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Attorneys for Plaintiff and the Putative Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

CRAIG AYOTTE, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

FRANK, RIMERMAN + Co., LLP, a California
Limited Liability Partnership; FRANK,
RIMERMAN ADVISORS, LLC, a California
Limited Liability Company; FRANK,
RIMERMAN INFORMATION SECURITY,
LLC, a California Limited Liability Company;
and DOES 1-50, inclusive.

Defendants.

FILED

January 26, 2024

Clerk of the Court

Superior Court of CA

County of Santa Clara

21CV386288

By: rwalker

CASE NO.: 21CV386288

Assigned to Hon. Theodore C. Zayner

CLASS ACTION

**AMENDED [~~PROPOSED~~] ORDER
GRANTING FINAL APPROVAL OF
CLASS ACTION SETTLEMENT;
AND ENTRY OF FINAL JUDGMENT
THEREON**

HEARING DATE

Date: March 29, 2023

Time: 2:30 p.m.

Dept.: 19

1 Plaintiff's Motion for Final Approval of the Class Action Settlement (the "Final Approval
2 Motion") as set forth in the Class Action and PAGA Settlement Agreement (the "Settlement
3 Agreement" and/or the "Settlement") came for hearing on March 29, 2023, in Department 19 of
4 the above-entitled court.

5 The Final Approval Motion was unopposed by Frank Rimerman + Co. LLP, Frank,
6 Rimerman Advisors, LLC, and Frank, Rimerman Information Security, LLC ("Defendants").
7 Having considered the Final Approval Motion, the Settlement Agreement, declarations in support
8 thereof, and all other materials properly before the Court and having conducted an inquiry
9 pursuant to California Rules of Court, rule 3.769(g), the Court finds that the Settlement
10 Agreement was entered by all parties in good faith, and the Settlement Agreement is approved.
11 Due and adequate notice having been given to the Settlement Class, and the Court having
12 considered the Settlement Agreement, all papers filed, and proceedings had herein and all oral
13 and written comments received regarding the proposed Settlement, and having reviewed the
14 record in this Action, and good cause appearing,

15 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

16 1. The Court, for purposes of this Judgment and Order ("Judgment"), refers to all
17 defined terms (*i.e.*, terms with initial capitalization) as set forth in the Settlement Agreement.

18 2. The Court has jurisdiction over the subject matter of this Action, the Class
19 Representative, the Settlement Class Members, and Defendants.

20 3. The Court finds that the distribution of the Notice Packet, as provided for in the
21 Order Granting Preliminary Approval of Class Action Settlement, constituted the best notice
22 practicable under the circumstances to all Settlement Class Members and fully met the
23 requirements of California law and due process under the California and United States
24 Constitution. Based on evidence and other material submitted, the actual notice to the Settlement
25 Class was adequate.

26 4. The Court finds that the instant Action presented a good faith dispute of the claims
27 alleged, and the Court finds in favor of Settlement approval. Specifically, the claims on behalf
28 of the Settlement Class Members included all claims that were pled in the operative First

1 Amended Complaint based on the facts alleged therein, including claims for failure to pay
2 minimum and overtime wages and/or failure to pay such wages at the correct rate(s) of pay), meal
3 and rest break violations, failure to reimburse business expenses, failure to provide accurate
4 itemized wage statements, failure to timely pay all wages upon separation of employment, and
5 unfair and unlawful business practices.

6 5. All Settlement Class Members who did not opt out of the Settlement are entitled
7 to payment pursuant to the Settlement and this Order.

8 6. The Court approves the Settlement, as set forth in the Settlement Agreement and
9 each of the releases and other terms, as fair, just, reasonable, and adequate as to the Settling
10 Parties. The Settling Parties are directed to perform in accordance with the terms set forth in the
11 Settlement Agreement.

12 7. The Settling Parties are to bear their own costs, except as otherwise provided in
13 the Settlement Agreement.

14 8. For purposes of effectuating this Order and Judgment (including the Released
15 Claims of Participating Class Members), this Court has certified the following class: “all current
16 and former non-exempt employees employed by Defendants in California at any time during the
17 Class Period [August 26, 2020 through May 31, 2022].” The Court deems this definition
18 sufficient for purposes of California Rules of Court, rule 3.765(a). The four Settlement Class
19 Members who opted out are excluded from any and all terms and obligations, including the
20 release(s), of the Settlement.

