

1 THE RESTIS LAW FIRM, P.C.  
William R. Restis, Esq. (Cal. Bar No. 246823)  
2 402 West Broadway, Suite 1520  
San Diego, California 92101  
3 +1.619.270.8383  
william@restislaw.com

4 AFN LAW PLLC  
5 Angus F. Ni, Esq. (Wash. Bar No. 53828)  
Admitted *pro hac vice*  
6 506 2nd Ave, Suite 1400  
Seattle, WA 98104  
7 646.453.7294  
angus@afnlegal.com

8 HGT LAW  
9 Hung G. Ta, Esq. (Cal. Bar No. 331458)  
Alex Hu, Esq. (Cal. Bar No. 279585)  
10 250 Park Avenue, 7<sup>th</sup> Floor  
New York, NY 10177  
11 (646) 453-7288  
hta@hgtlaw.com

12 *Attorneys for Plaintiff Jonathan Shomroni*  
13 *And the Putative Class*

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **COUNTY OF SAN FRANCISCO**

16 **JONATHAN SHOMRONI**, Individually and  
on behalf of others similarly situated,

17 Plaintiff,

18 v.

19 **FEI LABS INC.**, a Delaware Corporation,  
20 **JOSEPH SANTORO**, an Individual,  
21 **BRIANNA MONTGOMERY**, an Individual,  
**SEBASTIAN DELGADO**, an Individual, and  
22 **DOES 1-10**.

23 Defendants,

**Case No: CGC-22-598995**

*Assigned for all purposes to  
the Hon. Ethan P. Schulman, Dep't 304*

**CLASS ACTION**

**NOTICE OF PLAINTIFF'S MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

Date: May 19, 2023

Time: 11:00 am

Dept: 304

Judge: Hon. Ethan P. Schulman

1  
2 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

3 **PLEASE TAKE NOTICE** that Plaintiff Jonathan Shomroni (“Plaintiff”), on May 19, 2023,  
4 at 11:00 am in Department 304, located at 400 McAllister Street, San Francisco, CA 92102, the  
5 Honorable Ethan P. Schulman presiding, will and hereby does move the Court for an order pursuant  
6 to California Code of Civil Procedure § 382, and California Rules of Court 3.766 and 3.769:

7 (1) preliminarily approving the Settlement between Plaintiff and defendants Fei Labs  
8 Inc. (“Fei Labs”), Joseph Santoro, Brianna Montgomery and Sebastian Delgado (collectively, the  
9 “Individual Defendants”, and all together “Defendants”) by finding the Settlement to be fair,  
10 adequate, and reasonable to the Class Members, free of collusion or indicia of unfairness, and within  
11 the range of possible judicial approval;

12 (2) conditionally certifying for purposes of, and solely in connection with, the  
13 Settlement, the Class Members comprised of:

14 **all Persons who, directly or through an intermediary, purchased the digital**  
15 **assets “FEI” and “TRIBE” in exchange for ETH as part of the Genesis Group**  
16 **between March 31, 2021 and April 3, 2021, including those who ‘pre-swapped’**  
17 **their Genesis Group FEI token allocation for TRIBE tokens. Excluded from the**  
18 **Class are: (i) Defendants; (ii) any person, firm, trust, corporation, or other entity**  
19 **directly affiliated with any Defendant; (iii) any justice or judicial officer**  
20 **presiding over this matter and members of their immediate families and judicial**  
21 **staff. Also excluded from the Class are those Persons who timely and validly**  
22 **request exclusion.**

23 (3) appointing and designating Plaintiff Jonathan Shomroni as class representative for  
24 the Class Members;

25 (4) appointing and designating The Restis Law Firm, P.C., AFN Law PLLC and HGT  
26 Law as class counsel for the Class Members;

27 (5) approving, as to form and content, the proposed Class Notice, attached as Exhibits G  
28 (Summary Notice) and H (Long Form Notice) to Declaration of William R. Restis, the individual  
direct notice plan, the publication notice plan, and the form and content of the Settlement Website;

(6) appointing and designating Simpluris as the Claims Administrator;

- 1 (7) approving the form of claims, objections, exclusions;
- 2 (8) staying the Litigation for all purposes except approval of the Settlement, and
- 3 enjoining Class Members from otherwise prosecuting any Released Claims against any of the
- 4 Defendants; and
- 5 (9) scheduling a final Settlement Hearing.

6 This Motion will be based upon this Notice, the accompanying Memorandum of Points and  
7 Authorities, and declarations of William R. Restis and Claims Administrator and supporting exhibits  
8 thereto, any oral argument thereto, and upon the material contained in the file of the Court.

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Respectfully submitted,

DATED: April 21, 2023

THE RESTIS LAW FIRM, P.C.

/s/ William R. Restis  
William R. Restis, Esq.  
402 West Broadway, Suite 1520  
San Diego, CA 92101  
Tel: +1.619.270.8383  
Email: william@restislaw.com

AFN LAW PLLC  
Angus F. Ni, Esq., *pro hac vice*  
506 2nd Ave, Suite 1400  
Seattle, WA 98104  
646.453.7294  
angus@afnlegal.com

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New York, NY 10177  
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hta@hgtlaw.com

*ATTORNEYS FOR PLAINTIFF  
AND THE PUTATIVE CLASS*

1 THE RESTIS LAW FIRM, P.C.  
William R. Restis, Esq. (Cal. Bar No. 246823)  
2 402 West Broadway, Suite 1520  
San Diego, California 92101  
3 +1.619.270.8383  
william@restislaw.com

4 AFN LAW PLLC  
5 Angus F. Ni, Esq. (Wash. Bar No. 53828)  
Admitted *pro hac vice*  
6 506 2nd Ave, Suite 1400  
Seattle, WA 98104  
7 646.453.7294  
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18 v.

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21 **BRIANNA MONTGOMERY**, an Individual,  
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22 **DOES 1-10**.

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**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
PLAINTIFF'S MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

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1 **I. INTRODUCTION**

2 Plaintiff Jonathan Shomroni seeks preliminary approval of a class action Settlement<sup>1</sup> entered  
3 into with defendants Fei Labs Inc. (“Fei Labs”), Joseph Santoro, Brianna Montgomery and Sebastian  
4 Delgado (the “Individual Defendants,” and collectively, “Defendants”). If approved, the Settlement  
5 will create a Settlement Fund of \$17,850,000 (USD) to pay class claims, administration expenses,  
6 taxes, and any attorneys’ fees and costs and incentive awards. *See* Declaration of William R. Restis  
7 in Support of Motion for Preliminary Approval (“Restis Decl”), Ex. A (“Stipulation”) at §§ 1.38-  
8 1.39. The Settlement Fund represents a significant proportion, if not all, of Class Members’ estimated  
9 damages, approximately 68% of Defendants’ collective corporate and personal assets, net of  
10 liabilities, and approximately 86% of Fei Labs’s corporate assets, which counsel confirmed through  
11 discovery. Restis Decl., ¶¶ 29-30. This is an excellent settlement result given the novel and complex  
12 issues inherent in applying the federal securities laws to a purportedly decentralized crypto project,  
13 the resultant risks involved in establishing liability and damages, and the likelihood that Defendants’  
14 remaining assets would be expended through protracted litigation and ultimately unavailable to  
15 satisfy any judgment.

16 The proposed Settlement is the result of serious, informed, non-collusive negotiations  
17 conducted over five months and facilitated by mediator Michelle Yoshida of Phillips ADR  
18 Enterprises. *Id.*, ¶¶ 11-13, 21-31. Prior to the mediation, Plaintiff’s Counsel retained a blockchain  
19 analysis and tracing firm to conduct a preliminary trading analysis. *Id.*, ¶ 13. Before, during, and  
20 after the mediation, the Defendants provided Plaintiff with discovery about the proceeds Defendants  
21 obtained from the FEI/TRIBE project, and their assets, liabilities, salaries and other financial  
22 information. Plaintiff submits that the Settlement reflects an excellent outcome in light of the Class’s  
23 estimated damages, and Defendants’ available assets.

24 Accordingly, Plaintiff respectfully requests this Court grant preliminary approval of the  
25 Settlement and the Stipulation; conditionally certify the Class, appoint Plaintiff Shomroni as

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27 <sup>1</sup> Defined terms used herein have the meaning ascribed to them in the March 30, 2023 Stipulation  
28 of Settlement, attached as Exhibit A to the Declaration of William R. Restis.

1 settlement class representative, and THE RESTIS LAW FIRM, P.C., AFN LAW PLLC and HGT LAW  
2 as settlement class counsel; approve the parties' Notice plan, exclusion, objection and claims  
3 process; appoint the Claims Administrator; stay all further proceedings; and set a settlement approval  
4 schedule, including the date and time of a final Settlement Hearing approximately 120 days after  
5 preliminary approval. *See* Proposed Preliminary Approval Order.

## 6 **II. SETTLEMENT BACKGROUND**

### 7 **A. Background and Procedural History**

8 Between March 31, 2021 and April 3, 2021 inclusive, Plaintiff Jonathan Shomroni and other  
9 putative Class Members purchased the digital assets FEI and TRIBE from the FEI Protocol through  
10 a fundraiser called the "Genesis Event." Complaint ¶¶ 2, 26-29, 33, 56.

11 Plaintiff alleged that the Genesis Event offering was neither registered pursuant to the  
12 Securities Act of 1933 ("Securities Act"), nor subject to any exemption from registration. *Id.* ¶¶ 1,  
13 168. Plaintiff alleged that all Defendants violated Sections 5 and 12(a)(1) of the Securities Act, 15  
14 U.S.C. §§ 77e and 77l(a)(1). Plaintiff also alleged that the Individual Defendants were "control  
15 persons" of Fei Labs under Section 15 of the Securities Act, 15 U.S.C. § 77o.<sup>2</sup>

16 On July 18, 2022, Defendants filed a demurrer. On August 19, 2022, Plaintiff opposed. On  
17 September 27, 2022, the Court issued its corrected order overruling the demurrer. Restis Decl., ¶ 3.

18 At around the same time that the Court was considering Defendants' demurrer, the  
19 "decentralized autonomous organization" (or "DAO") governing the TRIBE protocol held a vote  
20 of all token holders, then conducted a redemption event that reduced potential losses to the Class.

21 Specifically, in September 2022, in response to a proposal presented by Fei Labs, the  
22 TRIBE DAO approved a proposal called the "Final Redemption," under which assets controlled by  
23 the DAO would be returned to holders of FEI and TRIBE. Restis Decl., ¶ 4.<sup>3</sup> Specifically, the Final  
24 Redemption allows all holders of FEI to tender their FEI tokens in exchange for an equivalent  
25 number of "DAI" stable coins that are also pegged 1:1 to the U.S. dollar. In addition, the Final

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26 <sup>2</sup> *Cf.* Complaint, ¶ 158 with Stipulation, at § 1.5 (definition of "Class").

27 <sup>3</sup> The information about the Final Redemption is public, and was summarized from websites  
28 related to the TRIBE DAO and token project. *See* Restis Decl., ¶ 5.

1 Redemption provides that current holders of TRIBE can tender their TRIBE in return for Ethereum  
2 and other crypto tokens. Each TRIBE holder receives a basket of tokens that constitutes the TRIBE  
3 holder’s proportionate share of the sums held in the TRIBE DAO “Protocol Controlled Value” (*i.e.*,  
4 all remaining assets out of the amounts raised during the Genesis Event), after DAI is set aside for  
5 the redemption of FEI. *Id.*

6 The Final Redemption was structured in such a way that TRIBE and FEI holders can redeem  
7 their tokens at any point. Regardless of when they tender, every FEI holder shall receive one DAI  
8 (equivalent to one U.S. dollar) for each FEI, and every TRIBE holder shall receive a *pro rata* share  
9 of the DAO-held tokens based on the same redemption exchange rate per TRIBE. *Id.*

10 **B. Settlement Negotiations**

11 In September and October 2022, Plaintiff served interrogatories and requests for production  
12 on Defendants. *See Restis Decl.*, ¶¶ 6-8. Defendants provided responses addressing the roles of the  
13 Individual Defendants within Fei Labs, and relating to Defendants’ crypto wallet addresses, the  
14 number of TRIBE tokens Defendants had the right to receive from the Genesis Event, and activities  
15 associated with the TRIBE DAO. *Id.*, ¶ 9. In early October 2022, the Settling Parties began discussing  
16 the possibility of a settlement following the Court’s denial of Defendants’ demurrer, as the parties  
17 anticipated expending substantial resources on fulsome discovery and merits briefing, and as Plaintiff  
18 was preparing a motion for a preliminary injunction against Defendants based on Plaintiff’s concerns  
19 about the potential dissipation of assets caused by the Final Redemption. *Id.*, ¶ 10.

20 On October 20, 2022, the Settling Parties engaged Michelle Yoshida of Phillips ADR  
21 Enterprises, a respected mediator experienced in securities class action litigation, to help facilitate a  
22 settlement. *Id.*, ¶ 11; Ex. B (Mediator CV). The ensuing settlement negotiations were protracted. The  
23 parties began engaging with Ms. Yoshida in October, and submitted multiple rounds of briefing in  
24 November and early December detailing each side’s liability and damages arguments and the alleged  
25 strengths and weaknesses of each side’s case. The parties also exchanged documents and data  
26 addressing issues such as class member transactions, damages, class member contact information, the  
27  
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1 scope and certifiability of any potential class, and statutes of limitations. *Id.*, ¶ 12. Plaintiff also  
2 retained the blockchain analysis firm Blocktrace to estimate class wide damages. *See id.*, ¶ 13.

3 On December 13, 2022, the parties conducted an in-person, ten-hour mediation with Ms.  
4 Yoshida. *Id.*, ¶ 21. The December 13 mediation was unsuccessful, but the parties continued to  
5 engage in negotiations through Ms. Yoshida. *Id.*, ¶ 25. On January 5, 2023, Ms. Yoshida led a  
6 second, half-day mediation, which was also unsuccessful. *Id.*, ¶ 26. After an additional week of  
7 negotiations, on January 17, 2023, Ms. Yoshida issued a mediator’s proposal of \$17.85 million. *Id.*,  
8 ¶ 27. On January 18, 2023, the parties accepted this proposal. *Id.*

9 Thereafter, the parties continued to negotiate the major terms of the settlement. On January  
10 27, 2023, the parties signed a binding term sheet, subject to, *inter alia*, confirmatory discovery  
11 regarding Defendants’ assets. *Id.*, ¶¶ 27-32. After confirmatory discovery, during which Defendants  
12 produced detailed materials including personal bank, retirement, and investment account statements,  
13 and after further extensive negotiation as to specific terms, on March 30, 2023, the parties signed  
14 the Stipulation.

### 15 C. The Proposed Settlement

16 Pursuant to the proposed Stipulation, Defendants will pay \$17,850,000.00 to create a non-  
17 reversionary common fund for the benefit of Class Members. *See* Restis Decl. Ex. A (Stipulation),  
18 §§ 1.38 and 2.10. The Settlement Amount is to be placed into an interest-bearing escrow account  
19 within 30 days of preliminary approval. *Id.*, § 2.2. Pursuant to the Stipulation, the Settlement Fund  
20 is to be distributed as follows: (a) pay all Notice and Administrative Expenses; (b) pay all Taxes  
21 and Tax Expenses; (c) pay any Fee and Expense Award to Plaintiff’s Counsel and any Service  
22 Award to Plaintiff if approved by the Court; and (d) pay Claims, *pro rata*, to Authorized Claimant  
23 Class Members who submit timely and valid Proof of Claims. *Id.*, § 5.2. Under the Plan of  
24 Allocation developed by Chad Coffman at Global Economics Group,<sup>4</sup> an individual Class  
25 Member’s recognized losses will be calculated by comparing the USD value of (1) ETH contributed

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26 <sup>4</sup> Mr. Coffman also developed the plan of allocation in *In re Tezos Securities Litig.*, No. 17-cv-  
27 06779-RS (N.D. Cal.) (Hon. Seeborg), a class action that also involved the unregistered offering of  
28 crypto securities and claims under Sections 5 and 12(a)(1) of the Securities Act. Restis Decl., ¶ 34.

