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11 Attorneys for Plaintiffs

12
13 **SUPERIOR COURT OF CALIFORNIA**

14 **FOR THE COUNTY OF LOS ANGELES**

15 SARAH TITHER-KAPLAN and TONI GAAL,
 16 on behalf of themselves and all those similarly
 situated,

17 Plaintiffs,

18 v.

19 JAMES FRANCO, VINCE JOLIVETTE, JAY
 20 DAVIS, RABBITBANDINI PRODUCTIONS;
 RABBITBANDINI PRODUCTIONS, LLC;
 21 RABBITBANDINI FILMS, LLC; DARK
 RABBIT PRODUCTIONS, LLC;
 22 RABBITBANDINI PRODUCTIONS STUDIO 4,
 LLC, and DOES 1-10

23 Defendants.

Case No. 19STCV35156

[Assigned to the Hon. David S. Cunningham –
 Dept. 11 – Spring Street Courthouse]

**CORRECTED [~~PROPOSED~~] ORDER AND
 JUDGMENT GRANTING FINAL
 APPROVAL OF CLASS ACTION
 SETTLEMENT**

Date: February 15, 2023

Time: 9 a.m.

Dept: 11 (Spring Street Courthouse)

FILED
 Superior Court of California
 County of Los Angeles

02/24/2023

David W. Slayton, Executive Officer / Clerk of Court

By: T. Lewis Deputy

1 **PROPOSED ORDER AND JUDGMENT**

2 The Motion for Final Approval of Class Action Settlement, and the Motion for Attorneys' Fees,
3 Costs, and Service Awards ("Motions") by Plaintiffs Sarah Tither-Kaplan and Toni Gaal ("Plaintiffs")
4 came on for hearing on February 15, 2023 in Department 11 of the Superior Court of California for the
5 County of Los Angeles, the Honorable David S. Cunningham presiding.

6 Plaintiffs, on behalf of themselves and the certified class that they represent, asserted claims
7 against Defendants JAMES FRANCO, VINCE JOLIVETTE, JAY DAVIS, RABBITBANDINI
8 PRODUCTIONS; RABBITBANDINI PRODUCTIONS, LLC; RABBITBANDINI FILMS, LLC;
9 DARK RABBIT PRODUCTIONS, LLC; RABBITBANDINI PRODUCTIONS STUDIO 4, LLC, and
10 DOES 1-10 under California's Unfair Competition Law, Bus. & Prof. Code §17200, et seq.; False
11 Advertising Law, Bus & Prof. Code §17500, et seq. ("FAL"); Consumer Legal Remedies Act, Civ. Code
12 §1750, et seq.; Breach of Contract; Breach of the Covenant of Good Faith and Fair Dealing; Unjust
13 Enrichment; Negligent Misrepresentation; Fraud; and False Promises in relation to Defendants' alleged
14 creation of a fraudulent acting school for which the Fraud Class paid tuition based on misleading
15 statements and misrepresentations concerning the opportunities they would be provided through
16 attending Studio 4.

17 On September 20, 2022, an Order Granting Plaintiffs' Renewed Motion for Preliminary
18 Approval of Class Action Settlement (hereinafter "Preliminary Approval Order") was entered by this
19 Court, preliminary approving the proposed settlement pursuant to the terms of the Settlement Agreement
20 and the Amendment to the Settlement Agreement ("Settlement Agreement"), and directing that Notice
21 be given to the members of the Settlement Classes.

22 The "Class Members" for the purposes of this Settlement were conditionally certified as any
23 individual, other than the Named Plaintiffs, who took any courses at Studio 4 Film School in Los
24 Angeles or New York at any time during the Class Period.¹ Class Members are referred to as members
25 of the "Fraud Class," which include the following subclasses: "General Fraud Class" shall mean any
26 individual who paid tuition for any course at Studio 4 Film School in Los Angeles or New York during
27

28 ¹ "Class Period" means the period from February 2014 through the date of entry of the Preliminary
Approval Order (September 20, 2022).

the Class Period; and “Master Fraud Class” shall mean any individual who paid tuition for one or more Master Class courses at Studio 4 Film School in Los Angeles or New York during the Class Period.

Excluded from the definition of Class Members for purposes of this Settlement are the “Sexual Exploitation Class” members as defined in the First Amended Complaint. However, members of the excluded “Sexual Exploitation Class” may still be members of the General Fraud Class and/or the Master Fraud Class. The Sexual Exploitation Class Claims are not being resolved or released as part of the Settlement. They are being dismissed without prejudice. The applicable statute of limitations for the Sexual Exploitation Class was tolled during the pendency of this lawsuit and remains tolled until a Judgment is entered. With respect to the Sexual Exploitation claims, only the Named Plaintiffs are releasing their individual claims.

