

## **Certain CareerBuilder sales representatives may be entitled to a cash payment from a class action settlement.**

Official Notice for *Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804 (Ill. Cir. Ct. Cook Cnty.)

This legal Notice was authorized by the Circuit Court for Cook County, Illinois to inform Settlement Class Members about their rights and the opportunity to submit a Claim in the Settlement. This is not an advertisement from a lawyer.

### **What is this Notice about?**

This Notice provides important information about a proposed classwide settlement in a class action lawsuit against CareerBuilder, LLC (“CareerBuilder”) and Apollo Global Management, Inc. (“Apollo”) (collectively, the “Defendants”). The lawsuit involves claims that the Defendants unlawfully changed their compensation plans in 2019 to reduce or eliminate commissions they owed to their sales representatives for sales made prior to the compensation change. Although the Court presiding over the case has not decided who is right or wrong, the Parties have reached a compromise to end the lawsuit and provide compensation to those who may have been affected. **Please read this notice carefully. It summarizes the rights and options under the settlement.** You can access and read the full Settlement Agreement at [www.careerbuildersettlement.com](http://www.careerbuildersettlement.com).

### **Who’s in the Settlement?**

**The Settlement Class:** All individuals who: (1) were employed as an Account Executive, Senior Account Executive, Major Account Executive, National Account Executive, or Key Account Executive; (2) were compensated at least in part under either of CareerBuilder’s “Revenue Rep” plans dated January 1, 2018 and/or August 1, 2018; and (3) closed a sale of a contract, product, or service before March 1, 2019 that generated revenue on or after March 1, 2019.

### **What are my options?**

If you are a member of the Settlement Class, then you have the following options under the settlement:

- 1) Submit a Claim to Receive Compensation:** The proposed Settlement provides for a fund totaling \$3,787,500.00, and Class Members are eligible to submit a Claim for a cash payment from the Settlement Fund. The amount each Class Member receives will vary based on the amount of their individual commissions, revenue bonuses, and claimed losses. Further, the final payment amount could also change depending on how many Approved Claims are submitted. **To receive a payment, you must submit a claim by October 5, 2022.** You can submit your claim online at the Settlement Website or mail it to the Settlement Administrator. Please see below for further instructions.

- 2) **Exclude Yourself:** You may exclude yourself from the Settlement. If you choose this option, you will not receive a payment from the Settlement, but you will keep your right to hire your own lawyers and bring a separate lawsuit against the Defendants at your own expense if you want to do so. Your request to exclude yourself must be submitted by mail no later than October 5, 2022. You must follow the process described in section 8 below. If the Settlement is approved and you do not exclude yourself, you will be bound by the Settlement and will release certain claims as described below.
- 3) **Object:** You may object to the Settlement. The deadline for objecting to the Settlement is October 5, 2022. All objections must be mailed to the Parties' lawyers and the Settlement Administrator. See Part 7 below for details.
- 4) **Do Nothing:** If you do nothing, you will remain a member of the Settlement Class but you will not receive any payment and will still be bound by the release of claims against the Defendants.

**NOTE:** This Notice is just a summary. The Settlement Class Members' rights and options under the Settlement—and the deadlines to exercise them—are explained in the Settlement Agreement and summarized below.

**PLEASE DO NOT CALL OR WRITE THE COURT, THE COURT CLERK'S OFFICE, THE DEFENDANTS, OR THE DEFENDANTS' ATTORNEYS. THEY WILL NOT BE ABLE TO ASSIST YOU.** If you have questions, or if you'd like more information, please visit [www.careerbuildersettlement.com](http://www.careerbuildersettlement.com) or call the lawyers representing the Class at (312) 893-7002.

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## **1. Who's part of the Settlement?**

The Court has preliminarily certified a "Settlement Class" defined to include the following people:

All individuals who: (1) were employed as an Account Executive, Senior Account Executive, Major Account Executive, National Account Executive, or Key Account Executive; (2) were compensated at least in part under either of CareerBuilder's "Revenue Rep" plans dated January 1, 2018 and/or August 1, 2018; and (3) closed a sale of a contract, product, or service before March 1, 2019 that generated revenue on or after March 1, 2019.

The Settlement Class excludes the Defendants; the Court and staff to whom the lawsuit is assigned, and any immediate family members of the Court or its staff; and any persons who elected to exclude themselves pursuant to and in compliance with the Settlement Agreement.