1 by the Class Member to the Genesis Event, with (2) the value derived by the Class Member from  
2 any sales of FEI and TRIBE, any FEI and TRIBE tendered into the Final Redemption, and any FEI  
3 or TRIBE held as of the day of Settlement. *See Restis Decl., Ex. C (Plan of Allocation).*

### 4 **III. ARGUMENT**

#### 5 **A. Applicable Legal Standards**

6 As a first step, a court reviews the proposed terms of the settlement and makes a preliminary  
7 determination as to its fairness, reasonableness, and adequacy. *See MANUAL COMPLEX LITIGATION*  
8 (Fourth Ed. 2004) (the “MANUAL”), § 21.632. “[T]he purpose of the preliminary evaluation is to  
9 determine only whether the proposed settlement and plan of distribution are within the range of  
10 possible approval and whether notice to the settlement class of its terms and conditions, and the  
11 scheduling of a . . . final approval hearing, will be worthwhile.” *See NEWBERG ON CLASS ACTIONS*  
12 (STATE COURTS) (4th ed. 2002) § 13:64. Because California’s courts have not clearly articulated the  
13 standards for assessing a motion for preliminary approval, California’s courts would look to the  
14 applicable federal standards.<sup>5</sup> Under the federal standards:

15 If the proposed settlement appears to be the product of serious, informed, non-collusive  
16 negotiations, has no obvious deficiencies, does not improperly grant preferential  
17 treatment to class representatives or segments of the class, and falls within the range of  
18 possible approval, then the court should direct that the notice be given to the class  
members of a formal fairness hearing.”

19 *In re Tableware Antitrust Litig.*, 484 F.Supp.2d 1078, 1079–80 (N.D. Cal. 2007) (cleaned up, citation  
20 omitted). Because some factors cannot be assessed prior to final approval, “a full fairness analysis  
21 is unnecessary at this stage.” *Alberto v. GMRI, Inc.*, 252 F.R.D. 652, 665 (E.D. Cal. 2008) (internal  
22 quotation marks and citation omitted).

23 In *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116 (2008), the Court of Appeals  
24 discussed the standard applicable on a motion for final approval, and stated that courts should  
25 consider “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further

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26 <sup>5</sup> *See Vasquez v. Sup. Ct.*, 4 Cal. 3d 800, 821 (1971) (California courts examine the Federal Rules  
27 of Civil Procedure for guidance in interpreting state class action procedure in absence of controlling  
28 state jurisprudence).



1 In addition, there were numerous issues in this Action that caused the parties to have different  
2 views of the settlement value of this case, including: (1) whether one or both of the FEI “stablecoin”  
3 tokens or TRIBE “governance” tokens are “securities” under the Securities Act; (2) whether  
4 *Morrison v. Nat’l Austl. Bank Ltd.*, 561 U.S. 247 (2010) bars application of the Securities Act to  
5 some or all transactions at issue on the basis of extraterritoriality; (3) whether Defendants are  
6 “sellers” under Section 12(a)(1) of the Securities Act; (4) whether the Individual Defendants are  
7 controlling persons under Section 15 of the Securities Act; (5) whether a class could be certified;  
8 and (6) whether damages could be established.

9 Defendants maintained throughout the litigation and mediation that Plaintiffs would not be  
10 able to overcome the above hurdles at trial. Moreover, Defendants maintained that Plaintiff would  
11 also face risks on appeal given the novel and complex nature of the law in this area and the facts at  
12 issue, and that the length of time before any final judgment – and the expenditure of the parties’  
13 resources in the interim – would be substantial.

14 2. The Proposed Settlement Is Within The Range Of Reasonableness, Based  
15 On Plaintiff’s Counsel’s Investigation And Discovery

16 The compromise reflected in the settlement is also well within the boundaries of  
17 reasonableness. *See In re Newbridge Networks Sec. Litig.*, 1998 U.S. Dist. LEXIS 23238, at \*8  
18 (D.D.C. Oct. 23, 1998) (“Courts have not identified a precise numerical range within which a  
19 settlement must fall in order to be deemed reasonable; but an agreement that secures roughly six to  
20 twelve percent of a *potential* trial recovery, while preventing further expenditures and delays and  
21 eliminating the risk that no recovery at all will be won, seems to be within the targeted range of  
22 reasonableness.”) (italics in original); *Kullar*, 168 Cal. App. 4th at 129 (at final approval, the Court  
23 must “independently satisfy[ ] itself that the consideration being received for the release of the class  
24 members’ claims is reasonable in light of the strengths and weaknesses of the claims and the risks  
25 of the particular litigation”).

26 Plaintiff believes the \$17.85 million Settlement Amount is an excellent result considering  
27 the vigorously contested claims, the estimated damages, and the assets available to pay a judgment.  
28

1 To estimate potential class-wide damages suffered by the Class, and considering the Final  
2 Redemption event, Plaintiff retained a blockchain analysis firm. Restis Decl., ¶ 13. During  
3 negotiations, Defendants produced additional data and analysis that helped to further inform  
4 Plaintiff's estimates. *Id.*, ¶ 22. Based on the above, Plaintiff estimates that Class Members suffered  
5 maximum losses on TRIBE of approximately \$171.6 million. *Id.*, ¶ 17. FEI, the stablecoin, traded  
6 below Class Members' effective cost basis between April 6-20, and again on April 23, 2021. *Id.*, ¶¶  
7 18-19. Plaintiff estimates that during this period, Class Members suffered losses of approximately  
8 \$4.6 million from sales of FEI. *Id.*, ¶ 18.

9 However, Class Members may have made profits on sales of FEI of approximately \$160  
10 million. *Id.*, ¶ 19. Pursuant to Securities Act Section 12(a), defendants who are found to have violated  
11 Section 12(a)(1) as Plaintiff alleges must pay damages equal to "the consideration paid for [the]  
12 security with interest thereon, less the amount of any income received thereon[.]" 15 U.S.C. § 77l(a).  
13 If the profits Class Members made on sales of FEI are required to be offset against losses, the Class  
14 may have suffered damages of no more than approximately \$17 million. *Id.*, ¶¶ 14-20. The  
15 Settlement Amount of \$17.850 million would then represent a recovery of potentially all of the  
16 Class's estimated damages. If profits are excluded, the Settlement would represent 10% of the  
17 Class's estimated damages. *Id.*

18 Moreover, as disclosed during the mediation, and verified through confirmatory discovery,  
19 Defendants have net assets that are less than maximum potential damages. Restis Decl., ¶¶ 23, 28-  
20 30. This is due in part to the fact that Class Members' ETH paid during the Genesis Event went to  
21 the Fei Protocol and not directly to Defendants, who instead received in kind disbursements of  
22 TRIBE. Confirmatory discovery revealed that the Settlement Amount represents approximately 68%  
23 of Defendants' total personal and corporate assets net of current liabilities. *Id.*, ¶ 29-30. As such,  
24 Plaintiff was confronted with the tradeoffs between continued litigation, where funds would be  
25 quickly spent on top-tier defense counsel and experts, and preserving these assets for settlement. *Id.*,  
26 ¶ 24. This also weighed strongly in favor of a settlement. *See Kullar*, 168 Cal. App. 4th at 133 (court  
27 should consider any "impediments to recovery").  
28



1           Accordingly, Plaintiff and his counsel were sufficiently informed about the scope of possible  
2 damages and about Defendants’ ability to pay a judgment even if Plaintiff were to prevail at trial on  
3 all counts, for the broadest possible class. *Id.* at 128.

4           Likewise, there is no overbreadth or overreach in Class Members’ releases. *See* Stipulation,  
5 §§ 1.32 (definition of “Released Claims”), 1.33 (“Released Defendants”); 1.35 (“Releasing Plaintiff  
6 Party”); *Cf.* Stipulation, § 1.5 (definition of “Class”), with Complaint, ¶ 158 (class definition);  
7 *Villacres v. ABM Indus. Inc.*, 189 Cal. App. 4th 562, 586 (2010) (release appropriate when it barred  
8 “claims based on the allegations underlying the claims in the settled class action . . . even though  
9 the precluded claim was not presented, and could not have been presented, in the class action”).

10                           3.       The Settlement Does Not Grant Preferential Treatment<sup>6</sup>

11           The type of *pro rata* recovery provided for by the Settlement, which treats all class members  
12 equally in proportion to the size of their claims, is routinely determined to be fair, reasonable and  
13 adequate. *See, e.g., Hefler v. Wells Fargo & Co.*, 2018 U.S. Dist. LEXIS 150292, at \*31 (N.D. Cal.  
14 Sep. 4, 2018) (“class members who submit timely claims will receive payments on a pro rata basis  
15 based on the date(s) class members purchased and sold . . . as well as the total number and amount  
16 of claims filed.”). Moreover, the Stipulation contains no agreed-upon attorneys’ fees or incentive  
17 award, leaving these properly to the sound discretion of the Court. *Cf. In re Bluetooth Headset*  
18 *Prods. Liab. Litig.*, 654 F.3d 935, 948 (9th Cir. 2011) (examining “the [ ] existence of a clear sailing  
19 provision”) (internal quotation marks and citation omitted).<sup>7</sup>

20                           4.       Class Counsel Are Experienced

21           Plaintiff’s Counsel are some of the most experienced in the nation in securities class actions  
22 involving digital asset sales like the Genesis Event. *See* Restis Decl., Ex. D (Curriculum Vitae of  
23 Restis Law Firm), Ex. E (CV of AFN Law), Ex. F (CV of HGT Law). In addition to experience

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24           <sup>6</sup> Concurrently filed under seal is a Supplemental Agreement which allows Defendants to terminate  
25 the Settlement if more than a certain percentage of Class Members exclude themselves.

26           <sup>7</sup> While the Stipulation contains no agreement as to attorneys’ fees or incentive award, the Notice  
27 discloses that Plaintiff’s Counsel intend to seek 25% of the Settlement Fund as a contingency fee,  
28 plus litigation costs, and a Service Award for Plaintiff in the amount of \$10,000, subject to Court  
approval. *See* Restis Decl., Ex. H, at 8.

1 with securities class actions generally, Plaintiff’s Counsel have been lead counsel in *In re Tezos*  
2 *Securities Litig.*, No. 17-cv-06779-RS (N.D. Cal.) (Hon. Seeborg) and *Hunichen v. Atonomi LLC,*  
3 *et al.*, No. 19-cv-00615-RAJ-MAT (W.D. Wash.) (Hon. Jones), both of which resulted in  
4 substantial, approved settlements for class members. As such, counsel are well positioned to  
5 evaluate the strengths and weaknesses of class member claims and to negotiate the Settlement.

6 5. The Risk, Expense, Complexity and Likely Duration of Further Litigation

7 “The proposed settlement cannot be judged without reference to the strength of plaintiffs’  
8 claims. The most important factor is the strength of the case for plaintiffs on the merits, balanced  
9 against the amount offered in settlement.” *Kullar*, 168 Cal. App. 4th at 130 (internal quotation marks  
10 omitted; citing cases). “It can be difficult to ascertain with precision the likelihood of success at trial.  
11 The Court cannot and need not determine the merits of the contested facts and legal issues at this  
12 stage” but instead “determine[s] whether the decision to settle is a good value for a relatively weak  
13 case or a sell-out of an extraordinary strong case.” *Misra v. Decision One Mortg. Co.*, 2009 U.S.  
14 Dist. LEXIS 119468, at \*19 (C.D. Cal. Apr. 13, 2009) (internal quotation marks and citations  
15 omitted).

16 While Plaintiff is confident about the strength of his claims, and will vigorously litigate them  
17 if this Settlement is not finally approved, the level of uncertainty in this case is high. Here, there is  
18 precedent favorably applying the federal securities laws to “initial coin offerings” circa 2017-2019,  
19 but Defendants structured the Genesis Event to have potentially material distinctions. For example,  
20 the ETH raised in the Genesis Event went into a so-called “smart contract” controlled by a DAO  
21 instead of directly into Defendants’ pockets. *See* Complaint, ¶¶ 60, 67, 75. FEI, one of two tokens  
22 offered in the Genesis Event, was represented and sold as a “stablecoin” pegged at one U.S. dollar.  
23 *Id.*, ¶ 39. There is no caselaw regarding whether a stablecoin can meet the “expectation of profits”  
24 prong of an “investment contract” security as set forth in *SEC v. W.J. Howey Co.*, 328 U.S. 293  
25 (1946).

26 In addition, Defendants consistently raised issues such as the applicability of the Securities  
27 Act to the Genesis Event under *Morrison*. *See, e.g.*, Demurrer, IV.A. Defendants also challenged the  
28

1 applicability of the Securities Act to their conduct, arguing that they were not statutory “sellers” vis-  
2 à-vis Plaintiff and relied upon *Jensen v. iShares Trust*, 44 Cal. App. 5th 618, 647 (2020), the only  
3 California precedent to address this issue. Demurrer, IV.B.

4 Damages also presented a potential difficulty. Blockchain records memorialize every  
5 transfer from every Genesis wallet, and issues such as gains by Class Members from token “staking”  
6 further complicated any analysis, making it possible for Defendants to mount a potentially strong  
7 case that Class Members have low damages. *See* Restis Decl., at 4 n.3. Here, analysis performed by  
8 Blocktrace also indicated potential *profits* on sales of FEI that might offset damages. *Id.*, ¶¶ 14-20.

9 Any one of these or other issues going to the merits, damages, or certifiability of any class  
10 could mean that Plaintiff and the proposed Class recover nothing. *See Ziegler v. Dale*, 2021 U.S.  
11 Dist. LEXIS 259531, at \*25 (D. Wyo. Oct. 22, 2021) (noting “Serious questions of law and fact  
12 exist that will sharpen if discovery continues, which create uncertainty in establishing liability,  
13 damages, and class certification.”) (citations omitted); *Rebney v. Wells Fargo Bank*, 220 Cal. App.  
14 3d 1117, 1140 (1990), *overruled on other grounds by Hernandez*, 4 Cal. 5th 260 (2018) (“[N]othing  
15 is assured ... in such complex litigation as this, which would strain the cognitive capacities of any  
16 jury. Defense judgments were hardly beyond the realm of possibility.”).

17 Finally, the strength of Plaintiff’s claims means little if Defendants have no ability to pay a  
18 significant judgment. *See Class Plaintiffs v. Seattle*, 955 F.2d 1268, 1295 (9th Cir. 1992) (“settling  
19 defendant’s ability to pay may be a proper factor to be considered in evaluating a proposed class  
20 action settlement”); *Henry v. Little Mint, Inc.*, 2014 U.S. Dist. LEXIS 72574, at \*17-18 (S.D.N.Y.  
21 May 23, 2014) (one factor to consider is “the ability of the defendants to withstand a greater  
22 judgment”) (*citing City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974)).

23 Here, Defendants did not directly receive the ETH that was collected during the Genesis  
24 Event, as it went into a smart contract called the “Protocol Controlled Value.” Instead, their funds  
25 consist of cash left over from \$19 million invested by venture funds into Fei Labs, proceeds derived  
26 from Defendants’ sales or investment of their own allocations of TRIBE, and the Individual  
27 Defendants personal funds derived elsewhere. Complaint, ¶ 81; Restis Decl., ¶¶ 29-30. These  
28

1 proceeds amounted to approximately \$37.3 million in cash, ETH, stable coins and other volatile  
2 crypto assets such as TRIBE held by Fei Labs at the time of settlement. *Id.*, ¶¶ 28-29. Defendants  
3 also had various liabilities including corporate tax liabilities and contractual obligations of  
4 approximately \$16.6 million. *Id.*, ¶ 29.

5 Under these circumstances, the fact that Plaintiff was able to secure a settlement of  
6 potentially all of the Class’s damages, and 68% of Defendants’ net assets, is an excellent result.  
7 *Ziegler*, 2021 U.S. Dist. LEXIS 259531, at \*25-26 (“the Defendants’ financial condition and ability  
8 to pay were also central to the parties' settlement negotiations. As noted above, the Parties exchanged  
9 financial information, which confirmed to Class counsel that the Settlement accurately reflects the  
10 Defendants’ ability to pay. This casts substantial doubt on the benefits of further litigation.”).

