BIBIYAN LAW GROUP, P.C.
David D. Bibiyan (SBN 287811)
david@tomorrowlaw.com
Vedang J. Patel (SBN 328647)
vedang@tomorrowlaw.com
8484 Wilshire Boulevard, Suite 500
Beverly Hills, California 90211
Tel: (310) 438-5555; Fax: (310) 300-1705

Attorneys for Plaintiffs, on behalf of themselves and all others aggrieved

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
08/30/2022 at 03:37:00 PM
Clerk of the Superior Court
By Connie Hines,Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

LUIS CRUZ, individually, and on behalf of all others similarly situated; JAMES CARAMAZZA, individually, and on behalf of all others similarly situated; MICHAEL LEON, individually, and on behalf of all others similarly
situated

Plaintiffs,

v.

GREYSTAR MANAGEMENT SERVICES, LP, a Delaware limited partnership; GREYSTAR REAL ESTATE PARTNERS, LLC, a Delaware limited liability company; SUNRISE RIVERSIDE, LLC, a Delaware limited liability company, BRADLEY JOHNSON, an individual; and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 37-2020-00009672-CU-OE-CTL

[Assigned to the Hon. Carolyn Caietti in Dept. C-70]

PAGA REPRESENTATIVE ACTION

FIRST AMENDED ~~[PROPOSED]~~ ORDER APPROVING REPRESENTATIVE ACTION SETTLEMENT

[Lodged concurrently with Plaintiff's Notice of Motion and Motion for Approval of Representative Action Settlement; and Declarations of David D. Bibiyan, Justin F. Marquez, Melissa A. Huether, Plaintiffs, and Sean Hartranft in Support Thereof]

HEARING INFORMATION

DATE: August 26, 2022
TIME: 10:30 a.m.
DEPT: C-70

Action Filed: May 26, 2020
Trial Date: None Set

This Court, having considered the Motion of plaintiffs Luis Cruz, James Caramazza, and Michael Leon (collectively, "Plaintiffs") for Approval of Representative Action Settlement ("Motion"), the Declarations of David D. Bibiyan, Justin F. Marquez, Melissa A. Huether, Plaintiffs, and Sean Hartranft, the Joint Stipulation and Settlement Agreement ("Settlement" or "Settlement

Agreement" or "Agreement"), the PAGA Payment Letter and good cause appearing therefore, the Court hereby **ORDERS, ADJUDGES AND DECREES THAT**:

1. The definitions set out in the Settlement Agreement are incorporated by reference into this Order; all terms defined therein shall have the same meaning in this Order.

2. The Motion concerns plaintiffs Luis Cruz, James Caramazza, and Michael Leon's action under the Private Attorneys General Act of 2004 ("PAGA") against defendants Greystar Management Services, LP, Greystar Real Estate Partners, LLC, Sunrise Riverside, LLC, and Bradley Johnson (collectively, "Defendants") entitled *Cruz, et al. v. Greystar Management Services, LP, et al.*, San Diego Superior Court Case No. 27-2020-00009672-CU-OE-CTL. (Hereinafter, Plaintiffs and Defendants will be collectively referred to as "the Parties".)

3. The Settlement resolves the Representative Action brought on behalf of Aggrieved Employees defined as follows: all current and former non-exempt, hourly-paid employees employed by Greystar Management in the State of California during the period between February 21, 2019 through December 31, 2021 (the "Settlement Period").

4. "Pay Period" means a pay period that an Aggrieved Employee was employed by Greystar Management in a non-exempt, hourly-paid position during the PAGA Period, based on hire dates, re-hire dates, and termination dates.

5. The Settlement is based on Defendants' representation that there are no more than 105,100 Pay Periods worked by Aggrieved Employees during the PAGA Period. In the event the number of Pay Periods worked by Aggrieved Employees during the PAGA Period increases by more than 10%, or 10,510 Pay Periods, then the Gross Settlement Amount shall be increased proportionally by the Pay Periods during the PAGA Period worked in excess of 115,610 (105,100 + 10,510) multiplied by the Pay Period Value. The Pay Period Value shall be calculated by dividing the Gross Settlement Amount by 105,100 Pay Periods. The Parties agree that the Pay Period Value is $18.08 ($1,900,000.00 / 105,100 Pay Periods). Thus, for example, should there be 120,000 Pay Periods worked by Aggrieved Employees during the PAGA Period, then the Gross Settlement Amount shall be increased by $79,371.20 ((120,000 Pay Periods – 115,610 Pay Periods) x ($18.08/Pay Period)).