A Final Approval Hearing was held on February 15, 2023. Prior to the Final Approval Hearing, Class Members were notified of their right to appear at the hearing in support of, or in opposition to, the proposed Settlement, the Attorney Fees and Costs Award to Class Counsel, Claims Administrator Fees and the payment of service awards.

At the February 15, 2023 Hearing, the Court granted the Motion for Final Approval of Class Action Settlement and the Motion for Attorneys’ Fees, Costs, and Service Awards. The Court’s Minute Order granting the same is attached hereto as Exhibit 1.

NOW, THEREFORE, the Court, having heard oral presentation made at the Hearing on the Motions, and having reviewed all of the submissions, with no objections submitted, and having considered the provisions of the Settlement Agreement and having reviewed the materials in connection herewith,

IT IS HEREBY ORDERED, ADJUDGED and DECREED as follows:

1. The Court, for purposes of this Order, adopts all defined terms as set forth in the Settlement Agreement and Amendment, attached as Exhibits A and B to the Motion for Final Approval of Settlement.

2. The Court finds that the Settlement is fair, just, reasonable, and adequate, and therefore approves the Settlement as set forth in the Settlement Agreement. Specifically, the Court grants:

a. Final approval of the Named Plaintiffs as Class Representatives;

- b. Final approval of Valli Kane & Vagnini, LLP and Hadsell Stormer Renick & Dai LLP as Class Counsel;
- c. Service Awards of \$10,000 to each of the Named Plaintiffs for their efforts;
- d. Attorneys' fees of 33.3% from the Common Fund in the amount of \$446,553.00 for Class Counsel fees, which is well supported by the counsel's total lodestar and represents a reasonable percentage of the settlement fund;
- e. Attorneys' fees of 33.3% in the amount of \$298,000 from the Named Plaintiffs' Individual Settlement Payments;
- f. Litigation costs of \$41,000, which were reasonably and necessarily incurred in connection with the prosecution and settlement of this action to be paid to Class Counsel;
- g. The attorneys' fees and costs, and the service awards set forth herein shall be paid and distributed in accordance with this order and the terms of the Settlement;
- h. Claims Administrator fees from the Common Fund in the amount of \$16,000;
- i. The injunctive relief as presented under Seal;
- j. Dismissal without prejudice for the sexual exploitation claims of the Class, whose claims are deemed timely as of the date of this order to the extent that they were timely as of October 3, 2019, the date this lawsuit was initially filed and the class claims were preserved;
- k. In addition to allowing the remainder of the fund to be distributed as follows:
- l. \$410,000.00 to the Master Fraud Class which represents 100% of the tuition reimbursement for Participating Class Members of the Master Fraud Class;
- m. \$366,574.65 to the General Fraud Class (which represents 25% of the Net Settlement Fund of \$191,143.66 plus the carryover from the Master Fraud Class allocated funds of \$172,430.99);
- n. \$40,872.35 to the Reserve Fund;
- o. Any remaining balance from the Reserve Fund, unclaimed funds, and/or uncashed/unclaimed checks or electronic payments shall be paid to the Claims

1 Administrator for a total payment not to exceed \$110,000.00, after which any
2 unclaimed/remaining funds shall be distributed anonymously to the National
3 Women's Law Center.²

4 3. The Court finds that the proposed settlement has been reached as the result of lengthy,
5 intensive, and non-collusive arm's length negotiations. It further appears that the parties engaged in
6 extensive mediation and negotiation such that counsel for the parties at this time are able to evaluate
7 reasonably their respective positions. The Court also finds that the settlement at this time will avoid
8 additional, substantial costs, along with avoiding the delay and risks that would be presented by the
9 continued prosecution of this action.

10 4. For the purposes of considering this Settlement, the Court finds that the requirements of
11 following Code of Civil Procedure § 382 and applicable law are satisfied, including requirements of an
12 ascertainable class, a community of interest, and manageability of a settlement class; that common issues
13 of law and fact predominate; and that a settlement class is superior to alternative means of resolving the
14 claims and disputes in this action.

