

Electronically Received 08/24/2023 12:38 PM

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Attorneys for Plaintiff

FILED
Superior Court of California
County of Los Angeles
08/28/2023

David W. Slayton, Executive Officer / Clerk of Court
By: P. Herrera Deputy

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

TERRY FABRICANT, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

TOP FLITE FINANCIAL, INC.; DOES 1
-100, and each of them,

Defendants

) Case No. **20STCV13837**
)
) *[Assigned for All Purposes to the Hon.*
) *Lawrence Riff, Dept. 7]*
)
) ~~**[PROPOSED]**~~ **ORDER GRANTING**
) **MOTION FOR FINAL APPROVAL OF**
) **CLASS ACTION SETTLEMENT**
)
) Date: August 24, 2023
) Time: 10:00 a.m.
) Department: SS7
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1 Plaintiff has filed a Motion for an Order Granting Final Approval of Class Action
2 Settlement, Conditionally Certifying Proposed Settlement Class, and a Motion Approving
3 Motion for Attorneys' Fees and Costs and granting Incentive Award ("Motion"). Having
4 reviewed the Motion and supporting materials, the Court determines and orders as follows:

5 On April 7, 2023, this Court entered an Order Granting Preliminary Approval of
6 Settlement, resulting in certification of the following provisional Settlement Class:

7 "All California residents who, between April 8, 2019 and June 7,
8 2019, had a call with Defendant that lasted more than nine (9)
9 seconds and whose call was recorded."

10 The Court further approved the form of, and directed the parties to provide, the proposed Class
11 Notice to the Class, which informed absent class members of: (a) the proposed Settlement, and
12 the Settlement's key terms; (b) the date, time, and location of the Final Approval Hearing; (c) the
13 right of any Class Member to object to the proposed Settlement, and an explanation of the
14 procedures to exercise that right; (d) the right of any Class Member to exclude themselves from
15 the proposed Settlement; and an explanation of the procedures to exercise that right; and (e) an
16 explanation of the procedures for Class Members to participate in the proposed Settlement.

17 No objections had been made, timely or otherwise, pursuant to the Class Notice sent to
18 the Settlement Class members, nor did any objectors appear at the time of the hearing.

19 This matter having come before the Court for hearing pursuant to the Order of this Court,
20 for approval of the settlement set forth in the Class Action Settlement Agreement and Release
21 ("Settlement"), and due and adequate notice having been given to the Putative Class Members as
22 required in said Order, and the Court having considered all papers filed and proceedings had
23 herein and otherwise being fully informed of the promises and good cause appearing therefore, it
24 is ORDERED, ADJUDGED AND DECREED THAT:

- 25 1. This Court has jurisdiction over the subject matter of the Action and over all of the
parties to the Action.

- 1 2. The Court finds that the Settlement Class is properly certified as a class for settlement
2 purposes, only.
- 3 3. The Class Notice provided to the Settlement Class conforms with the requirements of
4 California Code of Civil Procedure § 382, the California and United States Constitutions,
5 and any other applicable law, and constitutes the best notice practicable under the
6 circumstances, by providing individual notice to all Class Members who could be
7 identified through reasonable effort, and by providing due and adequate notice of the
8 proceedings and of the matters set forth therein to the other Class Members. The notice
9 fully satisfied the requirements of Due Process.
- 10 4. The Court finds the settlement was entered into in good faith, that the settlement is fair,
11 reasonable and adequate, and that the settlement satisfies the standards and applicable
12 requirements for final approval of this class action settlement under California law.
- 13 5. No Class Members have objected to the terms of the Settlement.
- 14 6. No Class Members have requested exclusion from the Settlement.
- 15 7. Upon entry of this Order, compensation to the participating members of the Settlement
16 Class shall be effected pursuant to the terms of the Settlement.
- 17 8. In addition to any recovery that Plaintiff may receive under the Settlement, and in
18 recognition of the Plaintiff's efforts and risks taken on behalf of the Settlement Class, the
19 Court hereby approves the payment of an incentive award to the Plaintiff, in the amount
20 of \$5,000.
- 21 9. The Court approves the payment of attorneys' fees to Class Counsel in the sum of
22 \$91,666, and the reimbursement of litigation expenses in the sum of \$8,229.60.
- 23 10. The Court approves and orders payment in an amount commensurate with Postlethwaite
24 & Netterville's ("P&N") actual costs, and not to exceed \$60,811.28 to P&N for
25 performance of its settlement claims administration services.
11. Upon the Effective Date, the Plaintiff and all members of the Settlement Class shall have,
by operation of this Order and the accompanying Judgment, fully, finally and forever

