

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

UNITED STATES OF AMERICA

v.

STERLING BANCORP, INC.

No. 23-20174

Hon. Linda V. Parker

Offense: Securities Fraud

Violation:

15 U.S.C. §§ 78j(b) and 78ff(a);

17 C.F.R. § 240.10b-5

JOINT RESTITUTION ORDER

THE COURT, upon consideration of the following:

1. Sterling Bancorp, Inc. ("Sterling" or the "Defendant") has pleaded guilty and agreed that it will owe restitution at sentencing as part of a plea agreement with the United States (the "Plea Agreement");

2. The amount of loss resulting from the offense can be reasonably determined as equal to the total non-insider victim-shareholder loss, totaling \$69,075,714. The Defendant has already compensated members of this class in *Oklahoma Police Pension and Retirement System v. Sterling Bancorp, Inc.*, 5:20-cv-10490-JEL-EAS (E.D. Mich. 2021), ECF No. 99, agreeing to pay \$12,500,000, *id.* at ECF No. 79-1, as part of a settlement deemed "in all respects, fair, just, reasonable, and adequate to the Settlement Class" by the Court in that case, *id.* at ECF No. 99 at

3. The Defendant should receive credit for the class action payments, and thus the final restitution amount is \$56,575,714;

3. Given the Defendant's inability to pay the full amount of restitution, as more fully described in the Plea Agreement, *id.*, the Defendant agrees that it has the ability to pay restitution in an amount of \$27,239,000; and

4. The Defendant has agreed to pay restitution in the amount of \$27,239,000 as part of the Plea Agreement, and the Court may order restitution to the extent agreed to by the parties in a plea agreement pursuant to 18 U.S.C. §§ 3663(a)(3) and (d), and 18 U.S.C. § 3664;

IT IS HEREBY ORDERED:

1. The Defendant shall pay restitution pursuant to 18 U.S.C. §§ 3663(a)(3) and (d), and 18 U.S.C. § 3664, in the amount of \$27,239,000 to the victims of the Defendant's fraud scheme, to wit, those non-insider victim-shareholders who were defrauded in connection with their purchase of Sterling stock (the "non-insider victim-shareholders") based on the dissemination of materially false, fraudulent, and misleading statements in Sterling's 2017, 2018, and 2019 public filings.

2. The restitution of \$27,239,000 allocated for the non-insider victim-shareholders shall be paid by the Defendant to the Clerk of the Court or where otherwise ordered by the Court within thirty days of entry of the plea in this case.

3. Pursuant to 18 U.S.C. § 3664(d)(6), within thirty days of this order, the Court will appoint a Special Master to make findings of fact and recommendations to this Court regarding: (a) the non-insider victim-shareholders and entities entitled to restitution, and (b) the restitution amounts to which these individuals and entities are entitled.

4. The Special Master shall be empowered to establish, oversee, and administer a restitution fund established for the benefit of the non-insider victim-shareholders ("the Restitution Fund").

5. In connection with the creation and administration of the Restitution Fund, the Special Master shall:

1. Develop a formula or formulas whereby the funds will be fairly and equitably distributed to all eligible claimants, taking into consideration the type and amount of each claimant's loss and accounting for relevant differences in the harm each claimant suffered;
11. Recommend to the Court the distribution of funds from the Restitution Fund to those claimants who have not previously resolved their claims against the Defendant;
111. Implement appropriate procedures necessary to carry out the foregoing duties within 90 days of the date of this Order; and
- IV. Report to this Court every 60 days on the status of the Special Master's work to date, anticipated future efforts, and any matters the Special Master believes require this Court's attention.

6. The Defendant shall promptly provide to the Special Master all documentary materials and testimonial information reasonably requested by the Special Master.

7. All costs, fees, and expenses related to the Special Master's administration of the Restitution Fund or otherwise incurred in carrying out his duties under this Order shall be negotiated between the Defendant and the Special Master, and submitted to the Court for approval. The Defendant shall pay in full these reasonable costs, fees, and expenses separate and apart from the restitution funds, without diminishing the monies available to claimants.

8. One year after the appointment of the Special Master in this case, any funds remaining in the Restitution Fund that are not reserved for pending claims shall be paid to the United States for deposit into the Crime Victims Fund. However, the Special Master may request a reasonable extension in light of unresolved or anticipated claims, as circumstances warrant.

9. This Order is subject to amendment by the Court *sua sponte* or upon application of the parties or the Special Master. This Court retains jurisdiction over all matters covered by, or related to, this Order.

SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: July 21, 2023