11 Conversely, continuing to litigate this action would require continued and extensive  
12 resources to proceed through trial, post-trial motions, and likely appeal. “Avoiding such a trial and  
13 the subsequent appeals in this complex case strongly militates in favor of settlement ....” *Nat’l Rural*  
14 *Telecomms. Coop. v. DirecTV*, 221 F.R.D. 523, 527 (C.D. Cal. 2004). Thus, “unless the settlement  
15 is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation  
16 with uncertain results.” *Id.* at 526 (internal quotation marks and citations omitted).

17 **C. The Settlement Class Should Be Provisionally Certified**

18 Section 382 of the Code of Civil Procedure authorizes class certification when “the question  
19 is one of a common or general interest, of many persons, or when the parties are numerous, and it is  
20 impracticable to bring them all before the court....” Code Civ. Proc., § 382. The burden is on the  
21 party seeking certification to establish the existence of both an ascertainable class and a well-defined  
22 community of interest. *Global Minerals & Metals Corp. v. Sup. Ct.*, 113 Cal. App. 4th 836, 848  
23 (2003). The community of interest requirement embodies three factors: “(1) predominant common  
24 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and  
25 (3) class representatives who can adequately represent the class.” *Luckey*, 228 Cal. App. 4th at 92  
26 (internal quotation marks and citation omitted). Because the Court is evaluating certification only in  
27 the context of a settlement, the Court’s evaluation is somewhat different than when the class action  
28

1 has not yet settled. *Id.* at 93. Because no trial is anticipated, the court’s review of certification of a  
2 settlement-only class is lessened in some respects, but those designed to protect absent class  
3 members are heightened. *Id.* at 93-94.

4 Here, the requirements for provisional certification are met. First, blockchain records reveal  
5 that 17,570 wallet addresses associated with Class Members contributed ETH to the Genesis Event.  
6 Restis Decl., ¶ 45.<sup>8</sup> This is an ascertainable class, that is sufficiently numerous. *Medrazo v. Honda*  
7 *of N. Hollywood*, 166 Cal. App. 4th 89, 101 (2012) (“A class is ascertainable if it identifies a group  
8 of unnamed plaintiffs by describing a set of common characteristics sufficient to allow a member of  
9 that group to identify himself or herself as having a right to recover based on the description.”)  
10 (internal quotation marks and citation omitted).

11 There are questions of law and fact common to the Class Members, such as: (a) whether the  
12 Genesis Event and/or FEI and/or TRIBE tokens are “securities” under the *Howey* test; (b) whether  
13 Defendants were “sellers” subject to liability under Section 12(a)(1) of the Securities Act; (c)  
14 whether the Genesis Event was a “domestic” transaction under *Morrison*, 561 U.S. at 274; and (d)  
15 the proper calculation of damages under Section 12(a)(1). *See Sav-On Drug Stores, Inc. v. Sup. Ct.*,  
16 34 Cal. 4th 319, 341 (2004) (“common issues may predominate even if each member of the class  
17 must prove his separate claim to a portion of any recovery by the class”) (internal quotation marks  
18 and citation omitted).

19 In addition, Plaintiff’s claims are typical of Class Members because he is a member of the  
20 Class. Plaintiff is a person who purchased the digital assets FEI and TRIBE in exchange for ETH as  
21 part of the Genesis Group of investors. *See* Complaint, ¶ 158; *cf.* Stipulation, § 1.5 (“Class”  
22 definition); *Johnson v. GlaxoSmithKline, Inc.*, 166 Cal. App. 4th 1497, 1509 (2008) (“The test of  
23 typicality is whether other members have the same or similar injury, whether the action is based on  
24 conduct which is not unique to the named plaintiffs, and whether other class members have been  
25 injured by the same course of conduct.”) (internal quotation marks and citation omitted).

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27 <sup>8</sup> It is likely that some Class Members used multiple wallets to contribute to the Genesis Event,  
28 meaning that the number of Class Members will be less than 17,570.

1 Finally, Plaintiff and Plaintiff’s Counsel have represented, and will continue to adequately  
2 represent, Class Members. The “primary criterion for determining whether a class representative has  
3 adequately represented a class is whether the representative, through qualified counsel, ‘vigorously  
4 and tenaciously protected the interests of the class.’” *Simons v. Horowitz*, 151 Cal. App. 3d 834, 846  
5 (1984) (citation omitted). Here, Plaintiff and Class Counsel adequately represented Class Members  
6 by defeating Defendants’ demurrer. Counsel has negotiated, and Plaintiff has approved, a Settlement  
7 that provides an excellent financial recovery for Class Members. The Settlement is the product of a  
8 hard-fought negotiation facilitated by a renowned mediator. The class is therefore adequately  
9 represented. *See Hays v. Eaton Grp Attys., LLC*, 2019 U.S. Dist. LEXIS 17029, at \*15-16 (M.D. La.  
10 Feb. 4, 2019) (“it will follow generally that an attorney who secures and submits a fair and adequate  
11 settlement has represented the client class fairly and adequately”) (citing *Parker v. Anderson*, 667  
12 F.2d 1204, 1211 (5th Cir. 1982)).

13 **D. The Proposed Form of Class Notice and Notice Plan Will Apprise the Class**  
14 **Members of the Terms of the Proposed Settlement and Class Members Rights**

15 Assuming the Court’s *prima facie* review determines the Settlement is fair and adequate, a  
16 court must then consider the adequacy of notice to be sent to the class. MANUAL, § 21.632 at 321.  
17 Pursuant to Cal. Rules of Court, Rule 3.769(f), “[t]he notice must contain an explanation of the  
18 proposed settlement and procedures for class members to follow in filing written objections to it and  
19 in arranging to appear at the settlement hearing and state any objections to the proposed settlement.”  
20 *See also* Cal. Rules of Court, Rule 3.766(d) (describing the content of class notice generally).

21 Here, there are no physical or email address information for absent Class Members. Restis  
22 Decl., ¶ 41. However, blockchain records from the Genesis Event contain the Ethereum wallet  
23 addresses of every Class Member. *Id.* These wallets, while unable to receive e-mails, are able to  
24 receive digital “non-fungible tokens” or “NFTs” containing customized information such as an  
25 image of the notice of settlement. Accordingly, Plaintiff required potential claims administrators<sup>9</sup> to

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26 <sup>9</sup> Plaintiff’s Counsel initiated requests for proposals to four top administrators. Restis Decl., ¶ 43.  
27  
28

1 develop a notice plan that would include individual direct notice through an NFT containing the  
2 Summary Notice. *See* Simpluris Decl., ¶ 9-11; Restis Decl., Ex. G (**Summary Notice**); *cf. Silber v.*  
3 *Mabon*, 957 F.2d 697, 700 n.3 (9th Cir. 1992) (“It is generally acknowledged that the touchstones  
4 of due process in the class context are notice and adequacy of representation.”).

5 Due to the nature of blockchains, the NFT is expected to reach 100% of Class Members.  
6 Simpluris Decl., ¶¶ 9-10. The NFT will contain unique identifiers that allow the Claims  
7 Administrator to verify receipt, and to facilitate and verify claims. *Id.*, ¶ 10. NFT notice may be  
8 repeated to boost response rates, as the Administrator will monitor whether Class Members have  
9 seen the NFT and clicked their links to the Settlement Website. *See Id.*, ¶ 10. A link to the Settlement  
10 Website will also be posted prominently on the websites Defendants used in connection with the  
11 project. Specifically, Fei Labs is required to prominently post a link to the Settlement Website on  
12 <https://fei.money>, <https://tribedao.xyz>, <https://tribe.fei.money>, and <https://medium.com/fei-protocol>.  
13 Restis Decl. Ex. A (Stipulation), § 7.2. The Claims Administrator will also publish the Summary  
14 Notice in PR Newswire, and on crypto-focused websites and social media such as Twitter. Simpluris  
15 Decl., ¶ 9.

16 The contents of the Notice itself are based on templates for securities class actions provided  
17 by the Federal Judicial Center. *See* Stipulation, § 7.4; Restis Decl., ¶ 40.<sup>10</sup> The Summary Notice will  
18 direct Class Members to the Settlement Website, which contains the Long Form Notice in plain  
19 English (Restis Decl., **Ex. H**), FAQs, the Stipulation, the pleadings, the order granting preliminary  
20 approval, an electronic claim form, the motions for any Fee and Expense Award and Service  
21

22  
23 Three were able to develop an NFT individual notice program, and one proposal was clearly  
24 superior. *Id.*, ¶ 44. The proposed Claims Administrator Simpluris developed the most sophisticated  
25 NFT notice plan, and was also the least expensive bid at approximately \$175,000. *Id.* The Court  
26 should approve Simpluris as the Claims Administrator.

27 <sup>10</sup> *See Low v. Trump Univ., LLC*, 881 F.3d 1111, 1115 (9th Cir. 2018) (“The notices conformed,  
28 almost verbatim, to model class action notices developed by the Federal Judicial Center.”); *Galeener*  
*v. Source Refrigeration & Hvac, Inc.*, 2015 U.S. Dist. LEXIS 193092, at \*6 (N.D. Cal. Aug. 20,  
2015) (“The notice was clear and organized, following the model forms provided by the Federal  
Judicial Center....”).

1 Award<sup>11</sup> and for final approval (when filed), and important dates and deadlines such as exclusion,  
2 opt out, and the final Settlement Hearing. Simpluris Decl., ¶ 9.

3 The above proposed notice plan provides for individual and direct notice, is extremely robust,  
4 and constitutes the best notice practicable under the circumstances. *See Mullane v. Central Hanover*  
5 *Bank & Trust Co.*, 339 U.S. 306, 314 (1950) (best practicable notice is that which is “reasonably  
6 calculated, under all the circumstances, to apprise interested parties of the pendency of the action  
7 and afford them an opportunity to present their objections”).

8 **E. Proposed Timeline for Events Should be Adopted**

9

Event	Date
10 Administrator and Fei Labs launch the Settlement 11 Website; disseminate the Summary Notice; commence 12 publication Notice	Preliminary Approval + 10 days
13 Deadline to request exclusion	Preliminary Approval + 70 days
14 Deadline for Administrator’s Declaration of Compliance, 15 and list of Class Members who requested exclusion	Preliminary Approval + 80 days
16 Deadline for Plaintiff’s Motion for Final Approval, and 17 for Fee and Expense Award and/or Service Award	Preliminary Approval + 85 days
18 Deadline to file Claims, object, or move to intervene	Preliminary Approval + 95 days
19 Deadline for replies to Motion for Final Approval, and 20 for Fee and Expense Award and/or Service Award, and 21 to file objections with Court	Preliminary Approval + 105 days
22 Final Approval Hearing	Preliminary Approval + 120 days

23 **IV. CONCLUSION**

24 For all these reasons, Plaintiff believes the Settlement is an excellent result for the proposed  
25 Class. Plaintiff respectfully requests that the Court grant preliminary approval by entering the  
26 proposed preliminary approval order.

27 Respectfully submitted,

28 DATED: April 21, 2023

THE RESTIS LAW FIRM, P.C.

<sup>11</sup> Plaintiff’s Counsel’s motion for attorneys’ fees and costs, and petition for incentive award, will be posted on the settlement website for class member review prior to the objection deadline.



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/s/ William R. Restis  
William R. Restis, Esq.  
402 West Broadway, Suite 1520  
San Diego, CA 92101  
Tel: +1.619.270.8383  
Email: william@restislaw.com

AFN LAW PLLC  
Angus F. Ni, Esq., *pro hac vice*  
506 2nd Ave, Suite 1400  
Seattle, WA 98104  
646.453.7294  
angus@afnlegal.com

HGT LAW  
Hung G. Ta, Esq.  
Alex Hu, Esq.  
250 Park Avenue, 7<sup>th</sup> Floor  
New York, NY 10177  
(646) 453-7288  
hta@hgtlaw.com

*ATTORNEYS FOR PLAINTIFF  
AND THE PUTATIVE CLASS*

1 THE RESTIS LAW FIRM, P.C.  
William R. Restis, Esq. (Cal. Bar No. 246823)  
2 225 Broadway, Suite 2220  
San Diego, California 92101  
3 (619) 270-8383  
william@restislaw.com

4 AFN LAW PLLC  
5 Angus F. Ni, Esq. (Wash. Bar No. 53828)  
Admitted *pro hac vice*  
6 506 2nd Ave, Suite 1400  
Seattle, WA 98104  
7 (646) 453-7294  
angus@afnlegal.com

8 HGT LAW  
9 Hung G. Ta, Esq. (Cal. Bar No. 331458)  
Alex Hu, Esq. (Cal. Bar No. 279585)  
10 250 Park Avenue, 7<sup>th</sup> Floor  
New York, NY 10177  
11 (646) 453-7288  
hta@hgtlaw.com

12 *Attorneys for Plaintiff Jonathan Shomroni*  
13 *And the Putative Class*

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **COUNTY OF SAN FRANCISCO**

16 **JONATHAN SHOMRONI**, Individually and  
on behalf of others similarly situated,

17 Plaintiff,

18 v.

19 **FEI LABS INC.**, a Delaware Corporation,  
20 **JOSEPH SANTORO**, an Individual,  
21 **BRIANNA MONTGOMERY**, an Individual,  
**SEBASTIAN DELGADO**, an Individual, and  
22 **DOES 1-10**.

23 Defendants,

**Case No: CGC-22-598995**

*Assigned for all purposes to  
the Hon. Ethan P. Schulman, Dep't 304*

**CLASS ACTION**

**DECLARATION OF WILLIAM R. RESTIS  
IN SUPPORT OF PLAINTIFF'S MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

Date: May 19, 2023

Time: 11:00 a.m.

Dept: 304

Judge: Hon. Ethan P. Schulman

1 I, William R. Restis, hereby declare as follows:

2 1. I am the managing member of THE RESTIS LAW FIRM, P.C. (“RLF”), counsel for  
3 Plaintiff and proposed settlement class representative Jonathan Shomroni (“Plaintiff”), and the  
4 proposed Class Members<sup>1</sup> in the above captioned case. I have personal knowledge of the matters set  
5 forth herein, based on my active participation in all material aspects of this litigation. If called upon,  
6 I could and would testify competently to the facts herein based upon my personal involvement in  
7 this case. I submit this declaration in support of Plaintiff’s Motion for Preliminary Approval of Class  
8 Action Settlement filed concurrently herewith.

9 2. Plaintiff seeks preliminary approval of a class action settlement with defendants Fei  
10 Labs Inc. (“Fei Labs”), Joseph Santoro, Sebastian Delgado, and Brianna Montgomery (collectively,  
11 the “Individual Defendants,” and together with Fei Labs, “Defendants”). A true and correct copy of  
12 the Stipulation of Settlement (the “Stipulation”), dated March 30, 2023, is attached hereto as **Exhibit**  
13 **A.**

14 **A. Initiation of Litigation and Defendants’ Demurrer**

15 3. Plaintiff filed his class action complaint on April 1, 2022. Defendants filed their  
16 demurrer to the Complaint on July 18, 2022. The Court overruled Defendants’ demurrer on  
17 September 16, 2022, and a corrected decision was issued on September 27, 2022.

18 **B. The “Final Redemption” Event**

19 4. In September 2022, in response to a proposal presented by Fei Labs, the TRIBE  
20 “DAO”<sup>2</sup> approved a proposal called the “Final Redemption,” under which assets controlled by the  
21 DAO are being returned to holders of FEI and TRIBE. Specifically, the Final Redemption allows all  
22 holders of FEI to tender their FEI tokens in exchange for an equivalent number of “DAI” stablecoins  
23 that are pegged 1:1 to the U.S. dollar. In addition, the Final Redemption provides that current holders  
24 of TRIBE can tender their TRIBE tokens in exchange for Ethereum and other crypto tokens. The  
25 token basket that each TRIBE holder can receive constitutes the TRIBE holder’s proportionate share

26 <sup>1</sup> Unless otherwise noted, defined terms used herein have the same meaning as the Settling Parties’  
27 Stipulation, attached hereto as Exhibit A.

28 <sup>2</sup> A “DAO” is a “decentralized autonomous organization” controlled by the votes of token holders.

1 of the sums held in the TRIBE “Protocol Controlled Value” (*i.e.*, all remaining assets from the  
2 amounts raised during the Genesis Event), after DAI is set aside for the redemption of FEI. The Final  
3 Redemption was structured in such a way that TRIBE and FEI holders can redeem their tokens at  
4 any point. Regardless of when they tender, every FEI holder shall receive one DAI (equivalent to  
5 one U.S. dollar) for each FEI, and every TRIBE holder shall receive a *pro rata* share of the remaining  
6 DAO-held tokens based on the same redemption exchange rate per TRIBE.

