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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

VERONICA JAUREGUI SILVA, individually, Case No.: 20STCV21665
and on behalf of other members of the general
public similarly situated;

Plaintiff,

v.

BEN MYERSON CANDY CO., INC. d/b/a
WINE WAREHOUSE, a California
corporation; and DOES 1 through 100,
inclusive;

Defendants.

Assigned for All Purposes to:
Honorable Lawrence P. Riff
Department 7

CLASS ACTION

**~~[PROPOSED]~~ AMENDED ORDER OF
FINAL APPROVAL AND JUDGMENT**

Hearing Date: December 6, 2024
Hearing Time: 10:00 a.m.
Hearing Place: Department 7

Complaint Filed: June 4, 2020
FAC Filed: January 25, 2021
SAC Filed: November 12, 2021
Trial Date: None Set

FILED
Superior Court of California
County of Los Angeles

12/16/2024

David W. Slayton, Executive Officer / Clerk of Court

By: A. Morales Deputy

1 The Court, having read the papers filed regarding Plaintiffs Veronica Jauregui Silva and
2 Matthew Young's ("Plaintiffs") Motion for Final Approval of Class Action Settlement, and
3 considering the papers submitted in support of the motion, including the Amended Class Action
4 and PAGA Settlement Agreement ("Settlement Agreement," "Settlement," or "Agreement"),
5 hereby **FINDS AND ORDERS**:

6 Plaintiffs and Defendants Breakthru Beverage California, LLC fka Ben Myerson Candy
7 Co., Inc. and Silicon Valley Technical Staffing, Inc. ("Defendants") entered the Settlement
8 Agreement to settle this lawsuit on or about June 12, 2024.

9 On July 18, 2024, the Court entered an order preliminarily approving the settlement of
10 this lawsuit ("Preliminary Approval Order"), consistent with the Code of Civil Procedure section
11 382 and Rule of Court 3.769, ordering notice to be sent to the Class Members, providing the
12 Class Members with an opportunity to object to the Settlement or exclude themselves from the
13 Class, and scheduling a Final Approval Hearing.

14 On December 6, 2024, the Court held a Final Approval Hearing to determine whether to
15 give final approval to the Settlement of this lawsuit.

16 1. Incorporation of Other Documents. This Amended Order of Final Approval and
17 Judgment ("Order and Judgment") incorporates the Settlement Agreement. Unless otherwise
18 provided herein, all capitalized terms in this Order and Judgment shall have the same meaning as
19 set forth in the Settlement Agreement.

20 2. Jurisdiction. Because adequate notice has been disseminated and the Class has
21 been given the opportunity to request exclusion, the Court has personal jurisdiction with respect
22 to the claims of all Class Members. The Court has subject matter jurisdiction over this lawsuit,
23 including jurisdiction to approve the Settlement and grants final certification of the Class.

24 3. Final Class Certification. The Court finds that the Class satisfies all applicable
25 requirements of Code of Civil Procedure section 382, Rule of Court 3.769, and due process. The
26 Court certifies the Class consisting of: (a) all individuals who worked for Defendant Ben
27 Myerson as hourly-paid or non-exempt employees within the State of California at any time
28 during the period from June 4, 2016, through October 13, 2023; and (b) all individuals who were

1 assigned by Defendant SVS to work for Defendant Ben Myerson as hourly-paid or non-exempt
2 employees within the State of California at any time during the period from June 4, 2016,
3 through October 13, 2023 (“Class,” “Class Members,” and “Class Period”). There are eight
4 hundred ninety-five (895) Class Members who did not submit valid and timely Requests for
5 Exclusion from the Settlement (“Participating Class Members”).¹

6 4. Adequacy of Representation. Class Counsel fully and adequately represented the
7 Class for the purposes of entering and implementing the Settlement and satisfied the
8 requirements of Code of Civil Procedure section 382.