The Circuit Court for Cook County, Illinois (Judge Thaddeus L. Wilson) has conditionally certified the Settlement Class for the purpose of facilitating the Settlement.

If you are not sure whether you are in the Settlement Class, or have any other questions about the Settlement, call the lawyers appointed to represent the Settlement class at (312) 893-7002 or visit the Settlement Website at [www.careerbuildersettlement.com](http://www.careerbuildersettlement.com).

## **2. What is this lawsuit about?**

The lawsuit, filed in 2019, involves claims that the Defendants implemented a new compensation plan in early 2019 under which they unlawfully reduced and then later eliminated commissions they owed to their sales representatives for sales those employees had already made. As alleged in the case, the Class Members were paid commissions of 4% or 2% on revenue generated from the sale of most CareerBuilder products and services. The lawsuit further alleges that, in March 2019, the Defendants implemented a new plan under which the affected sales representatives would receive as little as 0% – .25% in commissions. The lawsuit also alleges that, in July 2019, the Defendants announced that they would not pay any commissions for revenue from sales made under prior plans.

There are multiple claims asserted in the lawsuit, including claims for: (I) common law breach of contract; (II) common law breach of implied contract; (III) common law unjust enrichment; (IV) violation of the Illinois Sales Representative Act, 820 ILCS 120/1, *et seq.*; and (V) violation of the Illinois Wage and Payment Collection Act, 820 ILCS 115/1, *et seq.* The full complaint filed in the lawsuit is posted at [www.careerbuildersettlement.com](http://www.careerbuildersettlement.com) and contains all of the allegations.

The Defendants deny Plaintiff's allegations about the compensation plan changes and deny that they have violated the law. Neither the Court nor a jury have considered or decided the merits of the allegations in the lawsuit. The Parties have negotiated and entered into the proposed Settlement to avoid the risk, uncertain outcome, expense and distraction of continued litigation.

### **3. Who represents me?**

In a class action, one or more people called “class representatives” sue on behalf of other people who have the same or similar claims. In this case, the Plaintiff, Benjamin Fongers, sued CareerBuilder and Apollo and sought to represent other employees who could have similar claims against the Defendants. The Court has appointed Plaintiff for settlement purposes to be the Class Representative for all Settlement Class Members in the case.

The Court has also appointed the law firm McGuire Law, P.C. as Class Counsel to represent the Settlement Class members. If you want to be represented by your own lawyer, you may hire one at your own expense.

### **4. What benefits can I receive from the Settlement?**

The Defendants have agreed to pay up to \$3,787,500.00 into a Settlement Fund to be distributed to Class Members after deductions for the fees and costs associated with the Settlement. In order to be eligible to receive a payment from the Settlement Fund, Settlement Class Members must timely submit a valid and complete Claim.

The exact amount each Class Member is eligible to receive varies based on individual circumstances such as the amount of their commissions, revenue bonuses, and claimed losses. The final amount could change depending on how many Approved Claims are submitted.

The Settlement Administrator, working with the Parties, has developed a damages model to calculate the amounts of individual Class Member payments based on the factors stated above. You can confirm the amount you are eligible to receive online at the Settlement Website, [www.careerbuildersettlement.com](http://www.careerbuildersettlement.com).

If you timely submit a valid and complete Claim Form that is approved for payment by the Settlement Administrator, your settlement payment will be paid by check mailed to you. Claims will only be paid after the Court grants final approval of the Settlement and after any appeals are resolved. If there are appeals, resolving them can take time. Please be patient.

### **5. How do I make a Claim to get a Payment?**

To qualify for a payment from the Settlement, you must be a Settlement Class Member and submit a Claim Form by the Claims Deadline, which is October 5, 2022. You may submit your Claim online at the Settlement Website. The Settlement Administrator has also mailed the Class Members hard copies of Claim Forms, which can be mailed to the Settlement Administrator. Claim Forms must be postmarked or submitted online on or before October 5, 2022. Failure to provide complete and accurate information could result in a denial of your claim.

### **6. Do I have to pay the lawyers representing me?**

No. The Court has appointed attorneys from McGuire Law P.C. in Chicago, Illinois to serve as Class Counsel to represent the members of the Settlement Class. If you want to be represented by a different lawyer, you may hire one at your own expense.