6. Plaintiffs' Counsel investigated the claims alleged, performed legal research, and conducted expert analysis of the time and payroll data. They also attended mediation, which after further negotiations, resulted in the Settlement Agreement that was fully executed on or about February 25, 2022.

7. Pursuant to Labor Code § 2698, *et seq*., the Court finds that the global Settlement of the Action is fair, adequate, and reasonable and that it furthers PAGA's objectives.

8. The Court appoints plaintiffs Luis Cruz, James Caramazza, and Michael Leon as the PAGA Representatives for Settlement purposes only.

9. The Court appoints David D. Bibiyan of Bibiyan Law Group, P.C., Bobby Saadian and Justin F. Marquez of Wilshire Law Firm, and Joseph Lavi and Vincent C. Granberry of Lavi & Ebrahimian, LLP as Plaintiffs' Counsel for the Aggrieved Employees for settlement purposes only.

10. The Court appoints ILYM Group, Inc. as the Settlement Administrator.

11. The Court approves, as to form and content, the PAGA Payment Letter attached as Exhibit 3 to the Declaration of Vedang J. Patel (ROA Number 60).

12. The Court approves the Gross Settlement Amount of $1,900,000.00, as the same may be escalated pursuant to the Settlement Agreement, and orders it to be distributed as follows:

a. 35% thereof shall be allocated as reasonable attorneys' fees for Plaintiff's Counsel which, unless escalated pursuant to the Settlement Agreement, shall amount to $665,000.00;

b. The sum of $52,122.50 shall be allocated as reasonable litigation costs and paid to Plaintiffs' Counsel as follows: $45,368.23 to Bibiyan Law Group, P.C., $2,764.39 to Wilshire Law Firm, and $3,989.88 Lavi & Ebrahiniam, LLP.

c. The sum of $7,500.00 shall be paid to plaintiffs Luiz Cruz and Michael Leon, each, for a total of $15,000.00, as Enhancement Award Payments for serving as PAGA Representatives in the Action and providing a broader release to Defendants.

d. The sum of $16,950.00 shall be paid to the Settlement Administrator, ILYM Group, Inc., for its services in administering the Settlement.

e. After deducting the above amounts, the Court approves the estimated remaining Net Settlement Amount of $1,150,927.50 (as the same may be escalated pursuant to the Settlement Agreement) for PAGA penalties and orders 75% (or $863,195.63, as the same may be escalated pursuant to the Settlement Agreement) of that sum to be paid to the California Labor and Workforce Development Agency and 25% (or $287,731.88, as the same may be escalated pursuant to the Settlement Agreement) to be paid to the Aggrieved Employees pursuant to Labor Code § 2699(i).

13. "Effective Date" means the later of: (a) the date the Court signs an Order granting approval of this Settlement and Judgment; (b) if any objections or motions to intervene are filed prior to the date the Court signs an Order granting approval of this Settlement, sixty (60) days from the later of the date the Court signs an order granting approval of the Settlement or the date the Court enters final judgment so long as no appeal is filed within that time frame; and (c) to the extent any appeals have been filed, the date on which they have been resolved or exhausted.

14. The Court directs Defendants to, within twenty-one (21) calendar days of the Effective Date, provide the Settlement Administrator with the Aggrieved Employee List, which shall be made available to Plaintiffs' Counsel, a complete list of all Aggrieved Employees providing the following information: (a) full name; (b) last known address; (c) last known telephone number; (d) the last four digits of his or her Social Security Number; and (e) his or her dates of employment as an hourly-paid, non-exempt employee for Greystar Management in California during the Settlement Period.

15. Within fourteen (14) calendar days of the Effective Date of the Settlement, Defendants will deposit the Gross Settlement Amount into a settlement fund to be established by the Settlement Administrator.

16. Within seven (7) calendar days after Defendants deposit the Gross Settlement Amount into a settlement fund, the Settlement Administrator will issue payments to: a) the

Aggrieved Employees; b) the LWDA; and c) Plaintiffs' Counsel for the Attorneys' Fees and Costs payment. The Settlement Administrator will mail Individual Settlement Payments to the Aggrieved Employees, along with the PAGA Payment Letter (attached as Exhibit 1), via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Aggrieved Employees List. The Settlement Administrator will also issue a payment to itself for Court-approved services performed in connection with the Settlement on the twenty-eighth (28th) day after the Effective Date.