9 5. Class Notice. The Court finds that the Court Approved Notice of Class Action
10 Settlement and Hearing Date for Final Court Approval (“Class Notice”) and its distribution to the
11 Class Members were implemented pursuant to the Settlement and this Court’s Preliminary
12 Approval Order. The Court also finds the Class Notice:

- 13 a. constitutes notice reasonably calculated to apprise the Class Members of: (i)
14 pendency of this lawsuit; (ii) material terms and provisions of the Settlement
15 Agreement and their rights; (iii) their right to object to any aspect of the
16 Settlement Agreement; (iv) their right to exclude themselves from the Settlement
17 Agreement; (v) their right to receive settlement payments; (vi) their right to
18 appear at the Final Approval Hearing; and (vii) binding effect of the orders and
19 judgment in this lawsuit on all the Participating Class Members;
- 20 b. constitutes notice that fully satisfied the requirements of Code of Civil Procedure
21 section 382, Rule of Court 3.769, and due process;
- 22 c. constitutes the best practicable notice to the Class Members under the
23 circumstances of this lawsuit; and
- 24 d. constitutes notice reasonable, adequate, and sufficient to the Class Members.

25 6. Enforcement of Settlement. Nothing in this Order and Judgment shall preclude
26 any action to enforce the terms and provisions of the Settlement Agreement.

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28 ¹ The Administrator mailed Class Notices to eight hundred ninety-six (896) Class
Members and received one (1) request for exclusion. As a result, there are eight hundred

1 7. Final Settlement Approval. The terms and provisions of the Settlement
2 Agreement have been entered into in good faith and are the product of arm's-length negotiations
3 by experienced counsel who have carried out a meaningful investigation of the claims. The
4 Settlement Agreement and all its terms and provisions are fully and finally approved as fair,
5 reasonable, adequate, and in the best interests of the Parties. The Parties are hereby directed to
6 implement the Settlement Agreement according to its terms and provisions.

7 8. Binding Effect. The terms and provisions of the Settlement Agreement and this
8 Order and Judgment are binding on Plaintiffs, Participating Class Members, Private Attorneys
9 General Act of 2004 ("PAGA") Group Members, and their spouses, heirs, registered domestic
10 partners, executors, administrators, successors, and assigns. In addition, those terms shall have
11 res judicata and other preclusive effect in all pending and future claims, lawsuits, or other
12 proceedings maintained by or on behalf of any such persons to the extent those claims, lawsuits,
13 or other proceedings involve matters that were or could have been raised in this lawsuit and are
14 encompassed by the Released Class Claims and Released PAGA Claims.

15 9. Release by Participating Class Members. Effective on the date when Defendants
16 fully fund the Gross Settlement Amount and fund all employer payroll taxes owed on the Wage
17 Portion of the Individual Class Payments or the Effective Date, whichever is later, all
18 Participating Class Members, on behalf of themselves and their former and present
19 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the
20 Released Parties from the Released Class Claims.

21 a. Release by PAGA Group Member. Effective on the date when Defendants fully
22 fund the Gross Settlement Amount and fund all employer payroll taxes owed on
23 the Wage Portion of the Individual Class Payments or the Effective Date,
24 whichever is later, all Participating and Non-Participating Class Members, who
25 are PAGA Group Members, are deemed to release, on behalf of themselves and
26 their former and present representatives, agents, attorneys, heirs, administrators,
27 successors, and assigns, the Released Parties from the Released PAGA Claims.

28
ninety-five (895) Participating Class Members.

1 b. Plaintiffs' Release. Effective on the date when Defendants fully fund the Gross
2 Settlement Amount and fund all employer payroll taxes owed on the Wage
3 Portion of the Individual Class Payments or the Effective Date, whichever is later,
4 Plaintiffs and their former and present spouses, representatives, agents, attorneys,
5 heirs, administrators, successors, and assigns generally release and discharge
6 Released Parties from the Plaintiffs' Release. Furthermore, Plaintiffs knowingly
7 and voluntarily waive any and all rights or benefits they may have under the terms
8 of Civil Code section 1542.

9 c. Released Parties. The Released Parties include Defendants and their past and
10 present parents, subsidiaries, affiliates, predecessors, successors, and assigns, and
11 all their past and present stockholders, owners, officers, directors, managers,
12 employees, attorneys, insurers, agents, and representatives.

13 10. Class Representative Service Payments. The Court finds that the Class
14 Representative Service Payments of \$10,000, to be paid by Defendants to each Plaintiff out of
15 the Gross Settlement Amount (totaling \$20,000), to be reasonable and appropriate. The Class
16 Representative Service Payments are to be paid pursuant to the terms and provisions set forth in
17 the Settlement Agreement.