To date, Class Counsel have not received any payment for their services in litigating the case on behalf of the Class Representative and the Settlement Class, nor have Class Counsel been reimbursed for their costs and expenses directly relating to their representation of the Settlement Class. Prior to final approval of the Settlement, Class Counsel will ask the court for an award of attorneys' fees and litigation expenses for investigating the facts, litigating the case, and negotiating the Settlement. This award is subject to court approval and can be up to 33% of the settlement fund, or \$1,262,500 plus reimbursable costs and litigation expenses.

Class Counsel's contact information is as follows:

Myles McGuire  
Paul T. Geske  
Brendan Duffner  
MCGUIRE LAW, P.C.  
55 West Wacker Drive, 9th Fl.  
Chicago, Illinois 60601  
mmcguire@mcgpc.com  
pgeske@mcgpc.com  
bduffner@mcgpc.com  
Tel: (312) 893-7002

Class Counsel may also request that an Incentive Award of up to \$15,000 be awarded to the Class Representative in recognition of his service to the Settlement Class. The amount of any fee or service award will be subject to approval by the court.

## **7. What am I agreeing to by remaining in the Settlement Class in this case?**

If you are a member of the Settlement Class, and you choose to remain in the Settlement Class (i.e. you do not exclude yourself), then you will be eligible to submit a Claim to receive a payment from the \$3,787,500.00 Settlement Fund as described above. Settlement Class Members will also be bound by the release of claims in the Settlement. This means that if the Settlement is finally approved, Settlement Class Members cannot sue, continue to sue, or be part of any lawsuit against the Defendants for claims made in the lawsuit that led to the Settlement.

The released claims include all claims that were or could have been asserted in the Litigation, regardless of whether those claims are known or unknown, filed or unfiled, asserted or as yet unasserted, existing or contingent, and specifically include any claims for bonuses, incentive compensation, and/or commissions during employment with CareerBuilder.

## **8. What if I don't agree with the Settlement?**

If you are a member of the Settlement Class, and have not excluded yourself from the Settlement, you may object to the Settlement or any part of the Settlement if you think there are legal reasons why the court should reject it. If you object, the court will consider your views. To object, you must file your objection with the Court and serve a copy to the Settlement Administrator and the lawyers for both the Settlement Class and the Defendants. Your objection must clearly state the following information:

- a) The case name and case number of this Litigation (*Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804 (Ill. Cir. Ct. Cook Cnty.)).
- b) Your full name, current address, email address and phone number;
- c) The reasons why you object to the Settlement along with any supporting materials;
- d) Information about all other objections you or your lawyer(s) have made in other class action cases in state or federal courts, including the name of the case, case number, the court in which the objection was filed, and the outcome of the objection; and
- e) Your signature.

**Your objection must be filed and postmarked no later than October 5, 2022.** Objections must be mailed to:

**The Settlement Administrator**

Fongers v. Career Builder  
c/o Administrator  
P.O. Box 26170  
Santa Ana, CA 92799

**Plaintiff's Counsel**

Paul Geske  
MCGUIRE LAW, P.C.  
55 W. Wacker Drive, 9th Fl.  
Chicago, IL 60601

**CareerBuilder's Counsel**

Andrew Scroggins  
SEYFARTH SHAW, LLP  
233 South Wacker Dr., Suite 8000  
Chicago, IL 60606

**Apollo's Counsel**

Kevin B. Duff  
Rachlis Duff & Peel, LLC  
542 S. Dearborn Street, Suite 900  
Chicago, IL 60605

**9. Can I exclude myself from the Settlement Class?**

If you do not want a payment and do not want to be legally bound by the terms of the Settlement, you must exclude yourself from the Settlement. If you do so, you will not be eligible to receive any payments as a result of this Settlement. However, you will retain the right to sue or continue to sue the

Defendants on your own and at your own expense if you wish to pursue any of the claims being released as part of this Settlement.

To exclude yourself from the Settlement Class, you must submit a timely and valid “Opt-Out Request” to the Settlement Administrator in writing. To be valid, the request must include:

- a) The case name and case number of this Litigation (*Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804 (Ill. Cir. Ct. Cook Cnty.)).
- b) Your full name, current mailing address, email address, and phone number;
- c) A statement that you wish to exclude yourself from the Settlement Class; and
- d) Your signature.

To be considered timely, you must submit your fully completed Opt-Out Request to the following address postmarked no later than October 5, 2022.

Settlement Administrator: Fongers v. Career Builder, c/o Administrator, P.O. Box 26170, Santa Ana, CA 92799.