17. Because this is a PAGA action, based on the Parties' understanding of the PAGA statutory scheme the Parties agree that no Aggrieved Employee can exclude himself or herself from the Settlement or object to the terms of the Settlement Agreement. All Aggrieved Employees will be bound by the Settlement Agreement, upon its approval by the Court, regardless of whether he or she negotiates his or her settlement check.

18. The Individual Settlement Payments will be calculated and apportioned from the Aggrieved Employee Portion based on the number of Pay Periods an Aggrieved Employee worked during the Settlement Period. The Settlement Administrator will determine the total number of Pay Periods worked by each Aggrieved Employee during the Settlement Period based on the data provided by Defendants in the Aggrieved Employee List and the aggregate number of Pay Periods worked by all Aggrieved Employees during the Settlement Period. To determine each Aggrieved Employee's Individual Settlement Payment, the Settlement Administrator will use the following formula: Individual Settlement Payment = (Aggrieved Employee's Pay Periods during the Settlement Period / Aggregate Number of Aggrieved Employees' Pay Periods during the Settlement Period) x (0.25 x Net Settlement Amount).

19. Checks for Individual Settlement Payments shall be negotiable for one hundred eighty (180) calendar days from the date of their issuance. If a check is returned to the Settlement Administrator as undeliverable during the 180-day period, the Settlement Administrator shall take all reasonable efforts to identify the Aggrieved Employee's correct address, including the performance of a "skip-trace." If an updated address can be identified, the Settlement Administrator shall issue another check to the Aggrieved Employee and mail it to the Aggrieved Employee at his

or her updated address. An Aggrieved Employee who failed to receive their Individual Settlement Payment check despite the procedures described herein shall nevertheless remain bound by the Settlement and the release of the PAGA Released Claims contained herein. The funds represented by Individual Settlement Payment checks remaining uncashed for more than 180 days after issuance (collectively, the "Uncashed Settlement Checks") shall be canceled and funds associated with such checks shall be considered unpaid, unclaimed or abandoned cash residue pursuant to Code of Civil Procedure section 384 ("Unpaid Residue"). The Unpaid Residue plus accrued interest, shall be remitted to the State Controller's Office, Unclaimed Property Division in the name of each Aggrieved Employee.

20. The Court finds the Gross Settlement Amount, the Net Settlement Amount and the methodology used to calculate and pay the Aggrieved Employees' Individual Settlement Payments are fair and reasonable and authorizes the Settlement Administrator to pay the Individual Settlement Payments to the Aggrieved Employees in accordance with the terms of the Settlement Agreement. The Court also authorizes the Settlement Administrator to make the LWDA Payment to the California Labor and Workforce Development Agency ("LWDA").

21. The Court finds that Plaintiffs Counsel's request for attorneys' fees in the amount of 35% of the Gross Settlement Amount, which, unless escalated pursuant to the Settlement Agreement, amounts to $665,000.00, is reasonable. The Court awards Plaintiffs' Counsel fees in the amount of 35% of the Gross Settlement Amount to be paid from the Gross Settlement Amount.

22. The Court finds that Plaintiff's Counsel has incurred a total of $52,122.50 in litigation costs and expenses. Such costs and expenses were reasonably incurred in prosecuting this Actions. The Court awards $45,368.23 from the Gross Settlement Amount to be paid to Bibiyan Law Group, P.C., $2,764.39 to be paid to Wilshire Law Firm, and $3,989.88 to be paid to Lavi & Ebrahimian, LLP.

23. Upon the Effective Date, and only to the extent permissible by law, the LWDA and each Aggrieved Employee shall fully and finally release and forever discharge Defendants and the Released Parties of the PAGA Released Claims arising during the Settlement Period.