1 released, relinquished, and discharged defendants from all claims as defined by the terms
2 of the Settlement. Upon the Effective Date, all members of the Settlement Class shall be
3 and are hereby permanently barred and enjoined from the institution or prosecution of
4 any and all of the claims released under the terms of the Stipulation of Settlement.

5 12. Upon completion of administration of the Settlement, the parties shall file a declaration
6 setting forth that claims have been paid and that the terms of the settlement have been
7 completed.

8 13. This “Judgment” is intended to be a final disposition of the above captioned action in its
9 entirety, and is intended to be immediately appealable.

10 14. This Court shall retain jurisdiction with respect to all matters related to the administration
11 and consummation of the settlement, and any and all claims, asserted in, arising out of, or
12 related to the subject matter of the lawsuit, including but not limited to all matters related
13 to the Settlement and the determination of all controversies related thereto.

14 15. The Court sets a non-appearance case review regarding final distribution for May 30,
15 2024 at 9:00 in Department SS7. The Parties are to file a declaration from the
16 Administrator showing distribution has been completed as well as a Joint Status Report
17 by May 23, 2024. If the Court is satisfied that the funds have been distributed, the
18 hearing will come off calendar.

19 08/28/2023

20 Dated: August 24, 2023



21 *Lawrence P. Riff*

22 Lawrence P. Riff / Judge

23 HON. LAWRENCE RIFF
24 JUDGE OF THE SUPERIOR COURT
25

1 **PROOF OF SERVICE**

2 I am employed in Orange County, California. I am over the age of 18 and not a party to
3 this action. My business address is 21031 Ventura Blvd Suite 340, Woodland Hills, CA 91364.

4 On August 24, 2023, I served the foregoing document, described as:

5 **[PROPOSED] ORDER GRANTING MOTION FOR FINAL APPROVAL OF CLASS**
6 **ACTION SETTLEMENT**

- 7 the original of the document
8 true copies of the document

9 Via Case Anywhere addressed as follows:

10 **WOOD, SMITH, HENNING & BERMAN, LLP**
11 Frances O’Meara, Esq. (SBN 140600)
12 Mindy S. Bae, Esq. (SBN 301769)
13 10960 Wilshire Blvd., 18th Floor,
14 Los Angeles, California 90024
15 E-mail: fomeara@wshblaw.com
16 mbae@wshblaw.com

17 **BY U.S. MAIL:** I sealed and placed such envelope for collection and mailing to be
18 deposited on the same day at Los Angeles County, CA. The envelopes were mailed with postage
19 thereon fully prepaid. I am readily familiar with the Law Offices of Todd M. Friedman’s
20 practice of collection and processing correspondence for mailing. Under this practice,
21 documents are deposited with the U.S. Postal Service on the same day that is stated in the proof
22 of service, with postage fully prepaid at Los Angeles County, CA, in the ordinary course of
23 business.

24 **BY ELECTRONIC MAIL:** I served the above documents in pdf format to the email
25 listed in the service caption above via Case Anywhere. A true and correct copy of transmittal
will be produced if requested by any party or the Court.

STATE: I declare under penalty of perjury under the laws of the state of California that
the above is true and correct.

FEDERAL: I declare that I am employed in the office of a member of the bar of this court
at whose direction the service was made.

Executed this August 24, 2023, at Orange, California.

/s Adrian R Bacon