7 5. The above information related to the so-called Final Redemption is publicly available  
8 at <https://tribe.fei.money/t/tip-121-proposal-for-the-future-of-the-tribe-dao/4475/22> and  
9 <https://tribedao.xyz/governance>.

10 **C. Discovery and Settlement Negotiations**

11 6. On or around September 29, 2022, Plaintiff served special interrogatories on  
12 Defendants relating to their control of digital wallet addresses holding or controlling FEI and TRIBE.

13 7. On or around October 10, 2022, Plaintiff served requests for production of documents  
14 on Defendants relating to their promotion and control of the Genesis Event, their receipt of proceeds  
15 from the Genesis Event, the control and management of Fei Labs, the assets of Fei Labs, their  
16 marketing or promotion of the Genesis Event, their control of websites used to execute the Genesis  
17 Event, their control or operation of the TRIBE DAO, the identity of Class Members, and the scope  
18 of investments into Fei Labs by institutional backers.

19 8. On or around October 17, 2022, Plaintiff served additional special interrogatories  
20 relating to Defendants’ crypto digital wallet addresses and other assets, as well as the Individual  
21 Defendants’ positions within Fei Labs.

22 9. Defendants provided interrogatory responses addressing the roles of the Individual  
23 Defendants within Fei Labs, and relating to Defendants’ crypto wallet addresses, the number of  
24 TRIBE tokens Defendants had the right to receive from the Genesis Event, and activities associated  
25 with the TRIBE DAO.

26 10. The parties began discussing the possibility of settlement in early October 2022, after  
27 the Court overruled Defendants’ demurrer to the Complaint, and as Plaintiff was preparing a motion  
28

1 for preliminary injunction against Defendants based on Plaintiff's concerns about the potential  
2 dissipation of Class assets caused by the Final Redemption. The parties agreed that any settlement  
3 negotiations could be facilitated by an experienced mediator.

4 11. On or around October 20, 2022, the parties agreed to select Michelle Yoshida of the  
5 preeminent mediation firm, Phillips ADR Enterprises, to be the mediator. A copy of Ms. Yoshida's  
6 Curriculum Vitae is attached hereto as **Exhibit B**.

7 12. In preparation for the mediation, the parties submitted two rounds of mediation briefs  
8 each in November and early December 2022. To facilitate an informed mediation session, the parties  
9 entered into a confidentiality agreement and protective order. During November and early December  
10 2022, the parties exchanged documents and data addressing issues such as class member  
11 transactions, damages, class member contact information, the scope and certifiability of any  
12 potential class, and statutes of limitations.

13 13. In preparation for mediation, Plaintiff retained the blockchain analysis firm  
14 Blocktrace to estimate class-wide damages. This expert analysis took into account blockchain  
15 records, including the effective price of FEI and TRIBE, Class Member transfers of FEI and TRIBE  
16 obtained in the Genesis Event, trading volumes and prices on the secondary market for FEI and  
17 TRIBE, and statistics related to the Final Redemption.<sup>3</sup>

18 14. Based on Blocktrace's analysis, Plaintiff estimates that Class Members may have  
19 suffered approximately \$17 million of losses, based on an examination of the damages (or profits)  
20 with respect to TRIBE and FEI, as discussed further below.

21 15. As confirmed by Ethereum blockchain records, in the Genesis Event, Class Members  
22 contributed 639,235.5924 ETH (Ethereum) tokens and received 1,302,613,195.3260 FEI tokens in  
23 return. This amounted to a gross price of \$1 per FEI. During this Genesis Event, Class Members  
24 elected to "pre-swap" 385,878,266.8869 FEI tokens for 119,248,244.5574 TRIBE Tokens. *See*

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25  
26 <sup>3</sup> Blockchain records also memorialize other transactions by FEI and TRIBE holders, such as  
27 providing FEI and TRIBE into "liquidity pools" on decentralized exchanges that earn rewards for  
28 the FEI and TRIBE holders in a manner comparable to interest or dividends.

1 Complaint ¶¶ 87-89 (discussing the pre-swap). This resulted in a gross price of \$3.23 per TRIBE.  
2 However, as noted in the Complaint, Defendants issued 100 million “bonus” TRIBE tokens to Class  
3 Members in the Genesis Event. *Id.* ¶ 85 and n. 11.

4 16. If the finder of fact were to take into account the “bonus” TRIBE, each Class Member  
5 would have paid an effective price of \$0.80 per FEI and \$2.59 per TRIBE. This is consistent with  
6 the trading prices of FEI and TRIBE. On April 3, 2021, when the FEI and TRIBE tokens were  
7 released to Class Members for trading, TRIBE’s opening price was approximately \$2.59 per token,  
8 and FEI’s price immediately dropped below the \$1 peg, and traded between approximately \$0.90  
9 and \$0.68 per token through approximately April 23, 2021.

10 17. Based on the above, Plaintiff first estimated the damages suffered with respect to  
11 Class Members’ holdings of TRIBE. Most of the Class Members’ estimated damages were  
12 associated with TRIBE. These damages consisted of approximately \$162.7 million in trading losses  
13 on TRIBE, another approximately \$8.3 million of losses on TRIBE that were not sold but held until  
14 the Final Redemption, and an additional \$0.6 million of losses on TRIBE tokens that were never  
15 claimed by Class Members as part of the Genesis Event. These losses total approximately \$171.6  
16 million.

17 18. Second, Plaintiff estimated what damages were suffered with respect to Class  
18 Members’ holdings of FEI. According to coinmarketcap.com records, FEI traded below its effective  
19 cost of \$0.80 per token only between April 6-20, 2021, and on April 23, 2021. Using trading volumes  
20 from coinmarketcap.com and blockchain transaction records, Blocktrace estimated that Class  
21 Members incurred trading losses on FEI tokens of approximately \$4.6 million.

22 19. On every other trading day since the completion of the Genesis Event on April 3,  
23 2021, FEI has traded continuously above \$0.80 per token. On most days, FEI traded near \$1 per  
24 token, reflecting its function as a stablecoin pegged 1:1 to the U.S. dollar. Approximately 87% of  
25 the 916.734 million FEI were *not* traded between April 6-20, 2021 or on April 23, 2021. These FEI  
26 either were sold by Class Members at or near \$1 per token, or were redeemable into the Final  
27 Redemption for other stable coins trading at \$1. This means that approximately 796.6 million FEI  
28

1 may have been sold or redeemable at or near a \$0.20 profit per token, totaling approximately \$159.3  
2 million, that may be required to be offset against other losses on FEI or TRIBE under the Securities  
3 Act.

4 20. Therefore, Plaintiff's analysis produced a range for the damages suffered by the  
5 Class, depending on the assumptions used. If Plaintiff were required under the Securities Act to  
6 account for "bonus" TRIBE (in such a manner as to reduce the effective price paid for each FEI and  
7 TRIBE) and also to offset profits made on the sale of FEI tokens against any losses, Plaintiff would  
8 arrive at total potential damages for Class Members of approximately \$17 million. If there were no  
9 offset for profits, the Class's damages could be as high as \$191 million.

10 21. On December 13, 2022, the Parties engaged in a ten hour in-person mediation before  
11 Mediator Michelle Yoshida of Phillips ADR Enterprises.

12 22. At or before the December 13, 2022 mediation, Defendants produced additional data  
13 and analysis in mediation briefs that helped to further inform Plaintiff's damages estimates.

14 23. At the December 13, 2022 mediation, Ms. Yoshida informed Plaintiff's Counsel that  
15 Defendants claimed to have assets less than Plaintiff's best case estimated damages (excluding  
16 "bonus" TRIBE and potential profits on FEI). Defendants provided financial statements to Ms.  
17 Yoshida, which she represented to Plaintiff's Counsel that she reviewed. Defendants made specific  
18 representations to Plaintiff's Counsel about the assets derived from the Genesis Event, generated by  
19 Defendants from the FEI/TRIBE project, and liabilities associated with operating Fei Labs.

20 24. Given the disclosures about Defendants' assets and liabilities, Plaintiff was  
21 confronted with the tradeoffs between continued litigation, under which funds would be quickly  
22 spent on top-tier defense counsel and experts, and preserving these assets for settlement.

23 25. The December 13, 2022 mediation was unsuccessful, but the Parties continued to  
24 engage in negotiations through Ms. Yoshida.

25 26. On January 5, 2023, the Parties engaged in a second virtual mediation session with  
26 Ms. Yoshida. That mediation was also unsuccessful.

27 27. Subsequent to the second mediation session, on January 17, 2023, Ms. Yoshida issued  
28

1 a mediator’s proposal for the Settlement Amount, which the parties accepted on January 18, 2023.  
2 Thereafter, on January 27, 2023, the Parties executed an enforceable and binding term sheet  
3 reflecting their agreement-in-principle to fully resolve the Litigation in exchange for a cash payment  
4 of \$17,850,000 for the benefit of the Class, subject to confirmatory discovery regarding Defendants’  
5 assets, the negotiation of the final Stipulation, and approval by the Court.

6 28. The January 27, 2023 term sheet expressly conditioned the Settlement on Defendant  
7 providing Plaintiff with confirmatory discovery to substantiate the claims made by Defendants  
8 during mediation, or otherwise Plaintiff could withdraw from the Settlement.

9 29. During the months of February and March 2023, Defendants produced several  
10 hundred pages of financial documentation confirming Fei Labs’s remaining proceeds from the FEI/  
11 TRIBE project including available cash, crypto assets, wallet addresses and balances, tax advice and  
12 current liabilities. Those disclosures revealed corporate assets held in cash, stablecoins, and crypto  
13 tokens of fluctuating value. Total assets for Fei Labs before accounting for liabilities was  
14 approximately \$37.3 million. Defendants’ disclosures also revealed that Fei Labs owed  
15 approximately \$16.6 million in current liabilities and anticipated taxes. Net of liabilities, Fei Labs  
16 had available assets of approximately \$20.7 million.

17 30. Defendants’ disclosures also revealed that the Individual Defendants collectively  
18 have approximately \$5.4 million in assets unrelated to the FEI/TRIBE project, held in mostly illiquid  
19 commercial real estate.

20 31. Even after the Parties reached a settlement in principle, the adversarial process  
21 continued through two months of negotiations with respect to a final Stipulation. On March 30, 2023,  
22 the Parties signed the Stipulation.

23 32. As a result of this due diligence review, Plaintiff’s Counsel were well informed, and  
24 have concluded that the proposed Settlement is “fair, reasonable, and adequate.”

25 **D. The Plan of Allocation**

26 33. To develop the Plan of Allocation, Plaintiff’s Counsel retained Chad Coffman at  
27 Global Economics Group. Plaintiff’s Counsel determined that Mr. Coffman would be ideally suited  
28



1 to determine such a plan due to his firm's familiarity with damages calculations in crypto securities  
2 class actions such as the *In re Tezos Securities Litigation* in the Northern District of California.

3 34. A true and correct copy of the Plan of Allocation is attached hereto as **Exhibit C**.

4 **E. Qualifications of Counsel**

5 35. Plaintiff's Counsel have extensive experience prosecuting securities class actions,  
6 and in particular crypto securities cases. A true and correct copy of my legal *curriculum vitae* is  
7 attached hereto as **Exhibit D**.

8 36. A true and correct copy of the *curriculum vitae* of AFN Law PLLC is attached hereto  
9 as **Exhibit E**.

10 37. A true and correct copy of the *curriculum vitae* of HGT Law is attached hereto as  
11 **Exhibit F**.

12 **F. Class Certification and Notice**

13 38. Attached as **Exhibit G** is a true and correct copy of the Summary Notice referenced  
14 in Section 1.43 of the Stipulation, as agreed by the Settling Parties in writing.

15 39. Attached as **Exhibit H** is a true and correct copy of the Long Form Notice referenced  
16 in Section 1.21 of the Stipulation, as agreed by the Settling Parties in writing.

17 40. The Summary and Long Form class Notices were modeled on the Federal Judicial  
18 Center's template notices for securities class actions. The templates used by the parties are available  
19 at: <https://www.fjc.gov/sites/default/files/2016/ClaAct14.pdf> (securities class action short form  
20 notice template); and <https://www.fjc.gov/sites/default/files/2016/ClaAct13.pdf> (securities long  
21 form template).

22 41. During confirmatory discovery, Plaintiff confirmed the publicly-known fact that  
23 Defendants did not collect contact information from Class Members during the Genesis Event.  
24 Instead, Class Members linked their Ethereum wallets to Defendants' U.S.-based websites to make  
25 their investments, and these wallet addresses are both known to Defendants and publicly available  
26 on the Ethereum blockchain.

27 42. Understanding that the effectiveness of class notice has a material impact on the  
28

1 ability of class members to assert their rights and file claims, Plaintiff’s Counsel determined to use  
2 Class Members’ Ethereum wallet addresses to conduct an individualized notice campaign using a  
3 non-fungible-token, or NFT.<sup>4</sup>

4 43. Plaintiff solicited requests for proposals from four top administrators, including  
5 KCC, JND, Epiq, and Simpluris. A key aspect of the plan had to be an NFT due to its ability to  
6 provide individual notice. Three administrators provided proposals for notice plans that included  
7 individual notice via NFT.

8 44. One of the notice proposals was clearly superior. The proposed Claims Administrator  
9 Simpluris developed the most sophisticated NFT notice plan, and was also the least expensive bid.

10 45. Defendants have produced in csv (comma-separated value) format a list of 17,570  
11 Ethereum wallet addresses that contributed to the Genesis Event. This list of wallet addresses has  
12 been provided to Simpluris, the proposed Claims Administrator, and will be used by them to contact  
13 Class Members.

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

16 Executed on April 21, 2023 in San Diego, California.

17   
18 \_\_\_\_\_  
19 William R. Restis

20  
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27  
28 <sup>4</sup> An NFT is a unique set of data, that resides on a blockchain.

# EXHIBIT A

**STIPULATION OF SETTLEMENT**

This Stipulation of Settlement, dated March 30<sup>th</sup>, 2023 (together with all Exhibits hereto, the “Stipulation”), is made and entered into by and among: (i) plaintiff Jonathan Shomroni (“Plaintiff”), on behalf of himself and other members of the Class,<sup>1</sup> by and through their counsel; and (ii) defendants Fei Labs Inc. (“Fei Labs”), Joseph Santoro, Sebastian Delgado, and Brianna Montgomery (“Defendants” and, as to the individuals, the “Individual Defendants”), by and through their counsel, subject to the approval of the Court and the terms and conditions set forth in this Stipulation. The Stipulation is intended by the Settling Parties to fully, finally, and forever resolve, discharge, release, settle, and dismiss with prejudice the Litigation and the Released Claims against the Released Defendants.

**I. THE LITIGATION AND BENEFITS OF SETTLEMENT**

This action is currently pending before the Honorable Ethan P. Schulman in the Superior Court of California, County of San Francisco (the “Court”), under the caption *Shomroni v. Fei Labs Inc., et al.*, CGC C22-598995 (the “Litigation”). On April 1, 2022, Plaintiff filed the complaint in this Litigation (“Complaint”) against Defendants, individually and on behalf of all persons or entities who purchased the digital assets “FEI” and “TRIBE” in exchange for ETH as part of the Genesis Group, including those who “pre-swapped” their Genesis Group FEI token allocation for TRIBE tokens between March 31, 2021 and April 3, 2021.

The Complaint alleges claims against Defendants for violations of Sections 5 and 12(a)(1) of the Securities Act of 1933 (the “Securities Act”), and claims against the Individual Defendants for violations of Section 15 of the Securities Act. Plaintiff asserted that Defendants offered and

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<sup>1</sup> All capitalized terms not otherwise defined shall have the meanings ascribed to them in § III.1 herein.

sold FEI and TRIBE without filing a registration statement with the United States Securities and Exchange Commission in violation of the Securities Act, and that no exemption to the registration requirement applied.

On July 18, 2022, Defendants filed their demurrer to Plaintiff's Complaint. Following briefing on Defendants' demurrer to Plaintiff's Complaint and oral argument, the Court issued an order denying Defendants' demurrer on September 16, 2022, as corrected on September 27, 2022.

