffs’ Counsel reviewed substantial publicly available information, served written discovery requests on Defendants, received and reviewed over 100,000 pages of documents produced by Defendants specifically related to the Haymon Holdings investment, and took the depositions of a corporate representative of IICO as well as a number of the key individuals associated with the Asset Strategy Funds’ investment in Haymon Holdings.

After the SLC completed its investigation and issued its draft report, the Parties agreed that it would be beneficial to pursue mediation in a good faith attempt to facilitate a possible settlement of Plaintiffs’ claims. To that end, the Parties submitted several rounds of pre-mediation briefing and participated in an all-day in-person mediation on January 5, 2018 before the Honorable Layn R. Phillips, U.S. District Judge (Retired) in Newport Beach, California. Although no agreement was reached that day, with the substantial assistance of Judge Phillips, the Parties reached an agreement in principle shortly thereafter to settle the Action. The Parties subsequently negotiated and executed the Stipulation.

II. DEFENDANTS’ DENIAL OF WRONGDOING AND LIABILITY

Defendants have denied and continue to deny that they breached any contract or fiduciary duty or engaged in any wrongdoing whatsoever with respect to the events alleged in the Action. Without admitting the validity of any of the claims asserted in the Action, or any liability with respect thereto, Defendants nonetheless desire to settle the claims asserted in the Action upon the terms and subject to the conditions set forth in the Stipulation. Defendants enter into the Settlement because it will eliminate the uncertainty, distraction, disruption, burden, risk, and substantial expense of further litigation. Defendants acknowledge that the Settlement is fair, reasonable, adequate, and in the best interests of the Trust, the Fund, and Fund Shareholders.

Without conceding the merit of any of Defendants’ defenses or the lack of merit of any of their own allegations, and solely to avoid the time, expense, and uncertainty associated with continued litigation, Plaintiffs have concluded that it is desirable to settle the claims asserted in the Action upon the terms and subject to the conditions set forth in the Stipulation. Plaintiffs recognize and acknowledge the significant risk, expense, and length of continued proceedings necessary to prosecute the Action through trial and possible appeals, especially in light of the numerous dispositive motions that Defendants would file if the case were to proceed. Plaintiffs

have also concluded that the Settlement is fair, reasonable, adequate, and in the best interests of the Trust, the Fund, and Fund Shareholders.

Whether or not the Court approves the Stipulation, the Settlement, the Preliminary Approval Order, or the Final Order and Judgment or the Stipulation is otherwise terminated, neither the Stipulation, nor the Settlement reflected in the Stipulation, nor any of its exhibits, nor any of its terms or conditions, nor any action taken to carry it out, nor entry of the Final Order and Judgment may be construed, offered, received, or used as an admission, presumption, concession, or evidence against Defendants, or each or any of them, or any other Person (i) of the validity of any of the Released Claims; (ii) of any fault, wrongdoing, or concession of liability; (iii) of the validity or truth of any fact alleged by Plaintiffs or any claim that has been or could have been asserted in this Action or any litigation; or (iv) of the weakness or deficiency of any defense that has been or could have been asserted in this Action or in any other action or proceeding, whether civil, criminal, or administrative (including, but not limited to, any formal or informal investigation or inquiry by the Securities and Exchange Commission or any other state or federal governmental or regulatory agency), or any other tribunal.

Notwithstanding the foregoing, if the Stipulation and Settlement is approved by the Court and the Effective Date occurs, any of the Parties or any of the Released Parties may file the Stipulation and/or the Final Order and Judgment in any action that may be brought against such Party or Parties in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar, or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

III. THE SETTLEMENT HEARING

The Settlement Hearing will be held before the Honorable Rhonda K. Mason on July 30, 2018 at 9:30 a.m. at the District Court of Johnson County, Kansas, Johnson County Courthouse, 100 N. Kansas Avenue, Olathe, KS, 66061, to determine, among other things: (i) whether the Settlement is fair, reasonable, and adequate to the Fund and Fund Shareholders and should be approved by the Court; (ii) whether a Final Order and Judgment, substantially in the form of Exhibit C attached to the Stipulation, finally approving the Settlement, dismissing the Action with prejudice, and releasing and enjoining the prosecution of any and all Released Claims should be entered; and (iii) whether the Court should approve Plaintiffs' Counsel's application for an Attorneys' Fees and Expenses Award. The Court may hear or consider such other matters as the Court deems necessary and appropriate. The Court may adjourn the date of the Settlement Hearing without further notice to Fund Shareholders, and the Settlement Hearing may be continued by the Court at the Settlement Hearing, or at any adjourned session of the Settlement Hearing, without further notice.