18 a. The rationale for making enhancement payments is class representatives should
19 be compensated for the expense and risk they incurred in conferring a benefit on
20 the Class. Criteria courts consider include: (i) risk to the class representatives in
21 commencing suit; (ii) notoriety and personal difficulties; (iii) amount of time and
22 effort spent by the class representatives; (iv) duration of the litigation; and (v)
23 personal benefit (or lack thereof) enjoyed by class representatives.

24 b. The Court reviewed Plaintiffs' declarations outlining their involvement. Given the
25 risks inherent in the services as the class representatives, duration of the case and
26 time involved, and benefits created for the Class, the Court approves the payment
27 of the Class Representative Service Payments of \$10,000 to each Plaintiff.

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11. Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment.

The Court finds that the Class Counsel Fees Payment of ~~\$560,672~~^{528,633.60}, to be paid by Defendants to Class Counsel out of the Gross Settlement Amount, to be reasonable and appropriate. The Court also finds that the Class Counsel Litigation Expenses Payment as reimbursement for actual litigation costs incurred of \$21,155.11, to be paid by Defendants to Class Counsel out of the Gross Settlement Amount, to be reasonable and appropriate. Such fees and costs are to be paid pursuant to the terms and provisions set forth in the Settlement Agreement. Defendants shall not be required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by Class Counsel or any other counsel representing Plaintiffs or Class Members. Defendants shall also not be required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by Plaintiffs or Class Members in connection with or related in any manner to this lawsuit, Settlement Agreement, settlement administration, and/or Released Class Claims and Released PAGA Claims.

- a. The Court has an independent right and responsibility to review the Class Counsel Fees Payment and only award so much as it determines reasonable. (*Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) The Class Counsel Fees Payment of \$560,672 is thirty-five percent (35%) of the common fund created for the benefit of the Class and is supported by use of the percentage-fee method. (*Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, 504.) Considering the results achieved, financial risk undertaken, difficult nature of this litigation, skills required, percentage fees award in previous and other cases, and contingent fees charged in the marketplace, the Court finds that the Class Counsel Fees Payment is consistent with the marketplace, is reasonable, and is approved.
- b. The Court reviewed the Declaration of Douglas Han regarding the costs expended in prosecuting this case. Under the terms of the Settlement, Class Counsel may seek reimbursement of up to \$25,000 in litigation costs. The Court finds that Class Counsel expended \$21,155.11 in litigation costs, and that such costs were

reasonable. Thus, the Court approves the payment of the Class Counsel Litigation Expenses Payment of \$21,155.11 from the common fund for the reimbursement of Class Counsel's litigation costs.

12. Administration Expenses Payment. The Court finds that the Administration Expenses Payment of \$12,950, to be paid by Defendants to the Administrator out of the Gross Settlement Amount, to be reasonable and appropriate. The Administration Expenses Payment are to be paid pursuant to terms and provisions set forth in the Settlement Agreement.

a. The Court reviewed the Declaration of Makenna Snow from ILYM Group, Inc., the Court-approved Administrator. The Court finds that notice was provided to the Class pursuant to the Preliminary Approval Order, constitutes the best practicable notice to the Class, and satisfied due process. Thus, the Court approves the payment of the Administration Expenses Payment of \$12,950 for the Administrator's services in administering the Settlement.

13. PAGA Penalties. The Court finds that the PAGA Penalties of \$125,000, seventy-five percent (75%) of which (\$93,750) will be paid to the California Labor and Workforce Development Agency out of the Gross Settlement Amount and twenty-five percent (25%) of which (\$31,250) shall be distributed to the PAGA Group Members, on a pro rata basis, to be reasonable and appropriate. The PAGA Penalties is to be paid pursuant to the terms and provisions set forth in the Settlement Agreement.

14. Funding the Gross Settlement Amount. Defendants shall fund the Gross Settlement Amount and fund all employer payroll taxes owed on the Wage Portion of the Individual Class Payments by transmitting the funds to the Administrator no later than the Effective Date. As reflected in the Settlement Agreement (page 2), Defendant SVS will contribute \$35,740 of the Gross Settlement and Defendant Ben Myerson Candy Co., Inc will fund the remainder of the Gross Settlement Amount. Within fourteen (14) calendar days after Defendants fully funds the Gross Settlement Amount, the Administrator will mail checks to the appropriate entities and persons.