On September 26, 2022, Defendants filed their answer to the Complaint.

Thereafter, Plaintiff and Defendants (collectively the "Parties") engaged in discovery, including serving and responding to multiple document requests and interrogatories.

On December 13, 2022, the Parties engaged in an in-person mediation before Mediator Michelle Yoshida of Phillips ADR Enterprises. The mediation was preceded by limited discovery to aid in the mediation, as well as by the submission of mediation statements and exhibits by each of the Parties. The mediation was unsuccessful, but the Parties continued to engage in negotiations through Ms. Yoshida. On January 5, 2023, the Parties engaged in a second virtual mediation with Ms. Yoshida. Subsequent to this second mediation, Ms. Yoshida issued a mediator's proposal for settlement, which the parties accepted on January 18, 2023. Thereafter, on January 27, 2023, the Parties executed an enforceable and binding term sheet reflecting their agreement-in-principle to fully resolve the Litigation in exchange for a cash payment of \$17,850,000 for the benefit of the Class, subject to the negotiation of the terms of a Stipulation of Settlement and approval by the Court. This Stipulation reflects the final and binding agreement, and a compromise of all matters that are in dispute, between the Parties.

Plaintiff and Plaintiff's Counsel recognize and acknowledge the expense and time it would take to prosecute the Litigation against Defendants through trial and through any subsequent

appeals, and the Defendants' ability to pay any judgment. Plaintiff and Plaintiff's Counsel have also considered the uncertain outcome and the risk of any litigation, especially in complex actions such as the Litigation, as well as the difficulties and delays inherent in such litigation. Accordingly, Plaintiff and Plaintiff's Counsel believe that the settlement set forth in the Stipulation confers substantial benefits upon the Class Members and is in the best interests of Class Members under all the circumstances.

**II. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY**

Throughout the course of this Litigation and in this Stipulation, Defendants expressly have denied, and continue to deny, that they have committed any act or omission giving rise to any liability or violation of the law. Specifically, Defendants have denied, and continue to deny, each and every one of the claims and contentions alleged by Plaintiff in the Litigation. Defendants have expressly denied and continue to deny all charges of wrongdoing or liability against them arising out of any conduct, statement, act or omission alleged, or that could have been alleged, in the Litigation. Defendants have asserted, and continue to assert, that the claims asserted against them in the Litigation are without merit, that they have meritorious defenses to the claims alleged in the Litigation, and that their conduct was at all times proper and in compliance with all applicable provisions of law.

Nonetheless, Defendants have concluded that further defense of the Litigation could be protracted and expensive. Defendants also have considered the uncertainty and risks inherent in any litigation, especially in complex cases such as the Litigation. Defendants have, therefore, determined that it is desirable and beneficial to them that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Stipulation.

As set forth below, neither the Settlement nor any of the terms of this Stipulation shall be construed or deemed to be evidence of or to constitute an admission, concession, or finding of any

fault, liability, wrongdoing, or damage whatsoever, or any infirmity in the defenses that Defendants have, or could have, asserted in the Litigation.

**III. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT**

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiff (for himself and the Class) and Defendants, by and through their respective counsel or attorneys of record, that, subject to the approval of the Court, and in consideration of the benefits flowing to the Parties and the Class from the Settlement, the Litigation and the Released Claims shall be finally and fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice, as to all Settling Parties and their Related Parties (as defined below), upon and subject to the terms and conditions of the Stipulation as follows.

**1. Definitions**

In addition to the terms defined above, as used in the Stipulation, the following terms have the meanings specified below:

1.1 “Authorized Claimant” means any Class Member who submits a valid Claim to the Claims Administrator that is approved by the Claims Administrator or Court for payment from the Net Settlement Fund.

1.2 “Claim[s]” means a claim submitted on a Proof of Claim form, substantially in the form agreed by the Settling Parties in writing, and to be submitted for Court approval with Plaintiff’s motion to preliminarily approve the Stipulation and Settlement.

1.3 “Claimant” means any person who submits a Claim to the Claims Administrator in such form and manner, and within such time, as the Court shall prescribe.

1.4 “Claims Administrator” means the firm selected by Plaintiff’s Counsel to administer the Settlement, as set forth in Plaintiff’s motion to preliminarily approve the Stipulation and Settlement.

## EXECUTION VERSION

1.5 “Class” means all Persons who, directly or through an intermediary, purchased the digital assets “FEI” and “TRIBE” in exchange for ETH as part of the Genesis Group between March 31, 2021 and April 3, 2021, including those who ‘pre-swapped’ their Genesis Group FEI token allocation for TRIBE tokens. Excluded from the Class are: (i) Defendants; (ii) any person, firm, trust, corporation, or other entity directly affiliated with any Defendant; (iii) any justice or judicial officer presiding over this matter and members of their immediate families and judicial staff. Also excluded from the Class are those Persons who timely and validly request exclusion.

1.6 “Class Member(s)” means a Person(s) who falls within the definition of the Class as set forth in ¶ 1.5 above.

1.7 “Court” means the Superior Court of California for the County of San Francisco.

1.8 “Defendants” means Fei Labs and the Individual Defendants.

1.9 “Defendants’ Counsel” means Quinn Emanuel Urquhart & Sullivan LLP.

1.10 “Fei Labs” means Defendant Fei Labs Inc.

1.11 “Effective Date,” or the date upon which this Settlement becomes “effective,” means the date by which all of the events and conditions specified in ¶ 8.1 of the Stipulation have been met and have occurred, or have been waived.

1.12 “Escrow Account” means the segregated and separate escrow account designated and controlled by the Escrow Agent at one or more national banking institutions into which the Settlement Amount will be deposited for the benefit of Plaintiff and the Class Members in accordance with the terms of the Stipulation and any order of the Court.

1.13 “Escrow Agent” means the entity appointed by Plaintiff’s Counsel to administer and control the Escrow Account into which the Settlement Amount will be deposited for the benefit



of Plaintiff and Class Members, which entity shall be disclosed in Plaintiff's motion to preliminarily approve the Stipulation and Settlement, and such entity's successor(s).

1.14 "Fee and Expense Award" means any award of attorneys' fees and/or expenses or charges in favor of Plaintiff's Counsel incurred in connection with prosecuting the Litigation.

1.15 "Final" means, with respect to any order or judgment of the Court, that such order or judgment represents a final and binding determination of all issues within its scope and is no longer subject to further review on appeal or otherwise, either because of disposition on appeal and conclusion of the appellate process or because of passage of time for seeking appellate review, without action. Without limitation, an order or judgment becomes "Final" when the last of the following has occurred: (a) the expiration of the time to file a motion to reconsider, alter or amend the judgment or order without any such motion having been filed; (b) the time in which to appeal the judgment or order has passed without any appeal having been taken; and (c) if a motion to reconsider, alter or amend is filed or if an appeal is taken, immediately after the determination of that motion or appeal so that it is no longer subject to any further judicial review or appeal whatsoever, whether by reason of affirmance by a court of last resort, lapse of time, voluntary dismissal of the appeal or otherwise in such a manner as to permit the consummation of the Settlement substantially in accordance with the terms and conditions of this Stipulation. For purposes of this paragraph, an "appeal" shall include any petition for a writ of *certiorari* or other writ that may be filed in connection with approval or disapproval of this Settlement, but shall not include any appeal which concerns only the issue of attorneys' fees and/or expenses, the Plan of Allocation of the Net Settlement Fund (as submitted or subsequently modified), and/or the procedures for determining or paying Authorized Claimants' recognized claims.

1.16 “Genesis Event” means the alleged offering by Defendants between March 31, 2021 and April 3, 2021, during which Plaintiff and other Class Members purchased the digital assets “FEI” and “TRIBE” in exchange for ETH (Ethereum).

1.17 “Genesis Group” means those persons or entities who purchased the digital assets “FEI” and “TRIBE” in exchange for ETH, including those who “pre-swapped” their FEI token allocation for TRIBE tokens, during the Genesis Event that occurred between March 31, 2021 and April 3, 2021.

1.18 “Individual Defendants” means Joseph Santoro, Sebastian Delgado, and Brianna Montgomery.

1.19 “Judgment” means the Final Judgment to be rendered by the Court, substantially in the form attached hereto as Exhibit B, as well as any form of final judgment that may be entered by the Court in a form other than the form attached hereto as Exhibit B and where none of the Settling Parties elects to terminate this Settlement by reason of such variance, consistent with the terms of this Stipulation.

1.20 “Litigation” means the action captioned *Shomroni v. Fei Labs Inc., et al.*, CGC-22-598995.

1.21 “Long Form Notice” means the full version of Settlement Notice as agreed by the Settling Parties in writing, for Court approval, and to be submitted with Plaintiff’s motion to preliminarily approve the Stipulation and Settlement.

1.22 “Net Settlement Fund” means the Settlement Fund less any Fee and Expense Award and/or Service Award approved by the Court, and less Notice and Administration Expenses, Taxes, and Tax Expenses, and other Court-approved deductions.

## EXECUTION VERSION

1.23 “Notice” means the Notice of Proposed Class Action Settlement, which, subject to approval or modification of the Court, shall include the Long Form Notice and Summary Notice.

1.24 “Notice and Administration Expenses” means reasonable costs and expenses incurred in connection with providing the Notice to Class Members, locating Class Members, soliciting Claims, assisting with the submission of Claims, processing Proof of Claim forms, administering and distributing the Net Settlement Fund to Authorized Claimants, and paying escrow fees and costs, if any.

1.25 “Person(s)” means an individual, corporation (including all divisions and subsidiaries thereof), limited liability corporation, professional corporation, partnership, limited partnership, limited liability partnership, limited liability company, association, joint stock company, joint venture, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity, and including any of their heirs, spouses, beneficiaries, administrators, predecessors, successors, representatives, or assigns.

1.26 “Plaintiff” means Jonathan Shomroni.

1.27 “Plaintiff’s Counsel” means The Restis Law Firm, P.C., AFN Law PLLC and HGT Law.

1.28 “Plan of Allocation” means a plan or formula of allocation of the Net Settlement Fund whereby the Net Settlement Fund shall be distributed to Authorized Claimants *pro rata* generally in accordance with 15 U.S.C. § 771(a).

1.29 “Preliminary Approval Order” means the Order Granting Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, as issued by the Court, substantially in the form attached hereto as Exhibit A.

## EXECUTION VERSION

1.30 “Proof of Claim” means the proof of Class Members’ entitlement to any portion of the Settlement Fund, as agreed by the Settling Parties in writing, and to be submitted for Court approval with Plaintiff’s motion to preliminarily approve the Stipulation and Settlement.

1.31 “Related Parties” means, as applicable, each and all of any Person’s respective future, present, and former parents, subsidiaries, divisions, controlling persons, associates, joint ventures, affiliates, and each and all of their respective present and former employees, contractors, members, partners, principals, agents, founders, officers, directors, controlling shareholders, agents, attorneys, advisors (including financial or investment advisors), accountants, auditors, consultants, general or limited partners or partnerships, limited liability companies, personal or legal representatives, insurers, co-insurers, reinsurers, related or affiliated entities, predecessors, successors, spouses, estates, immediate family members, heirs, executors, trusts, trustees, administrators, representatives, and assigns, in their capacity as such, and any entity in which a person or entity has a controlling interest.

1.32 “Released Claims” means any and all claims, demands, rights, causes of action, damages, losses, judgment, matters, issues, debts, and liabilities of every nature and description (including Unknown Claims as defined herein), whether known or unknown, asserted or unasserted, contingent or absolute, liquidated or not liquidated, accrued or unaccrued, suspected or unsuspected, disclosed or undisclosed, apparent or not apparent, foreseen or unforeseen, matured or not matured, which now exist, heretofore or previously existed, or may hereafter exist, including, but not limited to, any claims arising under federal, state, local, statutory, common, or foreign law, or any other law, rule, or regulation, whether class and/or individual in nature, that Plaintiff or any other member of the Class asserted in the Complaint for violations of the Securities Act, filed in the Litigation on April 1, 2022, or could have asserted or could in the future assert in

any forum, that concern, arise out of, refer to, are based upon, or are related in any manner to the allegations, transactions, facts, matters, occurrences, representations, statements, or omissions alleged, involved, set forth, or referred to in the Litigation, expressly including claims for violation of Sections 5, 12(a), and 15 of the Securities Act of 1933. Notwithstanding the foregoing, “Released Claims” does not include claims relating to the enforcement of the Settlement, nor does this release cover, include, or release any claims by any governmental entity that arise out of any governmental investigation of Defendants relating to the conduct alleged in the Litigation.

1.33 “Released Defendants” means each and all of the Defendants and each of their Related Parties.

1.34 “Released Defendants’ Claims” means all claims and causes of action of every nature and description, whether known or unknown, whether arising under federal, state, common or foreign law, that Released Defendants may assert against Plaintiff or Class Members arising out of or relating in any way to the institution, prosecution or settlement of the Litigation or the Released Claims against the Defendants. Notwithstanding the foregoing, “Released Defendants’ Claims” does not include claims relating to the enforcement of the Settlement.

1.35 “Releasing Plaintiff Party” or “Releasing Plaintiff Parties” mean Plaintiff, and each and every Class Member. Releasing Plaintiff Parties do not include any Person who would otherwise be a Class Member but have validly and timely excluded himself, herself, or itself therefrom.

1.36 “Service Award” means any payment to the Plaintiff in recognition for his risk and efforts on behalf of Class Members in the Litigation.

1.37 “Settlement” means the resolution of the Litigation in accordance with the terms and provisions of this Stipulation.

## EXECUTION VERSION

1.38 “Settlement Amount” means Seventeen Million, Eight-Hundred Fifty Thousand United States Dollars (\$17,850,000 USD) in cash to be paid by Defendants to the Escrow Agent by wire transfer, check, or as otherwise agreed by the Escrow Agent. The Settlement Amount shall be used to pay all Notice and Administration Expenses, any Fee and Expense Award to Plaintiff’s Counsel, Service Award, Class Member benefits, and any other costs, expenses, or fees of any kind whatsoever associated with the Settlement, as set forth herein.

1.39 “Settlement Fund” means the Settlement Amount plus all interest and accretions thereto and which may be reduced by payments or deductions as provided herein or by Court order.

1.40 “Settlement Hearing” means the hearing to be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate and should be approved.

1.41 “Settlement Website” means the website established by the Claims Administrator to provide information regarding the Settlement, where Class Members can obtain information concerning requesting exclusion from or objecting to the Settlement, and where Class Members may submit a Claim consistent with this Stipulation.

1.42 “Settling Parties” means, collectively, Defendants and Plaintiff, on behalf of himself and the Class.

1.43 “Summary Notice” means the Summary Notice for publication and individual notice, as agreed by the Settling Parties in writing, and to be submitted for Court approval with Plaintiff’s motion to preliminarily approve the Stipulation and Settlement.

1.44 “Tax” or “Taxes” mean any and all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any governmental authority.

1.45 “Unknown Claims” means (i) any and all Released Claims that Releasing Plaintiff Parties do not know or suspect to exist in his, her or its favor at the time of the release of the Released Defendants, which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Defendants, or might have affected his, her or its decision with respect to the Settlement, including but not limited to whether or not to object to this Settlement or seek exclusion from this Settlement, and (ii) any Released Defendants’ Claims that Released Defendants do not know or suspect to exist in his, her or its favor at the time of the release, which, if known by him, her or it, might have affected his, her or its settlement with and release of Plaintiff and Class Members.

**2. The Settlement**

2.1 The obligations incurred pursuant to the Stipulation: (a) are subject to approval by the Court and subject to the Judgment reflecting such approval; and (b) shall fully and finally dispose of the Litigation and any and all Released Claims and Released Defendants’ Claims upon and subject to the terms and conditions set forth herein.