IV. THE SETTLEMENT

The terms and conditions of the proposed Settlement are fully set forth in the Stipulation described above. The following is only a summary of its terms.

In consideration of the full settlement, satisfaction, compromise, and release of the Released Claims and the dismissal of the Action with prejudice, Defendants will cause a

settlement payment of \$19,900,000 (the “Settlement Amount”) to be paid into an interest-bearing escrow account to be established by Plaintiffs’ Counsel (the “Escrow Account”). Within fifteen (15) business days after the date the Settlement Amount is paid into the Escrow Account, Plaintiffs’ Counsel shall cause to be paid to the Trust for the benefit of the Fund the Settlement Amount and any and all interest earned on the Settlement Amount, less any Notice Costs and an amount sufficient to cover any Attorneys’ Fees and Expenses Award that would be paid from the Escrow Account.

V. DISMISSAL AND RELEASES

In connection with the Court’s approval of the Settlement, the Parties will jointly request entry of the Final Order and Judgment by the Court, dismissing with prejudice all claims that Plaintiffs have alleged in the Action and any and all other Released Claims.

Upon the Effective Date, each of the Releasing Parties, including Plaintiffs and each and every Fund Shareholder, shall be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally, and forever settled, released, relinquished, extinguished, and discharged as against any of the Released Parties any and all of the Released Claims, and shall forever be barred and enjoined from instituting, commencing, or prosecuting any and all of the Released Claims against any of the Released Parties in any court, forum, or proceeding.

“Releasing Parties” means Plaintiffs, the Trust, Fund Shareholders, and each and all of their family members, heirs, administrators, predecessors, successors, parent entities, subsidiaries, affiliates, custodians, agents, representatives, executors, assigns, estates, trusts, trustees, trust beneficiaries, and all Persons acting in concert with any such Persons.

“Released Parties” means, whether or not each or all of the following Persons were named, served with process, or appeared in the Action, each of Defendants and any of their respective past or present agents, officers, directors, trustees, attorneys, accountants, auditors, insurers, reinsurers, advisors, consultants, spouses, family members, heirs, executors, representatives, employees, estates, administrators, trusts, predecessors, successors, general or limited partners, limited liability companies, members, joint ventures, assigns, and any other individual or entity in which any Defendant has a controlling interest, and their respective past and present officers, directors, trustees, agents, affiliates, parents, subsidiaries, divisions, attorneys, accountants, auditors, insurers, reinsurers, advisors, heirs, executors, personal representatives, estates, administrators, trusts, predecessors, successors, and assigns, as well as any and all of the past and present trustees of the Trust.

“Released Claims” means any and all past, present, and future suits, claims, debts, demands, rights, liabilities, damages, losses, equities, duties, expenses, matters, issues, and causes of action of every nature, suspected or unsuspected, contingent or absolute, accrued or unaccrued, concealed or hidden, apparent or unapparent, that have been, could have been, or might have been asserted in the Action, including Unknown Claims, from the beginning of time through the date of entry of the Final Order and Judgment, by the Trust, Plaintiffs as Fund Shareholders, any other Fund Shareholder, or any Person acting or purporting to act on behalf of the Trust, the Fund, or any Fund Shareholder, against the Released Parties or any other individual named or unnamed, in connection with, arising out of, related to, or based upon, in

whole or in part, directly or indirectly, the Fund's investment in Haymon Holdings, including, but not limited to, any of the allegations, transactions, facts, matters, occurrences, representations, acts, or omissions set forth in any pleading or other document filed in the Action, regardless of the legal or equitable theory such claims are based upon, including claims based upon state, federal, or foreign law, except for claims to enforce the Settlement and any claims by Defendants or any other insured to enforce their rights under any contract or policy of insurance.

Nothing herein shall in any way impair or restrict the rights of any Party to enforce the terms of the Stipulation.