15 5. The Court finds that the Notice set forth in the Settlement Agreement and effectuated
16 pursuant to the Preliminary Approval Order conforms with the requirements of Code of Civil Procedure
17 § 382, Rules of Court 3.766 and 3.769, and any other applicable law. The Court further finds that the
18 Notice constitutes the best notice practicable under the circumstances, and constitutes due and sufficient
19 notice to the Settlement Class of the pendency of this Action, certification of the Settlement Class for
20 settlement purposes only, the terms of the Settlement Agreement, and the Final Approval Hearing. A full
21 opportunity has been afforded to the Class Members to participate in the Final Approval Hearing and all
22 Class Members and other persons wishing to be heard have been heard. The Class Members have also
23 had a fully and fair opportunity to exclude themselves from the Settlement.

24 6. Class Members who are deemed Participating Class Member by virtue of completing,
25

26 ² Claims Administrator, JND Legal Administration, has already incurred \$75,930.27 in settlement
27 administration costs and estimates that it will incur approximately \$34,000 in additional costs for a total
28 cost of approximately \$110,000. However, only \$16,000 of the costs will be taken from the Common
Fund. Should there be unclaimed funds as a result of uncashed checks, unclaimed PayPal, Venmo, or
Zelle gift cards or unclaimed monies from the reserve fund, those funds shall be utilized toward the
Class Administration costs over \$16,000. However, if no unclaimed funds remain, Defendants are
responsible to pay JND for all costs over \$16,000.

signing, and timely submitting a claim form will be deemed to have fully, finally, and forever released, Defendants' from all Released Claims identified in the Settlement Agreement upon the date on which Defendants fully fund the settlement, at which time all Class Members who have timely and effectively submitted a valid Claim Form are permanently barred and enjoined from instituting or prosecuting any and all claims released under the terms of the Settlement Agreement.

7. No Class Members have objected to the terms of the Settlement.

8. Without affecting the finality of the Final Approval Order and Judgment, and pursuant to California Rule of Court 3.769, the Court reserves jurisdiction over the implementation of the Settlement, including enforcement and administration of the Settlement Agreement, and including any other matters related.

9. Defendants shall fully fund the settlement on or before March 7, 2023, which is 20 days from the Final Approval date of February 15, 2023.

10. The Court hereby orders the Settlement Administrator to administer the claims procedures and make settlement payments in accordance with the Settlement Agreement terms.

11. Specifically, within 40 days of the Final Approval Date, the Settlement Administrator shall issue Claim Amounts to Participating Class Members via electronic gift card, electronic transfer service or paper check. If the Participating Class Member to whom the undeposited check or unclaimed PayPal, Venmo, or Zelle gift cards is issued does not contact Class Counsel or the Settlement Administrator concerning his or her settlement payment within such 180 days of issuance of the payment, funds from the undeposited/uncashed checks or electronic payments shall be paid to the Claims Administrator for a total payment not to exceed \$110,000.00, after which any unclaimed/remaining funds shall be distributed anonymously to the National Women's Law Center. Payments shall be made on or before March 27, 2023, which is 40 days from the Final Approval date of February 15, 2023.

12. The parties and the Court will comply with the California Code of Civil Procedure section 384's amended provisions with regard to cy pres recipients. Within 200 days of issuance of the checks, the parties shall file a report with the Court, and/or file a declaration by Settlement Administrator, with the total amount that was actually paid to the class members. Specifically, regarding the filing of the final report/distribution, the Court set a non-appearance case review for September 6, 2023 at 8:30 a.m. in

Department 11.

13. Thirty (30) days after the final report is filed with the Court, the parties shall prepare and file a stipulation and proposed order and Proposed Amended Judgment. The stipulation and proposed order shall include, inter alia, the amount of the distribution of unpaid cash residue, and unclaimed or abandoned funds to the non-party, the accrued interest on that sum and any other information required to be set forth pursuant to Section 68520 of the Government Code, as incorporated into California Code of Civil Procedure section 384.5. The stipulation shall be signed by counsel for the class, defendants' counsel and counsel for (or an authorized representative of) the non-party ("cy pres") recipient. The stipulation shall include a statement to the effect that all interested persons are in accord with the amended judgment and have no objection to the entry of an amended judgment. If there are objections by any party, class counsel shall immediately notify the court and the matter will be set for further hearing. After the stipulation and proposed order and Proposed Amended Judgment are received, the court shall amend the judgment to direct the defendant to pay the sum of the undeposited class member funds, plus any interest that has accrued thereon, to the cy pres recipient, National Women's Law Center. Pursuant to California Code of Civil Procedure section 384.5, a conformed copy of the stipulation and order and amended judgment (once signed by the Court) shall be forwarded by class council to the Judicial Council of California. The Court sets October 6, 2023 at 8:30 a.m. in Department 11 as a non-appearance case review regarding the filing of the Proposed Order and Judgment .