**(a) The Settlement Amount**

2.2 In full and final settlement of the claims asserted in the Litigation and in consideration of the releases specified in ¶¶ 4.1-4.5, Defendants shall pay, or shall cause to be paid on Defendants’ behalf, the Settlement Amount by check or wire transfer. Upon execution of this Stipulation of Settlement, Plaintiff’s Counsel shall promptly provide all information necessary to effectuate a transfer of funds to the Escrow Account, including the bank name and ABA routing number, address, account name and number, and a signed W-9 reflecting the taxpayer identification number for the qualified settlement fund in which the Escrow Account has been established. The Escrow Agent shall deposit the Settlement Amount plus any accrued interest in the Escrow Account. Defendants shall begin to make transfers to the Escrow Account in partial

satisfaction of their obligations in this paragraph promptly upon receiving all information necessary to effectuate a transfer of funds and shall complete all transfers amounting to the Settlement Amount by no later than thirty business days following receipt of the Preliminary Approval Order.

2.3 Other than the obligation to pay or cause the payment of the Settlement Amount in accordance with the terms of ¶ 2.2, Defendants shall not have any obligation to make any other payments pursuant to the Stipulation, including, without limitation, compensation to any Class Member, payment of attorneys' fees and expenses awarded by the Court, payment of any fees or expenses incurred by any Class Member or Plaintiff's Counsel, or interest on the Settlement Amount of any kind and relating to any time period (including prior to the payment of the Settlement Amount into the Escrow Account).

2.4 If the entire Settlement Amount is not timely paid to the Escrow Agent, Plaintiff may terminate the Settlement but only if (a) Plaintiff's Counsel has notified Defendant's Counsel in writing of Plaintiff's intention to terminate the Settlement, and (b) the entire Settlement Amount is not transferred to the Escrow Agent within five (5) business days after Plaintiff's Counsel has provided such written notice. Failure by the Escrow Agent or Plaintiff's Counsel to timely furnish adequate payment instructions to Defendants pursuant to ¶ 2.2 shall not be a basis for termination under this section and any delay in providing such instructions shall extend the period in which the Settlement Amount will be paid under ¶ 2.2 by an equivalent number of days.

**(b) The Escrow Agent**

2.5 The Escrow Agent shall deposit the Settlement Amount plus any accrued interest in a segregated Escrow Account maintained by the Escrow Agent.

2.6 The Escrow Agent shall invest the Settlement Amount deposited pursuant to ¶ 2.2 hereof in United States Treasury Securities of six months duration or less, and shall reinvest the



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proceeds of these instruments as they mature in similar instruments of six months duration or less at their then-current market rates. All risks related to the investment of the Settlement Fund in accordance with the investment guidelines set forth in this paragraph shall be borne by the Settlement Fund and the Released Defendants shall have no responsibility for, interest in, or liability whatsoever with respect to investment decisions or the actions of the Escrow Agent, or any transactions executed by the Escrow Agent. The Escrow Agent, through the Settlement Fund, shall indemnify and hold each of the Released Defendants and their counsel harmless for the actions of the Escrow Agent.

2.7 The Escrow Agent shall not disburse the Settlement Fund except as provided in this Stipulation, by an order of the Court, or with the prior written agreement of Defendants' Counsel, and the Escrow Agent shall copy Plaintiff's Counsel on all such instructions to disburse any portion of the Settlement Fund.

2.8 Subject to further order(s) and/or directions as may be made by the Court, or as provided in the Stipulation, the Escrow Agent is authorized to execute such transactions as are consistent with the terms of this Stipulation and shall copy Plaintiff's Counsel on all such transactions. The Released Defendants shall have no responsibility for, interest in, or liability whatsoever with respect to the actions of the Escrow Agent, or any transaction executed by the Escrow Agent in its capacity as such.

2.9 All funds held by the Escrow Agent shall be deemed and considered to be *in custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to this Stipulation and/or further order(s) of the Court.

2.10 Upon the occurrence of the Effective Date, no Defendant, or any other person or entity who or which paid any portion of the Settlement Amount, shall have any right to the return

of the Settlement Fund or any portion thereof for any reason whatsoever (including, without limitation, the number of Proof of Claim forms submitted, the collective amount of recognized claims of Authorized Claimants, the percentage of recovery of losses, or the amounts to be paid to Authorized Claimants from the Net Settlement Fund). The Released Defendants shall not have any liability if Claims made exceed the amount available in the Settlement Fund for payment of such Claims and shall not be liable for the loss of any portion of the Settlement Fund, nor have any liability, obligation, or responsibility for the payment of Claims, Taxes and Tax Expenses, legal fees, or any other expenses payable from the Settlement Fund.

**(c) Taxes**

2.11 The Settling Parties and the Escrow Agent agree to treat the Settlement Fund as being at all times a “qualified settlement fund” within the meaning of Treas. Reg. §1.468B-1, and the regulations promulgated thereunder. The Settling Parties and the Escrow Agent further agree that the Settlement Fund shall be established pursuant to the Court’s subject matter jurisdiction within the meaning of Treas. Reg. §1.468B-1(c)(1). In addition, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this section, including the “relation-back election” (as defined in Treas. Reg. §1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

2.12 For the purpose of §1.468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” shall be the Escrow Agent. The Escrow Agent shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described

in Treas. Reg. §1.468B-2(k)). Such returns (as well as the election described in ¶ 2.13 hereof) shall be consistent with this section and in all events shall reflect that all Taxes (including any estimated Taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in ¶ 2.13 hereof.

2.13 All (i) Taxes (including any estimated Taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon the Released Defendants or their counsel with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes while in custody of the Escrow Agent, and (ii) expenses and costs incurred in connection with the operation and implementation of this section (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this section 2) (“Tax Expenses”), shall be paid out of the Settlement Fund. In all events the Released Defendants and Defendants’ Counsel shall have no liability or responsibility for the Taxes or the Tax Expenses. The Escrow Agent, through the Settlement Fund, shall indemnify and hold each of the Released Defendants and Defendants’ Counsel harmless for Taxes and Tax Expenses (including, without limitation, Taxes payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund without prior order from the Court and the Escrow Agent shall be authorized (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg.

§1.468B-2(1)(2)). The parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this section.

**3. Preliminary Approval Order and Settlement Hearing**

3.1 Promptly following execution of the Stipulation, Plaintiff's Counsel shall submit the Stipulation together with its Exhibits to the Court and shall apply for entry of the Preliminary Approval Order, substantially in the form of Exhibit A attached hereto, requesting, *inter alia*, the preliminary approval of the Settlement set forth in the Stipulation; certification of the Class for purposes of settlement as specified in ¶ 1.5; setting of the date for distribution of the Notice, the Claims deadline, the opt out date, the objection date, and the Settlement Hearing date; approval of the Claims Administrator; approval of the Notice; approval of the form and content of the Proof of Claim; and approval of the dissemination of the Summary Notice and Long Form Notice.

3.2 Any Class Member who wishes to opt out of the Class must submit a timely written request for exclusion on or before the opt out date, in the manner specified in the Court's Preliminary Approval Order and Notice. Any Class Member who does not submit a timely written request for exclusion will be bound by all proceedings, orders and judgments in the Litigation, whether or not he, she, or it timely submits a Proof of Claim.

3.3 Any Class Member who wishes to object to the fairness, reasonableness or adequacy of this Settlement or the award of attorneys' fees and expenses, must do so timely and in the manner specified in the Court's Preliminary Approval Order and Notice.

3.4 Any Class Member who submits an objection to this Settlement shall be entitled to all of the benefits of the Settlement and this Stipulation, provided the objecting Class Member complied with all the requirements for submitting a Proof of Claim.

3.5 If the Court grants preliminary approval of the Settlement, the Settling Parties shall jointly move the Court to stay all proceedings and deadlines other than necessary to effectuate the Settlement. If the Court denies preliminary approval of the Settlement as set forth herein, the Settling Parties shall jointly move the Court to reset or extend case management deadlines as appropriate.

3.6 Plaintiff shall request that after Notice is given to the Class Members, the Court hold the Settlement Hearing and approve the Settlement as set forth herein. At or after the Settlement Hearing, Plaintiff's Counsel also shall request that the Court approve the proposed Plan of Allocation and any motions for Fee and Expense Award and/or Service Award.

**4. Mutual Releases**

4.1 The obligations incurred pursuant to this Stipulation are in consideration of: (i) the full and final disposition of the Litigation as against Defendants; (ii) the Releases provided for herein; and (iii) all other terms contained herein.

4.2 The form of any Proof of Claim executed by Plaintiff and Class Members shall be agreed to by the Settling Parties in writing, and submitted for Court approval with Plaintiff's motion to preliminarily approve the Stipulation and Settlement.

4.3 Upon the Effective Date, the Releasing Plaintiff Parties shall be deemed to have, and by operation of the Judgment shall have, fully, finally, unconditionally and forever waived, released, relinquished, dismissed with prejudice, and discharged all Released Claims (including Unknown Claims) against the Released Defendants, whether arising under federal, state, common, or foreign law, and whether or not the Plaintiff or Class Member executes and delivers a Proof of Claim or shares in the Settlement Fund.

4.4 Upon the Effective Date, each of the Released Defendants shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and

discharged all of Released Defendants' Claims (including Unknown Claims) against Plaintiff, Plaintiff's Related Parties, and Class Members, whether arising under federal, state, common or foreign law. Upon the Effective Date, the Defendants will be forever barred from commencing, instituting, prosecuting or continuing to prosecute any action or other proceeding in any court of law or equity, arbitration tribunal, or administrative forum, asserting the Released Defendants' Claims against Plaintiff, Plaintiff's Related Parties, and Class Members. Defendants are aware of the California Civil Code § 1542 and expressly waive and relinquish any rights or benefits available to them under this statute.

4.5 With respect to any and all Released Claims and the Released Defendants' Claims, the Settling Parties stipulate and agree that, upon the Effective Date, each of the Settling Parties shall expressly waive and shall be deemed to have waived, and by operation of the Judgment the Releasing Plaintiff Parties shall expressly have waived, the provisions, rights, and benefits of California Civil Code § 1542 and any law of the United States, or any state or territory thereof, or principle of common law or foreign law, which is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Each of the Settling Parties and the Releasing Plaintiff Parties may hereafter discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of the Released Claims and the Released Defendants' Claims, but the Settling Parties shall fully, finally, and forever settle and release and, upon the Effective Date, shall be deemed to have, and by operation of the Judgment the Releasing Plaintiff Parties shall expressly have, fully, finally, and forever waived, compromised, settled, discharged, extinguished, and

released any and all Released Claims and Released Defendants' Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, accrued or unaccrued, disclosed or undisclosed, matured or unmatured, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts, legal theories, or authorities. The Settling Parties acknowledge, and by operation of the Judgment the Releasing Plaintiff Parties shall be deemed to have acknowledged, that the foregoing waiver was separately bargained for and is an essential element of the Settlement to which this release is a part.

4.6 Upon the Effective Date, the Releasing Plaintiff Parties shall be forever barred from asserting, commencing, instituting, prosecuting or continuing to prosecute any action or other proceeding in any court of law or equity, arbitration tribunal, or administrative forum, asserting the Released Claims against any of the Released Defendants.

4.7 In exchange for the mutual releases and other consideration set forth herein, including full payment of the Settlement Amount, Plaintiff will dismiss with prejudice all Defendants from the Litigation as set forth herein.

4.8 The Settling Parties agree that the Court shall retain exclusive and continuing jurisdiction over the Settling Parties and, by operation of the Judgment, the Releasing Plaintiff Parties, to interpret and enforce the terms, conditions, and obligations under this Stipulation.

**5. Administration and Calculation of Claims, Final Awards and Supervision and Distribution of the Settlement Fund**

5.1 The Claims Administrator, subject to such supervision and direction of the Court as may be necessary or as circumstances may require, shall administer and calculate the Claims

submitted by Class Members and shall oversee distribution of the Net Settlement Fund to Authorized Claimants.

5.2 The Court shall have and retain exclusive jurisdiction over the Settlement Fund, which shall be applied as follows:

- (a) to pay all Notice and Administration Expenses;
- (b) to pay the Taxes and Tax Expenses described in ¶ 2.13 hereof;
- (c) to pay any Fee and Expense Award to Plaintiff's Counsel and any Service Award to Plaintiff if and to the extent allowed by the Court; and
- (d) after the Effective Date, to distribute the Net Settlement Fund to Authorized Claimants as allowed by the Stipulation, the Plan of Allocation, or the Court.

5.3 After the Effective Date, and in accordance with the terms of the Stipulation, the Plan of Allocation, or such further approval and further order(s) of the Court as may be necessary or appropriate, the Net Settlement Fund shall be distributed to Authorized Claimants, subject to and in accordance with the following: within such time as may be set by the Court, each Person claiming to be an Authorized Claimant shall be required to submit to the Claims Administrator a completed Proof of Claim, as approved by the Court or reasonably required by the Administrator.

5.4 Except as otherwise ordered by the Court, all Class Members who fail to timely submit a valid Proof of Claim within such period as ordered by the Court, or otherwise allowed, shall be forever barred from receiving any payments pursuant to the Stipulation and the Settlement set forth herein, but will in all other respects be subject to and bound by the provisions of the Stipulation, the releases contained herein, and the Judgment, and will forever be barred from bringing any action against the Released Defendants concerning the Released Claims. Notwithstanding the foregoing, Plaintiff's Counsel shall have the discretion (but not the obligation) to accept late-submitted claims for processing by the Claims Administrator so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed thereby.



Plaintiff's Counsel shall also have the right, but not the obligation, to advise the Claims Administrator to waive what Plaintiff's Counsel deems to be *de minimis* or formal or technical defects in any Proof of Claim submitted.

5.5 Proofs of Claim that do not meet the submission requirements may be rejected. Prior to rejecting a Proof of Claim in whole or in part, the Claims Administrator shall communicate with the Claimant in writing to give the Claimant the chance to remedy any curable deficiencies in the Proof of Claim submitted. The Claims Administrator, under such supervision of Plaintiff's Counsel, as necessary, shall notify, in a timely fashion and in writing, all Claimants whose claims the Claims Administrator proposes to reject in whole or in part for curable deficiencies, setting forth the reasons therefor, and shall indicate in such notice that the Claimant whose claim is to be rejected has the right to a review by the Court if the Claimant so desires and complies with the requirements of ¶ 5.6 below.

5.6 If any Claimant whose timely Claim has been rejected in whole or in part for a curable deficiency desires to contest such rejection, the Claimant must, within twenty (20) calendar days after the date of mailing of the notice required in ¶ 5.5 above, or a lesser period of time if the Claim was untimely, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof by the Court.

5.7 The Net Settlement Fund shall be distributed to the Authorized Claimants substantially in accordance with the Plan of Allocation set forth in the Notice and approved by the Court. If there is any balance remaining in the Net Settlement Fund after a reasonable period of time after the date of the initial distribution of the Net Settlement Fund, Plaintiff's Counsel shall, if feasible, reallocate (which reallocation may occur on multiple occasions) such balance among

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Authorized Claimants in the manner described in the Plan of Allocation. Thereafter, any balance in the Net Settlement Fund not otherwise economically feasible to distribute shall be donated to an appropriate 501(c)(3) non-profit organization selected by, and unaffiliated with, Plaintiff's Counsel, subject to approval by the Court.

5.8 The Released Defendants shall have no responsibility for, interest in, or liability whatsoever with respect to: (i) any act, omission, or determination by Plaintiff's Counsel, the Escrow Agent, or the Claims Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the Plan of Allocation; (iv) the determination, administration, calculation, or payment of Claims to be paid from the Settlement Fund; (v) any loss suffered by, or fluctuation in value of, the Settlement Fund; or (vi) the payment or withholding of Taxes or Tax Expenses, or any expenses or losses incurred in connection therewith; or (vii) the payment of any other Notice and Administration Expenses. No Person shall have any claim of any kind against the Released Defendants with respect to the matters set forth in this paragraph; and the Releasing Plaintiff Parties release the Released Defendants from any and all liability and claims arising from or with respect to the administration, investment or distribution of the Settlement Fund.

5.9 No Person shall have any claim against the Released Defendants, Plaintiff, Plaintiff's Counsel or the Claims Administrator, or any other Person designated by Plaintiff's Counsel, based on determinations or distributions made substantially in accordance with this Stipulation and the Settlement contained herein, the Plan of Allocation, or further order(s) of the Court.