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15. Fairness of the Settlement. As noted in the Preliminary Approval Order, the Settlement is entitled to a presumption of fairness. In the moving papers, Plaintiffs contend the Settlement was the product of arm's-length negotiations following extensive litigation, discovery, and exchange of documentation. The negotiations were facilitated with the aid of Jeffrey A. Ross, an experienced and well-respected mediator.

a. The fairness of the Settlement is demonstrated by there being no objections to and only one (1) request for exclusion from the Settlement. The Class Member who requested exclusion from the Settlement is Fausto Acevedo.

b. The fairness of the Settlement is further illustrated by the gross *average* Individual Class Payment being approximately \$963.29, and the gross *highest* Individual Class Payment being about \$3,886.31.

16. Uncashed Checks. The Class Members must cash or deposit their settlement checks within one hundred eighty (180) calendar days after the checks are mailed to them. Uncashed settlement checks will be canceled and transmitted to the California Controller's Unclaimed Property Fund in the name of the Class Member.

17. Modification of Agreement. The Participating Class Members are hereby authorized to agree to and adopt amendments to or modifications of the Agreement by an express written instrument signed by all Parties or their representatives and approved by the Court. Such amendments or modifications shall be consistent with this Order and Judgment and cannot limit the rights of the Participating Class Members under the Agreement.

18. Final Accounting and Compliance. The Court sets a compliance hearing on August 22, 2025 in Department 7. Within five (5) court days before this hearing, a compliance status report shall be filed. Pursuant to Code of Civil Procedure section 384, the compliance status report shall specify the total amount paid to the Class Members and the residual of the unclaimed settlement funds that will be paid to the entity identified as the recipient of such funds in the Settlement Agreement.

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2 19. Retention of Jurisdiction. The Court has jurisdiction to enter this Order and
3 Judgment. This Court expressly retains jurisdiction for the administration, interpretation,
4 effectuation, and/or enforcement of the Settlement Agreement and of this Order and Judgment,
5 and for any other necessary purpose, including, without limitation:

- 6 a. enforcing the terms and provisions of the Settlement and resolving any disputes,
7 claims, or causes of action in this lawsuit that, in whole or in part, are related to or
8 arise out of the Settlement or this Order and Judgment;
- 9 b. entering such additional orders as may be necessary or appropriate to protect or
10 effectuate this Order and Judgment approving the Settlement, and permanently
11 enjoining Plaintiffs from initiating or pursuing related proceedings, or to ensure
12 the fair and orderly administration of the Settlement; and
- 13 c. entering any other necessary or appropriate orders to protect and effectuate this
14 Court's retention of continuing jurisdiction.

15 The Motion for Final Approval of Class Action Settlement, Class Counsel Fees Payment,
16 Class Counsel Litigation Expenses Payment, and Class Representative Service Payments is
17 GRANTED. The Administrator is directed to carry out the terms of the Settlement forthwith.

18 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF
19 THE SETTLEMENT AGREEMENT. PURSUANT TO RULES OF COURT 3.769, THE
20 COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS OF THIS
21 ORDER AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE
22 FINALITY OF THIS MATTER, RETAINS EXCLUSIVE AND CONTINUING
23 JURISDICTION TO ENFORCE THIS ORDER, THE SETTLEMENT AGREEMENT, AND
24 THE JUDGMENT THEREON.

25 IT IS SO ORDERED.

26
27 DATED: 12/16/2024



A handwritten signature in black ink, appearing to read "Lawrence P. Riff", is written over a horizontal line.

Lawrence P. Riff / Judge

HONORABLE LAWRENCE P. RIFF
SUPERIOR COURT JUDGE

**PROOF OF SERVICE
1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

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 751 N. Fair Oaks Ave., Ste. 101 Pasadena, California 91103. My electronic service address is award@justicelawcorp.com

On December 18, 2024, I served the foregoing document described as

AMENDED ORDER OF FINAL APPROVAL AND JUDGMENT

for the following case: **Silva v. Ben Myerson Candy Co., Inc. d/b/a Wine Warehouse**
LWDA/Court Case No.: **LWDA-CM-807643-20**
Court Case No.: 20STCV21665
Los Angeles County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

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

Executed on December 18, 2024, at Pasadena, California.



Alex Ward