21 9. With respect to the Participating Class Members and for purposes of approving
22 this Settlement, this Court finds and concludes as follows: (a) the Settlement Class Members are
23 ascertainable and so numerous that joinder of all Settlement Class Members is impracticable; (b)
24 there are questions of law or fact common to the Settlement Class Members, and there is a well-
25 defined community of interest among the Settlement Class Members with respect to the subject
26 matter of the Action; (c) the claims of the Class Representative is typical of the claims of the
27 Settlement Class Members; (d) the Class Representative has fairly and adequately protected the
28 interests of the Settlement Class Members; (e) a class action is superior to other available methods

1 for an efficient adjudication of this controversy; and (f) the counsels of record for the Class
2 Representative, *i.e.*, Class Counsel, are qualified to serve as counsel for the Plaintiff in his
3 individual and representative capacity and for the Participating Class Members.

4 10. Upon the Effective Date, the Class Representative and each of the Participating
5 Class Members shall be deemed to have, and by operation of the Judgment shall have, fully,
6 finally, and forever released, relinquished, and discharged the Released Parties from the Release,
7 which is defined in the Settlement Agreement.

8 11. Neither the Settlement Agreement nor the Settlement terms contained therein, nor
9 any act performed or document executed pursuant to or in furtherance of the Settlement
10 Agreement or the Settlement (i) is or may be deemed to be or may be used by the Class
11 Representative or Participating Class Members as an admission of, or evidence of, the validity of
12 any of the Settlement Class Members' Release of claims, or of any wrongdoing or liability of
13 Defendants or any of the other Released Parties; or (ii) is or may be deemed to be or may be used
14 by the Class Representative or Participating Class Members as an admission of, or evidence of,
15 any fault or omission of Defendants or any of the other Released Parties in any civil, criminal, or
16 administrative proceeding in any court, administrative agency, or other tribunal. Defendants or
17 any of the other Released Parties may file the Settlement Agreement and/or the Judgment from
18 this Action in any other action that may be brought against it or them in order to support a defense
19 or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith
20 settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or
21 similar defense or counterclaim.

22 12. The "Settlement Amount" to be paid under the Settlement Agreement is \$775,000.
23 From this amount, Class Counsel collectively sought an award of Attorneys' Fees of \$258,333,
24 and Costs in the amount of \$13,589.80, Class Representative Service Payment for the Class
25 Representative Craig Ayotte of \$10,000.00, Settlement Administrator, ILYM, Group, Inc. costs
26 in the amount of \$8,207.20, and \$18,750 to the LWDA for PAGA Penalties. Defendants' share
27 of employer's payroll taxes on the portion of the Net Settlement Amount that is allocated as wages
28 shall be paid separately and in addition to the Settlement Amount. Defendants do not oppose

1 these requests. The Court finds that the Settlement Amount is fair, reasonable, and adequate, and
2 awards the payments as set forth above from the Settlement Amount. After deducting the
3 foregoing payments from the Settlement Amount, the remainder shall form the Net Settlement
4 Amount payable to the Participating Class Members as set forth in the Settlement Agreement and
5 as calculated by the Settlement Administrator.

6 13. The Settlement Administrator was directed to calculate the Settlement Class
7 Member's Individual Settlement Amounts from the Net Settlement Amount and issued all
8 payments in accordance with the Settlement Agreement, and in the time frames set forth in the
9 Settlement Agreement.

10 14. Settlement Class Members were provided 180 days to negotiate the Settlement
11 check from the date of issuance by the Settlement Administrator. In the event that a Settlement
12 Class Member did not negotiate his/her/their check within this time period, the uncashed check
13 along with any interest that has accrued thereon, were submitted to the State Controller's Office
14 Unclaimed Property Fund in the name of the Class Member.

15 15. This document shall constitute a Judgment for purposes of California Rule of
16 Court 3.769(h).

17 16. To date, \$11,234.42 remain uncashed after November 1, 2023. The Court directs
18 the Settlement Administrator to issue the uncashed funds to the California's State Controller's
19 Office in the name of the Participating Class Members by no later than December 4, 2023.

20 17. The Court reserves exclusive and continuing jurisdiction over the Action, the Class
21 Representative, the Settlement Class Members, and Defendants for the purposes of supervising
22 the implementation, enforcement, construction, administration, and interpretation of the
23 Settlement Agreement and this Judgment.

24
25 **IT IS SO ORDERED.**

26
27 Dated: January 26, 2024
28 _____, 2023



HON. THEODORE C. ZAYNER
JUDGE OF THE SUPERIOR COURT