VI. ATTORNEYS' FEES AND EXPENSES

Plaintiffs' Counsel intends to apply to the Court for an Attorneys' Fees and Expenses Award to be paid from and out of the Settlement Amount in an amount not to exceed 30% of the Settlement Amount (*i.e.*, \$5,970,000). Whether the Court should approve Plaintiffs' Counsel's application for an Attorneys' Fees and Expenses Award is one of the subjects to be addressed at the Settlement Hearing.

Plaintiffs' Counsel may also apply on behalf of Plaintiffs for incentive awards in the amount of \$5,000 each (the "Incentive Awards") in recognition of Plaintiffs' participation and efforts in the prosecution of the Action. The Incentive Awards shall be funded from the Attorneys' Fees and Expenses Award, to the extent the Attorneys' Fees and Expenses Award is approved by the Court in whole or in part. Defendants shall not be liable for any portion of the Incentive Awards.

VII. THE RIGHT TO OBJECT AND/OR BE HEARD AT THE SETTLEMENT HEARING

Any Fund Shareholder may object and/or appear and show cause why the Settlement should not be approved as fair, reasonable, and adequate, why the Final Order and Judgment should not be entered, or why Plaintiffs' Counsel's application for an Attorneys' Fees and Expenses Award, including any Incentive Awards, shall not be granted; provided, however, unless otherwise ordered by the Court, that no Fund Shareholder shall be heard or entitled to contest the approval of the terms and conditions of the Settlement, or, if approved, the Final Order and Judgment to be entered approving the Settlement, or the Attorneys' Fees and Expenses Award, unless that Fund Shareholder has, ***at least fourteen (14) days prior to the Settlement Hearing***, filed with the Clerk of the Court, Johnson County District Court, Johnson County Courthouse, 100 N. Kansas Avenue, Olathe, KS, 66061: (i) a written notice of the intention to appear, or, if the Fund Shareholder does not intend to appear, a written objection to the Settlement; (ii) proof of ownership of shares of the Fund as well as documentary evidence of when such share ownership was acquired; (iii) a detailed statement of matters to be presented to the Court; and (iv) the reasons why the Fund Shareholder desires to appear and be heard, as well as all documents and writings supporting the Fund Shareholder's position. In addition, upon or before filing such papers with the Clerk of the Court, such papers shall be served by hand or first class mail on the following counsel of record:

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50 Broadway, 32nd Floor
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Any Fund Shareholder who fails to object in the manner prescribed above shall be deemed to have waived such objections and shall forever be barred from making any objection to the fairness, reasonableness, or adequacy of the Settlement or the Attorneys' Fees and Expenses Award, including any Incentive Awards, as set forth in the Stipulation, unless otherwise ordered by the Court, but shall be forever bound by the Final Order and Judgment to be entered, the dismissal of the Action with prejudice, and any and all of the releases set forth in the Stipulation.

VII. CONDITIONS OF SETTLEMENT

The Settlement is conditioned upon the occurrence of certain events described in the Stipulation, including, among other things: (i) the dismissal of the Action with prejudice without the award of any damages, costs, fees, or the grant of any further relief, except as provided in the

Stipulation; (ii) the entry by the Court of the Final Order and Judgment in all material respects and providing for the dismissal with prejudice of the Action and granting the release of the Released Claims; (iii) the inclusion in the Final Order and Judgment of a provision enjoining Plaintiffs and Fund Shareholders from asserting in the future any of the Released Claims; and (iv) the Settlement and Final Order and Judgment becoming Final. If, for any reason, any of the conditions described in the Stipulation is not met and/or the entry of the Final Order and Judgment does not occur, the Stipulation shall be null and void and of no further force and effect, and the parties to the Stipulation shall be restored to their respective positions as of the date immediately prior to the date the Stipulation was executed.

IX. EXAMINATION OF PAPERS AND INQUIRIES

This Notice contains only a summary of the terms of the Settlement. For a more detailed statement of the matters involved in the Action, refer to the Stipulation, which may be inspected at the District Court of Johnson County, Kansas, Johnson County Courthouse, 100 N. Kansas Avenue, Olathe, KS, 66061, during business hours of each business day, or may be viewed and/or downloaded at <https://www.zamansky.com/ivy-stipulation/>. Any other inquiries regarding the Settlement or the Action should be addressed in writing to the following:

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50 Broadway, 32nd Floor
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**PLEASE DO NOT CALL OR WRITE THE COURT
REGARDING THIS NOTICE**