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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

AL-JERONE GREEN, TIFFANY
MANJARES and DOANYA PUCCINI,
individuals, on behalf of themselves and on
behalf of all persons similarly situated,

Plaintiffs,

v.

FIVE KEYS SCHOOLS AND PROGRAMS,
a California Corporation, and DOES 1 through
50, inclusive,

Defendants.

AL-JERONE GREEN, TIFFANY
MANJARES and DOANYA PUCCINI, on
behalf of the State of California, as private
attorney generals,

Plaintiffs,

v.

FIVE KEYS SCHOOLS AND PROGRAMS,
a California Corporation, and DOES 1 through
50, inclusive,

Defendants.

CASE NO.: **CGC-21-596165**
(Consolidated with Case No. CGC-21-596167)

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: March 29, 2023 _____

Hearing Time: 9:30 a.m.

Judge: Hon. Richard B. Ulmer
Dept.: 302

Action Filed: October 20, 2021

Trial Date: Not set

PRELIMINARY APPROVAL ORDER

1 This matter, having come before the Honorable Richard B. Ulmer of the Superior Court of
2 the State of California, in and for the County San Francisco, on March 29, 2023, for the motion by
3 Plaintiffs Al-Jerone Green, Tiffany Manjares and Doanya Puccini (“Plaintiffs”) for preliminary
4 approval of the class settlement with Defendant Five Keys Schools and Programs (“Defendant”).
5 The Court, having considered the briefs, argument of counsel and all matters presented to the
6 Court and good cause appearing, hereby GRANTS Plaintiffs’ Motion for Preliminary Approval of
7 Class Action Settlement.

8 **IT IS HEREBY ORDERED:**

9 1. The Court preliminarily approves the Class Action Settlement Agreement
10 (“Agreement”) submitted as Exhibit #1 to the Declaration of Kyle Nordrehaug in Support of
11 Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement. This is based on the
12 Court’s determination that the Settlement set forth in the Agreement is within the range of possible
13 final approval, pursuant to the provisions of section 382 of the California Code of Civil Procedure
14 and California Rules of Court, rule 3.769.

15 2. This Order incorporates by reference the definitions in the Agreement, and all
16 terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

17 3. The Gross Settlement Amount is Two Million Four Hundred Fifty Thousand
18 Dollars (\$2,450,000). It appears to the Court on a preliminary basis that the settlement amount
19 and terms are fair, adequate and reasonable as to all potential Class Members when balanced
20 against the probable outcome of further litigation and the significant risks relating to certification,
21 liability and damages issues. It further appears that investigation and research have been
22 conducted such that counsel for the Parties are able to reasonably evaluate their respective
23 positions. It further appears to the Court that settlement at this time will avoid substantial
24 additional costs by all Parties, as well as avoid the delay and risks that would be presented by the
25 further prosecution of the Action. It further appears that the Agreement has been reached as the
26 result of serious and non-collusive, arms-length negotiations. The Court therefore preliminarily
27 finds that the Settlement is fair, adequate, and reasonable when balanced against the probable
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1 outcome of further litigation and the significant risks relating to certification, liability, and
2 damages issues.

3 4. The Agreement specifies for an attorneys' fees award not to exceed one-third of the
4 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$17,000, and
5 proposed Class Representative Service Payments to the Plaintiffs in an amount not to exceed
6 \$10,000 each. The Court will not approve the amount of attorneys' fees and costs, nor the amount
7 of any service award, until the Final Approval Hearing. Plaintiffs will be required to present
8 evidence supporting these requests prior to final approval.

9 5. The Court recognizes that Plaintiffs and Defendant stipulate and agree to
10 certification of a class for settlement purposes only. This stipulation will not be deemed
11 admissible in this or any other proceeding should this Settlement not become final. For settlement
12 purposes only, the Court conditionally certifies the following Class: "all individuals who are or
13 previously were employed by Defendant in California who were classified as hourly, non-exempt
14 employees at any time during the Class Period." The Class Period is October 20, 2017 through
15 August 11, 2022.