24. The PAGA Released Claims are any and all claims that are asserted in, arise from, or are reasonably related to the factual allegations and legal assertions made in the Action under PAGA (Labor Code section 2698, *et seq.*) including all claims and causes of action that could have been asserted in the Action based on the factual allegations and legal assertions alleged up through and specifically including the entire Settlement Period, whether or not specifically delineated as a claim or cause of action in the Action. ("PAGA Released Claims"). The PAGA Released Claims include but are not limited to those (a) alleged in any of Plaintiffs' notices provided to the LWDA, the operative complaint in the Action, and any amended complaint in the Action, including claims that arise out the claims and facts alleged in the Action under PAGA, (b) any claims under PAGA which could have reasonably been asserted in the Action arising from the alleged facts and/or primary rights alleged to have been invaded, and (c) any other claims to the extent that they that are premised upon or arise out of PAGA Released Claims for failure to pay all wages due, failure to provide minimum wages or pay for all hours worked, failure to pay overtime compensation, failure to provide meal and/or rest periods, failure to pay proper meal or rest period penalties, failure to pay reporting time wages, failure to keep accurate time records, failure to provide and maintain accurate itemized wage statements, failure to keep accurate employee payroll records, failure to timely pay wages due during or at separation of employment, failure to reimburse all business-related expenses, failure to provide paid sick leave at the proper rate, failure to provide lawful, written commission agreements, and claims reasonably relating to the alleged violations of California Labor Code sections 200-205, 205.5, 210, 225.5, 226, 226.3, 226.7, 246, 510, 512, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.5, 1198, 2751, and 2802, and applicable portions of California Industrial Welfare Commission ("IWC") Wage Orders, including but not limited to applicable portions of IWC Wage Order No. 5 (Cal. Code Regs., tit. 8, § 11050), against the Released Parties; (d) to the extent that they are premised upon or arise out of the PAGA Released Claims, Labor Code sections 216, 218.6 and 558. The release extends to all remedies under the PAGA for any of the PAGA Released Claims.

25. The Released Parties means Defendants and each of their respective past, present and future agents, employees, servants, officers, directors, partners, trustees, representatives,

shareholders, stockholders, attorneys, parents, subsidiaries, fictitious business names, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, any actual or alleged joint employers, any owner or operators of a housing property where an Aggrieved Employee worked for Defendants, affiliates, alter-egos, representatives, and affiliated organizations, and all of its respective past, present and future employees, directors, officers, agents, attorneys, stockholders, fiduciaries, parents, subsidiaries, successors, and assigns.

26. The Parties are ordered to carry out the Settlement according to the terms of the Settlement Agreement.

27. The Court shall retain continuing jurisdiction over the Actions, the Parties and Aggrieved Employees, to the fullest extent to enforce and effectuate the terms and intent of the Settlement Agreement. The Court shall also retain jurisdiction to enforce the Settlement Agreement.

28. In the event the settlement does not become effective in accordance with the terms of the Agreement, or the settlement is not approved, or is terminated, cancelled or fails to become effective for any reason, this Order shall be rendered null and void and shall be vacated, and the parties shall revert to their respective positions as of the entry of the Settlement Agreement.

IT IS SO ORDERED.

Dated: 8-30-, 2022

Carolyn M. Caietti

Judge of the Superior Court

Judge Carolyn Caietti

PROOF OF SERVICE

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 eighteen years and not a party to the within action; my business address is 8484 Wilshire Blvd, Suite 500, Beverly Hills, California 90211.

On August 25, 2022, and pursuant to the California Code of Civil Procedure section 1010.6, I caused a true and correct copy of the foregoing document(s) described as **FIRST AMENDED [PROPOSED] ORDER APPROVING REPRESENTATIVE ACTION SETTLEMENT** to be served by electronic transmission to the below referenced electronic e-mail addresses as follows:

Robert K. Foster, Esq. (SBN 329353)
rfoster@sheppardmullin.com
Jennifer G. Redmond, Esq. (SBN 144790)
jredmond@sheppardmullin.com
Brian S. Fong, Esq. (SBN 262846)
bfong@sheppardmullin.com
SHEPPARD, MULLIN, RICHTER & HAMPTON, LLP.
12275 El Camino Real, Suite 100
San Diego, CA 92130

Counsel for Defendants, GREYSTAR MANAGEMENT SERVICES, LP, SUNRISE RIVERSIDE, LLC, and BRADLEY JOHNSON

Justin F. Marquez, Esq. (SBN 262417)
justin@wilshirelawfirm.com
Nicol E. Hajjar, Esq. (SBN 303102)
nicol@wilshirelawfirm.com
WILSHIRE LAW FIRM
3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Counsel for Plaintiffs on behalf of themselves and all others aggrieved

Joseph Lavi, Esq. (SBN 209776)
jlavi@lelawfirm.com
Vincent C. Granberry, Esq. (SBN 276483)
vgranberry@lelawfirm.com
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Blvd., Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001

Counsel for Plaintiffs, on behalf of themselves and all others aggrieved

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

Executed on August 25, 2022 at Beverly Hills, California.

Rosemary Martir

Bibiyan Law Group, P.C.
A Professional Corporation
8484 Wilshire Blvd
Suite 500
Beverly Hills, California 90211
310-438-5555