5.10 It is understood and agreed by the Settling Parties that any proposed Plan of Allocation of the Net Settlement Fund including, but not limited to, any adjustments to an Authorized Claimant's Claim set forth therein, is not a part of the Stipulation and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in the Stipulation. Neither Defendants nor their Related Parties shall have any responsibility or liability with respect thereto and any order or proceeding relating to the Plan of Allocation shall not operate to terminate or cancel this Stipulation or affect the finality of the Judgment approving the Stipulation and the Settlement set forth therein.

**6. Plaintiff's Counsel's Attorneys' Fees and Expenses and Service Award**

6.1 Plaintiff's Counsel may submit an application or applications to the Court for a Fee and Expense Award and/or a Service Award, to be paid from the Settlement Fund.

6.2 Any fees and expenses awarded by the Court shall be paid to Plaintiff's Counsel from the Settlement Fund, as ordered, immediately after the Court executes the Judgment and an order awarding such fees and expenses.

6.3 In the event that the Effective Date does not occur, or the Judgment or the order making the Fee and Expense Award is reversed or modified, or this Stipulation is canceled or terminated for any other reason, and such reversal, modification, cancellation, or termination becomes Final and not subject to review, and in the event that the Fee and Expense Award has been paid to any extent, then Plaintiff's Counsel, including its partners and/or shareholders who have received any portion of the Fee and Expense Award shall, within ten (10) business days from receiving notice from the Defendants' Counsel or from a court of appropriate jurisdiction, refund to the Settlement Fund such fees previously paid to them from the Settlement Fund in an amount consistent with such reversal or modification. Any refunds required pursuant to ¶ 6.3 shall be the several obligation of Plaintiff's Counsel, including their partners and/or shareholders.

6.4 The procedure for and the allowance or disallowance by the Court of any applications by Plaintiff's Counsel for attorneys' fees and expenses, or by Plaintiff for a Service Award, to be paid out of the Settlement Fund, are not part of the Settlement set forth in the Stipulation, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement set forth in the Stipulation. Any order or proceeding relating to any Fee and Expense Award, or for any Service Award, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the Stipulation, or affect or delay the finality of the Judgment approving the Stipulation and the Settlement of the Litigation set forth therein.

6.5 Any fees and/or expenses awarded by the Court shall be paid solely from the Settlement Fund. The Released Defendants and their Related Parties shall have no responsibility for any payment of attorneys' fees and/or expenses to Plaintiff's Counsel, or Service Award to Plaintiff.

6.6 The Released Defendants are not entitled to any award of fees or expenses from the Settlement Fund. The Released Defendants shall have no responsibility or liability whatsoever for the allocation among Plaintiff's Counsel and/or any other Person who may assert some claim thereto, of any Fee and Expense Award that the Court may make in the Litigation.

**7. Notice And Administration**

7.1 Except as provided in ¶ 7.2, Dissemination of the Notice to Class Members in accordance with this Stipulation and as ordered by the Court shall be solely the Claims Administrator's responsibility with oversight by Plaintiff's Counsel, except that the Defendants shall promptly, and with all diligence, use their best efforts to provide any contact or identifying information relevant to providing Notice to Class Members, including Ethereum wallet addresses

in Defendants' possession collected during the Genesis Event, and shall provide such information to the Claims Administrator in electronic format (at no cost to the Settlement Fund, Plaintiff's Counsel, or the Claims Administrator), in order to assist the Claims Administrator in attempting to provide Notice to Class Members and potential Class Members.

7.2 Within the time prescribed by the Court, Fei Labs shall prominently post a link to the Settlement Website on <https://fei.money>, <https://tribedao.xyz>, <https://tribe.fei.money>, and <https://medium.com/fei-protocol>.

7.3 Class Members shall have no recourse as to the Released Defendants with respect to any claims they may have that arise from any failure of the Notice process. However, Fei Labs agrees to work in good faith to provide the Claims Administrator with information reasonably available to Fei Labs related to the identity of Class Members. Any and all costs incurred by the Claims Administrator in providing Notice shall be reimbursed from the Settlement Fund.

7.4 The Settling Parties have agreed that all Notice shall be consistent with the Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide published by the Federal Judicial Center, California precedent, and any orders of the Court.

7.5 The Notice shall include *inter alia* the general terms of the Settlement set forth in the Stipulation, the proposed Plan of Allocation and the general terms of the application for a Fee and Expense Award, and the date of the Settlement Hearing.

7.6 The Claims Administrator shall be responsible for creating and distributing the Notice approved by the Court, the Settlement Website, the processing of Claims, and requests for exclusion, and any other tasks as the Settling Parties mutually agree or the Court orders the Claims Administrator to perform.

7.7 The Settling Parties each represent they will not have any financial interest in the Claims Administrator ultimately appointed and otherwise will not have a relationship with the Claims Administrator ultimately appointed that could create a conflict of interest.

7.8 Prior to the Effective Date and without further order of the Court, up to \$250,000 of the Settlement Fund may be used by Plaintiff's Counsel to pay reasonable Notice and Administration expenses actually incurred. After the Effective Date, Plaintiff's Counsel may pay all further actual and reasonable Notice and Administration Expenses from the Settlement Fund, without further order of the Court.

7.9 The Settling Parties acknowledge and agree that the Claims Administrator is an agent of the Court, and not an agent of any of them or their counsel, and that the Claims Administrator is not authorized by this Stipulation or otherwise to act on behalf of the Settling Parties.

**8. Conditions of Settlement, Effect of Disapproval, Cancellation or Termination**

8.1 The Effective Date of the Stipulation shall be conditioned on the occurrence of all the following events:

- (a) the Court has entered the Preliminary Approval Order, as required by ¶ 3.1 hereof;
- (b) the Settlement Amount has been deposited into the Escrow Account;
- (c) the Court has entered the Judgment; and
- (d) the Judgment has become Final, as defined in ¶ 1.15 hereof.

8.2 Upon the Effective Date, any and all remaining interest or right of Defendants in or to the Settlement Fund shall be absolutely and forever extinguished.

8.3 As set forth in a separate agreement (the "Supplemental Agreement") executed concurrently herewith between Plaintiff and Defendants, by and through their counsel, Defendants

may, in their sole discretion, terminate the Settlement and render it null and void in the event that Class Members who collectively purchased more than a certain amount of FEI and TRIBE tokens during the Genesis Event exclude themselves from the Class. The Settling Parties agree to maintain the confidentiality of the Supplemental Agreement except as otherwise ordered by the Court. The Supplemental Agreement shall be filed with the Court under seal in support of Plaintiff's motion to preliminarily approve the Settlement, and its terms shall not be disclosed in any other manner (other than the statements herein and in the Notice, to the extent necessary, or as otherwise provided in the Supplemental Agreement) prior to Plaintiff's motion to finally approve the Stipulation and Settlement at the Settlement Hearing.

8.4 In the event the Court declines to enter the Preliminary Approval Order or the Judgment, the Settling Parties agree to work in good faith to make appropriate modifications, as may be necessary, to the Stipulation, Notice, Proof of Claim, and/or Judgment.

8.5 Subject to ¶ 8.4 hereof, each of Plaintiff and Defendants shall have the right to terminate the Settlement and this Stipulation before the Effective Date by providing written notice of their election to do so ("Termination Notice") to all other parties hereto within fourteen (14) calendar days of: (a) entry of a Court order declining to enter the Preliminary Approval Order in any material respect; (b) entry of a Court order refusing to approve this Stipulation in any material respect; (c) entry of a Court order refusing to approve the Settlement; (d) entry of a Court order refusing to enter the Judgment in any material respect; (e) entry of a Court order refusing to dismiss the Litigation with prejudice; (f) entry of an order by which the Final Judgment is modified or reversed in any material respect; or (g) failure on the part of any other Settling Party to abide, in any material respect, with the terms of this Stipulation. Notwithstanding anything in this ¶ 8.5, the

Settling Parties may mutually agree to proceed with the Settlement notwithstanding the occurrence of any of the events identified in this Paragraph.

8.6 Other than as provided in ¶¶ 8.3 and 8.5, no party shall have the right to terminate the Stipulation for any reason.

8.7 Unless otherwise ordered by the Court, in the event the Stipulation shall terminate, or be canceled, or shall not become effective for any reason, within five (5) business days after written notification of such event is sent by counsel for any of the Settling Parties to the Escrow Agent, the Settlement Fund (including accrued interest), less Taxes, Tax Expenses and Notice and Administration Expenses which have either been disbursed or are chargeable to the Settlement Fund, shall be refunded by the Escrow Agent pursuant to written instructions from Defendants' Counsel. The Escrow Agent or its designee shall apply for any tax refund owed on the Settlement Amount and pay the proceeds, after deduction of any fees or expenses incurred in connection with such application(s) for refund, pursuant to written instructions from Defendants' Counsel.

8.8 In the event that the Stipulation is not approved by the Court or the Settlement set forth in the Stipulation is terminated or fails to become effective in accordance with its terms, the Settling Parties shall be restored to their respective positions in the Litigation as of January 27, 2023. In such event, the terms and provisions of the Stipulation, with the exception of ¶¶ 8.7-8.9 hereof, shall be null and void, have no further force and effect, and shall not be used in this Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*, and shall not be used in the Litigation or in any other proceeding for any purpose. No order of the Court or modification or reversal on appeal of any order of the Court concerning the Plan of Allocation, or any attorneys' fees, expenses, and interest awarded by the Court to Plaintiff's



Counsel, or any order of the Court concerning the amount of any Service Award, shall operate to terminate or cancel this Stipulation or constitute grounds for cancellation or termination of the Stipulation.

8.9 If the Effective Date does not occur, or if the Stipulation is terminated pursuant to its terms, neither Plaintiff nor Plaintiff's Counsel, shall have any obligation to repay any amounts disbursed pursuant to ¶ 7 of this Stipulation. In addition, any expenses already incurred pursuant to ¶ 5.2 hereof at the time of such termination or cancellation but which have not been paid, shall be paid by the Escrow Agent in accordance with the terms of the Stipulation prior to the balance being refunded in accordance with ¶ 8.7 hereof.

8.10 In the event of a final order of a court of competent jurisdiction, not subject to any further proceedings, determining the transfer of the Settlement Amount to the Settlement Fund, or any portion thereof, by Fei Labs to be a voidable preference, voidable transfer, fraudulent transfer, or similar transaction under Title 11 of the United States Code (Bankruptcy), or applicable state law, and any portion thereof is required to be refunded, then the Settling Parties shall jointly move the Court to vacate and set aside the release given under this Stipulation, and the Judgment entered in favor of Defendants, and the Settling Parties and Class Members shall be restored to their litigation positions as of January 27, 2023 and any undistributed portion of the Settlement Fund shall be promptly returned.

**9. No Admission of Liability**

9.1 Neither the Settlement, this Stipulation (whether or not consummated), including the Exhibits hereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of this Stipulation and the Settlement, nor any proceedings, communications, drafts, documents or agreements taken

pursuant to or in connection with this Stipulation, and/or approval of the Settlement (including any arguments proffered in connection therewith):

(a) shall be offered or received against Defendants as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by Defendants of the truth of any allegations by Plaintiff or any Class Member or the validity of any claim that has been or could have been asserted in the Litigation, or the deficiency of any defense that has been or could have been asserted in the Litigation or in any other litigation, including, but not limited to, litigation of the Released Claims, or of any liability, negligence, fault, or wrongdoing of any kind of Defendants or in any way referred to for any other reason as against Defendants, in any civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation;

(b) shall be offered or received against or to the prejudice of Defendants as evidence of a presumption, concession, or admission of liability for any fault, misrepresentation, or omission with respect to any statement or written document approved or made by Defendants, or against Plaintiff or any Class Member as evidence of any infirmity in the claims of Plaintiff and the Class;

(c) shall be offered or received against Defendants as evidence of a presumption, concession, or admission of any liability, negligence, fault, or wrongdoing or in any way referred to for any other reason as against any of the parties to this Stipulation, in any other civil, criminal, or administrative action or proceeding; provided, however, that if this Stipulation is approved by the Court, Released Defendants may refer to it to effectuate the releases granted them hereunder; and

(d) shall be construed against Defendants, Plaintiff, or the Class as evidence of a presumption, concession or admission that the consideration to be given hereunder represents the

amount which could be or would have been recovered after trial or in any proceeding other than this Settlement.

**10. Miscellaneous Provisions**

10.1 After meeting and conferring with Defendants, Plaintiff may disclose to the Class and to the Court aggregate information about Defendants' ability to pay a judgment in the Litigation.

10.2 The Settling Parties: (a) acknowledge that it is their intent to consummate this Stipulation; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of the Stipulation.

10.3 The Settling Parties and their respective counsel agree that they will act in good faith, and will not engage in any conduct that could frustrate the purpose of this Stipulation or the mutual releases contained therein.

10.4 In connection with the approval of the Settlement by the Court, Defendants will not dispute that, based upon the publicly available information at the time, the Litigation was filed in good faith and with an adequate basis in fact, was not frivolous and is being settled voluntarily by the Defendants after consultation with competent legal counsel in an amount and in a fashion that reflects the merits of the claims.

10.5 The determination of the terms and conditions contained herein and the drafting of the provisions of this Stipulation have been by mutual understanding after negotiation, with consideration by, and participation of, the Settling Parties and their counsel. This Stipulation shall not be construed against any Settling Party on the basis that it was the drafter or participated in the drafting. Any statute or rule of construction that ambiguities are to be resolved against the drafting

party shall not be employed in the implementation of this Stipulation and the Settling Parties agree that the drafting of this Stipulation has been a mutual undertaking.

10.6 The Settling Parties intend this settlement to be a final and complete resolution of all disputes and claims between the Releasing Plaintiff Parties, on the one hand, and Released Defendants, on the other hand, with respect to the Litigation. The Settlement resolves claims which are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties agree that, and the proposed Judgment will contain a finding that, during the course of the Litigation, the parties and their respective counsel at all times complied with the requirements of California Code of Civil Procedure § 128.7. The Settling Parties agree that the Settlement Amount and the other terms of the Settlement were negotiated in good faith by the Settling Parties, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.

10.7 The Settling Parties and their counsel agree not to assert in any statement made to any media representative (whether or not for attribution) that the Litigation was commenced or prosecuted by Plaintiff or defended by Defendants in bad faith or without a reasonable basis, nor will they deny that the Litigation was commenced and prosecuted and defended in good faith and is being settled voluntarily after consultation with competent legal counsel. In all events, the Settling Parties and their counsel shall not make any accusations of wrongful or actionable conduct by any party concerning the prosecution, defenses and resolution of the Litigation, and shall not otherwise suggest that the Settlement constitutes an admission of any claim or defense alleged. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum regarding the Litigation, including that the Litigation was brought or defended in bad faith or without a reasonable basis.

## EXECUTION VERSION

10.8 Plaintiff and Plaintiff's Counsel agree that they will not intentionally assist or cooperate with any nongovernmental Person seeking to publicly disparage or economically harm the Released Defendants with respect to any matter relating to the subject matter of this Litigation.

10.9 Neither this Stipulation nor the Settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement is or may be deemed to be or may be used as an admission of, or evidence of, the appropriateness of treating the Litigation as a class action for any purpose other than the Settlement.

10.10 The Released Defendants may file this Stipulation and/or the Judgment in any other action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

10.11 All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Stipulation.

10.12 The Stipulation may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

10.13 The Stipulation and the Exhibits attached hereto constitute the entire agreement among the parties hereto and no representations, warranties or inducements have been made to any party concerning the Stipulation or its Exhibits other than the representations, warranties, and covenants contained and memorialized in such documents. Except as otherwise provided herein or under the terms of any bylaws or other agreements between or among some or all Defendants, each party shall bear its own costs and expenses.

10.14 Plaintiff's Counsel, on behalf of the Class, is expressly authorized by the Plaintiff to take all appropriate action required or permitted to be taken by the Class Members they represent

pursuant to the Stipulation to effectuate its terms and also are expressly authorized to enter into any modifications or amendments to the Stipulation on behalf of the Class Members they represent, which they deem appropriate.

10.15 Each counsel or other Person executing the Stipulation or any of its Exhibits on behalf of any party hereto hereby warrants that such Person has the full authority to do so, and that such person has the authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

10.16 The Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of executed counterparts shall be filed with the Court. Signatures sent by facsimile, docusign or pdf via email shall be deemed originals.