16 6. The Court concludes that, for settlement purposes only, the Class meets the
17 requirements for certification under section 382 of the California Code of Civil Procedure in that:
18 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
19 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
20 community of interest amongst the members of the Class with respect to the subject matter of the
21 litigation; (c) the claims of the Plaintiffs are typical of the claims of the members of the Class;
22 (d) the Plaintiffs can fairly and adequately protect the interests of the members of the Class; (e) a
23 class action is superior to other available methods for the efficient resolution of this controversy;
24 and (f) counsel for the Class is qualified to act as counsel for the Class and the Plaintiffs are
25 adequate representatives of the Class.

26 7. The Court provisionally appoints Plaintiffs Al-Jerone Green, Tiffany Manjares, and
27 Doanya Puccini as the representatives of the Class. The Court provisionally appoints Norman B.
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1 Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Jeffrey S. Herman, and Sergio J. Puche of
2 Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class.

3 8. The Court hereby approves, as to form and content, the Notice of Proposed
4 Settlement of Class Action and Hearing Date for Final Court Approval (“Class Notice”), as
5 revised and submitted as Exhibit A to the Agreement. The Court finds that the Class Notice
6 appears to fully and accurately inform the Class of all material elements of the proposed
7 Settlement, of the Class Members’ right to be excluded from the Class by submitting a written opt-
8 out request, and of each Class Member’s right and opportunity to object to the Settlement. The
9 Court further finds that the distribution of the Class Notice substantially in the manner and form
10 set forth in the Agreement and this Order meets the requirements of due process, is the best notice
11 practicable under the circumstances, and shall constitute due and sufficient notice to all persons
12 entitled thereto. The Court orders the mailing of the Class Notice by first class mail, pursuant to
13 the terms set forth in the Agreement. If a Class Notice Packet is returned because of an incorrect
14 address, the Settlement Administrator will promptly search for a more current address for the
15 Class Member and re-mail the Class Notice Packet to the Class Member no later than seven (7)
16 business days after the receipt of the undelivered Class Notice.

17 9. The Court hereby appoints ILYM Group as Settlement Administrator. No later
18 than fourteen (14) calendar days after issuance of this Order, Defendant shall provide to the
19 Settlement Administrator an electronic spreadsheet with the Class Data. This information will
20 otherwise remain confidential and will not be disclosed to anyone, except as required to applicable
21 taxing authorities, to carry out the procedures in the Agreement, or pursuant to Defendant’s
22 express written authorization or by order of the Court. The Settlement Administrator will perform
23 address updates and verifications as necessary prior to the mailing of the Class Notice. Using best
24 efforts to mail it as soon as possible, and in no event later than fourteen (14) calendar days after
25 receiving the Class information spreadsheet, the Settlement Administrator will mail the Class
26 Notice Packets to all Class Members via first-class U.S. Mail.

1 10. The Court hereby preliminarily approves the proposed procedure for exclusion
2 from the Settlement. Any Class Member may individually choose to opt-out of and be excluded
3 from the Class as provided in the Class Notice by following the instructions set forth in the Class
4 Notice. All requests for exclusion must be postmarked by no later than forty-five (45) calendar
5 days after the date of the mailing of the Class Notice. If the Class Notice Packet is re-mailed, this
6 deadline will be extended an additional fifteen (15) calendar days. Any such person who chooses
7 to opt-out of and be excluded from the Class will not be entitled to any recovery under the
8 Settlement and will not be bound by the Settlement or have any right to object, appeal or comment
9 thereon. Aggrieved Employees shall be sent their share of the PAGA Payment and will be subject
10 to the release of the PAGA Released Claims regardless of whether they opt-out of the Class.
11 Class Members who have not requested exclusion shall be bound by all determinations of the
12 Court, the Agreement, and the Judgment. A request for exclusion applies only to the individual
13 submitting the request for exclusion, and any attempt to effect an opt-out on behalf of any other
14 individual or individuals (including a group, class, or subclass of individuals) is not permitted and
15 will be deemed invalid.