14. This Final Approval Order and Judgment is intended to be a final disposition of the Action in its entirety and is intended to be immediately appealable and fully and finally resolves all claims in this Action.

15. In accordance with California Rules of Court 3.771(b), the Parties are ordered to give notice of this Final Approval Order and Judgment to all Class Members by email.

IT IS SO ORDERED.

DATED: 02/24/2023, 2023



A handwritten signature in black ink that reads "David S. Cunningham III".

David S. Cunningham III / Judge

Honorable David S. Cunningham
Judge of the Los Angeles Superior Court

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 11

19STCV35156

SARAH TITHER-KAPLAN, et al. vs JAMES FRANCO, et al.

February 15, 2023

9:00 AM

Judge: Honorable David S. Cunningham III

Judicial Assistant: T. Lewis

Courtroom Assistant: C. Concepcion

CSR: None

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Sara Wyn Kane; James A. Vagnini

For Defendant(s): Jeffrey M. Lenkov via LACourtConnect

Other Appearance Notes: For Plaintiff: Tanya Sukhija-Cohen For Defendant: Gene F. Willaims

NATURE OF PROCEEDINGS: Hearing on Motion for Final Approval of Settlement; Hearing on Motion for Attorney Fees ,Costs, and Service Awards

The matters are called for hearing.

The Court has read and considered the motion for final approval.

The Notice of Joint Motion and Joint Motion for Final Approval of Class Action Settlement and Incorporated Memorandum of Law filed by Toni Gaal, Sarah Tither-Kaplan on 01/26/2023 is Granted.

The Plaintiffs' Notice of Motion and Motion for Attorneys' Fees, Costs, and Service Awards filed by Toni Gaal, Sarah Tither-Kaplan on 01/26/2023 is Granted.

The parties are to submit an order compliant with the Court's ruling by 02/22/2023.

Non-Appearance Case Review Re: Filing Final Report/Distribution is scheduled for 09/06/23 at 08:30 AM in Department 11 at Spring Street Courthouse.

Non-Appearance Case Review Re: Filing Proposed Order and Judgment is scheduled for 10/06/23 at 08:30 AM in Department 11 at Spring Street Courthouse.

Plaintiff is to give notice.

PROOF OF SERVICE

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 128 N. Fair Oaks Avenue, Pasadena, California 91103.

On February 22, 2023, I served the foregoing document described as: **CORRECTED [PROPOSED] ORDER AND JUDGMENT GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT** on the interested parties in this cause by electronically sending true and correct copies thereof to the addresses listed below:


Debra E. Meppen, Esq. Laurie DeYoung, Esq. Gene F. Williams, Esq. GORDON REES SCULLY MANSUKHANI, LLP 633 West Fifth Street, 52nd Floor Los Angeles, CA 90071 Telephone: (213) 270-7831 Facsimile: (213) 680-4470 dmeppen@grsm.com ldeyoung@grsm.com gfwilliams@grsm.com	Attorneys for Defendants JAMES FRANCO, RABBITBANDINI PRODUCTIONS, RABBITBANDINI PRODUCTIONS, LLC, RABBITBANDINI FILMS, LLC, DARK RABBIT PRODUCTIONS, LLC, and RABBITBANDINI PRODUCTIONS STUDIO 4, LLC
Jeffrey M. Lenkov, Esq. Tanya L. Prouty, Esq. MANNING & KASS, ELLROD, RAMIREZ, TRESTER LLP 801 South Figueroa St., 15th Floor Los Angeles, CA 90017 Telephone: (213) 430-2632 Facsimile: (213) 624-6999 JML@manningllp.com tlp@manningllp.com	Attorneys for Defendants JAY DAVIS and VINCE JOLIVETTE

XX VIA ELECTRONIC SERVICE

In compliance with Code of Civil Procedure section 1010.6, my electronic business address is nmolina@hadsellstormer.com and I caused such document(s) to be electronically served through the Case Anywhere system for the above-entitled case to the parties on the Service List maintained on Case Anywhere's website for this case. The file transmission was reported as complete, and a copy of the Case Anywhere Receipt will be maintained with a copy of the manually filed document(s) in our office.

Executed on February 22, 2023, at Pasadena, California.

XX (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.


Norma A. Molina
Declarant