**REQUESTS FOR EXCLUSION FROM THE CLASS THAT ARE NOT POSTMARKED ON OR BEFORE OCTOBER 5, 2022 WILL NOT BE HONORED.**

You cannot exclude yourself from the Settlement Class by telephone, email, or on the Settlement Website. You cannot exclude yourself by mailing a request to any other location or after the deadline above. Your request for exclusion must be signed by you, and you cannot request exclusion on behalf of others.

## **10. What is the difference between objecting and asking to be excluded?**

Objecting is telling the Court the legal reasons why you do not like something about the Settlement. You can object to the Settlement only if you are a Settlement Class Member and you do not exclude yourself.

Excluding yourself is telling the court that you do not want to be part of the Settlement. If you exclude yourself, you cannot object to the Settlement because it no longer affects you.

## **11. What if I do nothing at all?**

If you are a Settlement Class Member and do nothing in response to this notice, you will remain a member of the Settlement Class and release your claims against the Defendants. However, you will not be eligible to receive an individual payment. **You must submit a claim to receive a payment from this Settlement.** See Part 4 above.

## **12. When will the court finally rule on the Settlement?**

The Court will hold a final approval hearing to decide whether to grant final approval to the Settlement and any requests for fees, expenses, and an Incentive Award. The final approval hearing is currently set for November 14, 2022 at 11:00 a.m. in Courtroom 2307 of the Chancery Division of the Circuit Court of Cook County, Illinois, Richard J. Daley Center, 50 W. Washington St., Chicago, Illinois 60602. The hearing may be moved to a different date or time without additional notice, so you should check the Settlement Website and the court's docket for updates.

At the final approval hearing, the court will consider whether the Settlement is fair, reasonable, and adequate. The court will also consider the request by Class Counsel for attorneys' fees and expenses and for the Class Representative's incentive award. If there are any objections, the court will consider them at the final approval hearing as well. After the hearing, the court will decide whether to finally approve the settlement. We do not know how long that decision may take.

You may attend the hearing, at your own expense, but you do not have to do so. If you wish to ask the Court for permission to speak at the hearing, you must send a "Notice of Intent to Appear" letter to the Court and to Settlement Class Counsel and Defendants' Counsel saying that you intend to appear and wish to be heard. Your Notice of Intent to Appear must include the following:

- a) The case name and case number of this litigation (*Fongers v. CareerBuilder, LLC, et al.*, No. 2019-CH-12804 (Ill. Cir. Ct. Cook Cnty.)).
- b) Your full name, current address, email address, and phone number;
- c) A statement that this is your "Notice of Intent to Appear" at the final approval hearing in this case;
- d) Copies of any papers, exhibits, or other evidence or information that you will present to the court;
- e) The reasons you want to be heard; and
- f) Your signature.

You must send copies of your Notice of Intent to Appear, postmarked by October 5, 2022, to:

Clerk of the Circuit Court  
Richard J. Daley Center  
50 W. Washington St.  
Chicago, Illinois 60602

**Plaintiff's Counsel**

Paul Geske  
MCGUIRE LAW, P.C.  
55 W. Wacker Drive, 9th Fl.  
Chicago, IL 60601

**Apollo's Counsel**

Kevin B. Duff  
Rachlis Duff & Peel, LLC

**CareerBuilder's Counsel**

Andrew Scroggins  
SEYFARTH SHAW, LLP  
233 South Wacker Dr., Suite 8000  
Chicago, IL 60606

542 S. Dearborn Street, Suite 900  
Chicago, IL 60605

**Note: You cannot object or speak at the hearing if you exclude yourself from the Settlement.**

**13. Does this Notice contain the entire Settlement Agreement?**

No. This is only a summary of the Settlement. If the Settlement is approved and you do not exclude yourself from the Settlement Class, you will be bound by the terms and the release contained in the Settlement Agreement, and not just by the terms of this Notice. You can view the full Settlement Agreement online at [www.careerbuildersettlement.com](http://www.careerbuildersettlement.com), or you can call Class Counsel for more information.

**14. Where can I get more information?**

For more information, visit [www.careerbuildersettlement.com](http://www.careerbuildersettlement.com) or call class counsel at (312) 893-7002.

**NOTE: PLEASE DO NOT CALL OR WRITE THE COURT, THE COURT CLERK'S OFFICE, THE DEFENDANTS, OR THE DEFENDANTS' COUNSEL. THEY WILL NOT BE ABLE TO ASSIST YOU.**