16 11. Any Class Member who has not opted-out may appear at the Final Approval
17 Hearing and may object or express the Member's views regarding the Settlement, and may present
18 evidence and file briefs or other papers that may be proper and relevant to the issues to be heard
19 and determined by the Court as provided in the Class Notice. Class Members will have until the
20 deadline set forth in the Class Notice to submit their written objections to the Settlement
21 Administrator in accordance with the instructions in the Class Notice. If the Class Notice is re-
22 mailed, the deadline will be extended an additional fifteen (15) calendar days. Alternatively, Class
23 Members may appear at the Final Approval Hearing to make an oral objection.

24 12. A Final Approval Hearing shall be held before this Court on _____
25 _____, 2023, at 9:30 a.m. in Department 302 at the Civic Center Courthouse of the San
26 Francisco County Superior Court to determine all necessary matters concerning the Settlement,
27 including: whether the proposed settlement of the Action on the terms and conditions provided for
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1 in the Agreement is fair, adequate and reasonable and should be finally approved by the Court;
2 whether the Final Approval Order and Judgment should be entered herein; whether the plan of
3 allocation contained in the Agreement should be approved as fair, adequate and reasonable to the
4 Class Members; and to finally approve attorneys' fees and costs, the service awards, and the
5 expenses of the Settlement Administrator. The motion for final approval and the motion for
6 attorneys' fees, costs and service awards shall be filed with the Court and served on all counsel no
7 later than sixteen (16) court days before the hearing and both motions shall be heard at the Final
8 Approval Hearing.

9 13. Neither the Settlement nor any exhibit, document, or instrument delivered
10 thereunder shall be construed as a concession or admission by Defendant in any way that the
11 claims asserted have any merit or that this Action was properly brought as a class or representative
12 action, and shall not be used as evidence of, or used against Defendant as, an admission or
13 indication in any way, including with respect to any claim of any liability, wrongdoing, fault or
14 omission by Defendant or with respect to the truth of any allegation asserted by any person.
15 Whether or not the Settlement is finally approved, neither the Agreement, nor any exhibit,
16 document, statement, proceeding or conduct related to the Settlement or Agreement, nor any
17 reports or accounts thereof, shall in any event be construed as, offered or admitted in evidence as,
18 received as or deemed to be evidence for any purpose adverse to the Defendant, including, but not
19 limited to, evidence of a presumption, concession, indication or admission by Defendant of any
20 liability, fault, wrongdoing, omission, concession or damage.

21 14. In the event the Settlement does not become effective in accordance with the terms
22 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
23 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
24 and the Parties shall revert to their respective positions as of before entering into the Agreement,
25 and expressly reserve their respective rights regarding the prosecution and defense of this Action,
26 including all available defenses and affirmative defenses, and arguments that any claim in the
27 Action could not be certified as a class action and/or managed as a representative action. In such
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1 an event, the Court's orders regarding the Settlement, including this Order, shall not be used or
2 referred to in litigation for any purpose. Nothing in this Paragraph 14 is intended to alter the terms
3 of the Agreement with respect to the effect of the Agreement if the Settlement it is not approved.

4 15. The Court reserves the right to adjourn or continue the date of the Final Approval
5 Hearing and all dates provided for in the Agreement without further notice to Class Members, and
6 retains jurisdiction to consider all further applications arising out of or connected with the
7 proposed Settlement.

8 16. The Action is stayed and all trial and related pre-trial dates are vacated, subject to
9 further orders of the Court at the Final Approval Hearing.

10 **IT IS SO ORDERED.**

11
12 Dated: _____

HON. RICHARD B. ULMER
JUDGE, SUPERIOR COURT OF CALIFORNIA