10.17 The Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto.

10.18 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Stipulation, and all Settling Parties and, by operation of the Judgment, all Releasing Plaintiff Parties, submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation and matters related to the Settlement.

10.19 The waiver by one Settling Party of any breach of this Stipulation by any other party shall not be deemed a waiver by any other Settling Party or a waiver of any other prior or subsequent breach of this Stipulation.

10.20 Pending approval of the Court of the Stipulation and its Exhibits, the Settling Parties shall request that all proceedings in this Litigation be stayed and that all Releasing Plaintiff

**EXECUTION VERSION**

Parties be barred and enjoined from prosecuting any of the Released Claims against any of the Released Defendants.

10.21 This Stipulation and the Exhibits hereto shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of California, and the rights and obligations of the parties to the Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of California without giving effect to that State's choice-of-law principles.

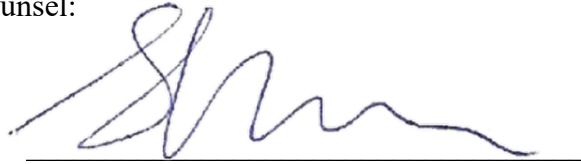
10.22 Nothing in the Stipulation, or the negotiations relating thereto, is intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, attorney-client privilege, joint defense privilege, or work product protection.

10.23 Unless otherwise provided, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of this Stipulation without further order of the Court.

IN WITNESS WHEREOF, the parties hereto have caused the Stipulation be executed by their duly authorized attorneys, dated March \_\_\_, 2023

Agreed on behalf of Plaintiff and Plaintiff's counsel:

Dated: 03/31/23



Jonathan Shomroni

Dated: \_\_\_\_\_

\_\_\_\_\_  
The Restis Law Firm  
William R. Restis, Esq.  
225 Broadway, Ste 2220  
San Diego, CA 92101  
Telephone: (619) 270-8383  
william@restislaw.com

Dated: \_\_\_\_\_

\_\_\_\_\_  
AFN Law PLLC  
Angus Ni  
506 2nd Ave, Suite 1400  
Seattle, WA 98104  
Telephone: (646) 453-7294  
angus@afnlegal.com

Dated: \_\_\_\_\_

\_\_\_\_\_  
HGT Law  
Hung Ta and Alex Hu  
250 Park Avenue, 7th Floor  
New York, NY 10177  
Telephone: (646) 453-7288  
hta@hgtlaw.com



Agreed on behalf of Plaintiff and Plaintiff's counsel:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Jonathan Shomroni

Dated: March 31, 2023

  
\_\_\_\_\_  
The Restis Law Firm  
William R. Restis, Esq.  
225 Broadway, Ste 2220  
San Diego, CA 92101  
Telephone: (619) 270-8383  
william@restislaw.com

Dated: March 31, 2023

  
\_\_\_\_\_  
AFN Law PLLC  
Angus Ni  
506 2nd Ave, Suite 1400  
Seattle, WA 98104  
Telephone: (646) 453-7294  
angus@afnlegal.com

Dated: \_\_\_\_\_

\_\_\_\_\_  
HGT Law  
Hung Ta and Alex Hu  
250 Park Avenue, 7th Floor  
New York, NY 10177  
Telephone: (646) 453-7288  
hta@hgtlaw.com

**EXECUTION VERSION**

Agreed on behalf of Plaintiff and Plaintiff's counsel:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Jonathan Shomroni

Dated: \_\_\_\_\_

\_\_\_\_\_  
The Restis Law Firm  
William R. Restis, Esq.  
225 Broadway, Ste 2220  
San Diego, CA 92101  
Telephone: (619) 270-8383  
william@restislaw.com

Dated: \_\_\_\_\_

\_\_\_\_\_  
AFN Law PLLC  
Angus Ni  
506 2nd Ave, Suite 1400  
Seattle, WA 98104  
Telephone: (646) 453-7294  
angus@afnlegal.com


Dated: 3/30/2023

  
\_\_\_\_\_  
HGT Law  
Hung Ta and Alex Hu  
250 Park Avenue, 7th Floor  
New York, NY 10177  
Telephone: (646) 453-7288  
hta@hgtlaw.com

**EXECUTION VERSION**


Agreed on behalf of Defendants and Defendants' counsel:

Dated: 3/31/2023

DocuSigned by:  
  
AAEAF67B43EE46A...


Joseph Santoro, on behalf of himself and as  
CEO of Fei Labs Inc.

Dated: 3/31/2023

DocuSigned by:  
  
D2086AA213BE4B9

Sebastian Delgado

Dated: 3/30/2023

DocuSigned by:  
  
2EA5752511DD467...

Brianna Montgomery

Dated: 03/30/2023



Quinn Emanuel Urquhart & Sullivan LLP  
Michael E. Liftik  
Sarah Heaton Concannon  
1300 I Street, Suite 900  
Washington, D.C. 20005  
Telephone: (202) 538-8000  
michaelliftik@quinnemanuel.com  
sarahconcannon@quinnemanuel.com

Emily C. Kapur  
555 Twin Dolphin Dr., 5th Fl.  
Redwood Shores, California 94065  
Telephone: (650) 801-5000  
emilykapur@quinnemanuel.com

**INDEX OF EXHIBITS TO STIPULATION OF SETTLEMENT**

<b>DOCUMENT</b>	<b>EXHIBIT</b>
[Proposed] Order Granting Plaintiff's Motion for Preliminary Approval of Class Action Settlement	A
[Proposed] Final Judgment and Order Granting Plaintiff's Motion for Final Approval of Class Action Settlement and Plan of Allocation	B

# **EXHIBIT A**

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**JONATHAN SHOMRONI**, Individually and  
on behalf of others similarly situated,

Plaintiff,

v.

**FEI LABS INC.**, a Delaware Corporation,  
**JOSEPH SANTORO**, an Individual,  
**BRIANNA MONTGOMERY**, an Individual,  
**SEBASTIAN DELGADO**, an Individual, and  
**DOES 1-10**.

Defendants,

**Case No: CGC-22-598995**

*Assigned for all purposes to  
the Hon. Ethan P. Schulman, Dep't 304*

**CLASS ACTION**

**[PROPOSED] ORDER GRANTING  
PLAINTIFF'S MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

Date: **DATE, 2023**

Time: **TIME**

Dept: 304

1 Plaintiff Jonathan Shomroni’s Motion for Preliminary Approval of a Class Action Settlement  
2 (the “Motion”) was heard on DATE. In connection with the Motion, the Court considered the  
3 proposed class action Stipulation of Settlement (attached as Exhibit XX to the Declaration of  
4 William Restis), the submissions of counsel, and all other papers filed in this action. This Order  
5 incorporates by reference the definitions in the Stipulation of Settlement. The matter having been  
6 submitted, and good cause appearing:

7 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

8 1. The provisions of the Stipulation are hereby preliminarily approved. The Court finds  
9 that the Settlement “appears to be the product of serious, informed, non-collusive negotiations, has  
10 no obvious deficiencies, does not improperly grant preferential treatment to class representatives or  
11 segments of the class, and falls within the range of possible [judicial] approval.” 4 WILLIAM B.  
12 RUBENSTEIN, ALBA CONTE & HERBERT NEWBERG, *Newberg on Class Actions* § 13:13 (5<sup>th</sup> ed. 2014)  
13 (quoting *Manual for Complex Litigation* (2<sup>nd</sup>) § 30.44 (1985)). As such, the Court finds that the  
14 proposed Settlement preliminarily appears to be fair, adequate, and reasonable to the Class Members,  
15 and is sufficient to warrant the dissemination of Notice to the Class Members.

16 **PROVISIONAL CERTIFICATION OF THE CLASS**

17 2. Pursuant to California Code of Civil Procedure § 382 and California Rule of Court  
18 3.769(d), and for purposes of, and solely in connection with, the Settlement, the Court finds that  
19 each of the requirements for certification of the Class Members set forth in the Plaintiff’s Motion  
20 for Preliminary Approval are met and hereby conditionally certifies the Class comprised of:

21 **all Persons who, directly or through an intermediary, purchased the digital**  
22 **assets “FEI” and “TRIBE” in exchange for ETH as part of the Genesis Group**  
23 **between March 31, 2021 and April 3, 2021, including those who “pre-**  
24 **swapped” their Genesis Group FEI token allocation for TRIBE tokens.**

25 Excluded from the Class are: (i) Defendants; (ii) any person, firm, trust, corporation, or other entity  
26 directly affiliated with any Defendant; (iii) any justice or judicial officer presiding over this matter  
27 and members of their immediate families and judicial staff. Also excluded from the Class are those  
28 Persons who timely and validly request exclusion.

1           3.       The Court, for Settlement purposes only, finds that certification of the Class satisfies  
2 the requirements of California Code of Civil Procedure § 382 and California Rule of Court 3.769(d).  
3 In support of this ruling, the Court conditionally and preliminarily finds that: (a) there is an  
4 ascertainable Class; (b) the Class Members are so numerous that joinder of all members is  
5 impracticable; (c) there are questions of law and fact common to the Class Members that  
6 predominate; (d) the named Plaintiff's claims are typical of the claims of the Class Members; (d) the  
7 named Plaintiff and Plaintiff's Counsel identified below are able to fairly and adequately represent  
8 the Class Members; and (e) class-wide treatment of the disputes raised in the Complaint is superior  
9 to other available methods for adjudicating the controversy. *See Brinker Rest. Corp. v. Superior*  
10 *Court*, 53 Cal. 4th 1004, 1021 (2012).

11           4.       If the Stipulation is terminated or not consummated or the Settlement is not finally  
12 approved, conditional certification of the Class shall be void. In that event, the Plaintiff, the Class  
13 Members, and Defendants shall be returned to their respective statuses as of January 27, 2023.

14           5.       Neither this Order, the Stipulation, nor any document referred to therein, nor any  
15 action taken to carry out the Settlement may be construed or used as an admission by or against  
16 Defendants or any of the other Released Parties of any fault, wrongdoing, or liability whatsoever.  
17 The entering into or carrying out of the Stipulation and any negotiations or proceedings related  
18 thereto shall not in any event be construed as or deemed to be evidence of an admission or concession  
19 with regard to the denials or defenses by Defendants or any of the other Released Parties and shall  
20 not be offered in evidence in any action or proceeding against Defendants or any of the Released  
21 Parties in any court, administrative agency, or other tribunal for any purpose whatsoever other than  
22 to enforce the provisions of this Order, the Stipulation, or any related agreement or release.

23                   **APPOINTMENT OF SETTLEMENT CLASS REPRESENTATIVE AND CLASS**  
24   **COUNSEL**

25           6.       The Court appoints and designates Plaintiff as settlement class representative for the  
26 Class Members.

27           7.       The Court appoints and designates The Restis Law Firm, P.C., AFN Law PLLC, and  
28 HGT Law as settlement class counsel for the Class Members, at the following addresses:



1 THE RESTIS LAW FIRM, P.C.  
William R. Restis, Esq. (Cal Bar No. 246823)  
2 225 Broadway, Suite 2220  
San Diego, California 92101  
3 619.270.8383  
william@restislaw.com

4 AFN LAW PLLC  
Angus F. Ni, (Wash. Bar No. 53828)  
5 (Admitted pro hac vice)  
6 506 2nd Ave, Suite 1400  
Seattle, WA 98104  
7 646.453.7294  
angus@afnlegal.com

8 HGT LAW  
Hung G. Ta (Cal. Bar No. 331458)  
9 Alex Hu (Cal. Bar No. 279585)  
10 250 Park Avenue, 7<sup>th</sup> Floor  
New York, NY 10177  
11 (646) 453-7288  
hta@hgtlaw.com

#### 12 APPOINTMENT OF CLAIMS ADMINISTRATOR AND ESCROW AGENT

13 8. Plaintiff's Counsel is hereby authorized to retain [ADMINISTRATOR NAME] as  
14 the Claims Administrator to supervise and administer the Notice procedure in connection with the  
15 proposed Settlement, as well as the processing of Claims.

16 9. The Claims Administrator is hereby authorized to retain [ESCROW AGENT NAME]  
17 as the Escrow Agent to create and maintain the Escrow Account for receipt and administration of  
18 the Settlement Fund. The contents of the Settlement Fund held by the Escrow Agent shall be deemed  
19 and considered to be *in custodia legis* of the Court, and shall remain subject to the jurisdiction of the  
20 Court, until such time as they shall be distributed pursuant to the Stipulation and/or further order(s)  
21 of the Court.

#### 22 APPROVAL OF NOTICE

23 10. The Court approves, as to form and content, the proposed Notice to the Class  
24 Members, and accordingly directs the Claims Administrator to disseminate Notice to the Class  
25 Members as follows:

- 26 a. The Claims Administrator shall send at least one copy of the Summary Notice  
27 to each Ethereum wallet address provided by Fei Labs;  
28 b. The Claims Administrator shall cause publication notice of the Stipulation and

1 Settlement by [DESCRIPTION OF PUBLICATION NOTICE], and such  
2 publication notice shall link to the Settlement Website;

- 3 c. The Claims Administrator shall establish and run the Settlement Website to  
4 provide information regarding the Settlement, which shall include relevant  
5 documents from the Litigation, including Plaintiff's complaint, Defendants'  
6 answer, the Stipulation, a copy of the Summary Notice and Long Form Notice,  
7 a copy of the Proof of Claim, an electronic version of the Proof of Claim,  
8 Plaintiff's Motion for Preliminary Approval and supporting documents, this  
9 Preliminary Approval Order, Plaintiff's motion for any Fee and Expense Award  
10 and Service Award and supporting documents (when filed), Motion for Final  
11 Approval and supporting documents (when filed), Final Order and Judgment  
12 (when filed), and other relevant information;
- 13 d. The Claims Administrator shall establish a mailing address, toll free phone  
14 number, and electronic mail address to receive inquiries by Class Members or  
15 other interested Persons, about the Stipulation or the Settlement.
- 16 e. Fei Labs shall prominently post a link to the Settlement Website on  
17 <https://fei.money>, <https://tribedao.xyz>, <https://tribe.fei.money>, and  
18 <https://medium.com/fei-protocol>.

19 11. The Court finds that the above Notice procedure is the best means practicable of  
20 providing notice to the Class under the circumstances, and when completed shall constitute due and  
21 sufficient notice of the Litigation, the Settlement, and the final Settlement Hearing to all persons  
22 affected by and/or authorized to participate in the Settlement in full compliance with California Code  
23 of Civil Procedure 382, California Rules of Court 3.766 and 3.769, the California and United States  
24 Constitutions (including the Due Process Clauses), and all other applicable laws and rules. Counsel  
25 for the Parties are authorized to correct any typographical errors in the Stipulation and make  
26 clarifications to the extent the same are found or needed so long as such corrections do not materially  
27 alter the substance of the documents.

28 **PARTICIPATION IN THE SETTLEMENT**



1 it is postmarked or delivered on or before the objection deadline provided in Paragraph 24 of this  
2 Order, or as the Court may otherwise direct. Any Class Member who does not enter an appearance  
3 will be represented by Plaintiff's Counsel.

4 17. Any Class Member may appear and show cause why the proposed Settlement should  
5 or should not be approved as fair, reasonable, and adequate, why a judgment should or should not  
6 be entered thereon, why the proposed Plan of Allocation should or should not be approved, why  
7 attorneys' fees and expenses should or should not be awarded to Plaintiff's Counsel, or why Plaintiff  
8 should or should not be issued a Service Award; provided, however, that no Class Member or any  
9 other Person shall be heard or entitled to contest such matters, unless that Person or entity has  
10 submitted said objections, papers, and briefs to the Court and served copies of such objection on  
11 Plaintiff's Counsel and Defendants' Counsel at the addresses set forth below such that they are  
12 received on or before the objection deadline provided in Paragraph 24 of this Order.

13 **Plaintiff's Counsel**

14 THE RESTIS LAW FIRM, P.C.  
15 William R. Restis, Esq.  
16 225 Broadway, Suite 2220  
San Diego, California 92101

**Defendants' Counsel**

QUINN EMANUEL URQUHART & SULLIVAN, LLP  
Emily Kapur  
555 Twin Dolphin Dr., 5<sup>th</sup> Floor  
Redwood Shores, CA 94065

17 18. Any objections, filings and other submissions by the objecting Class Member: (a)  
18 must state the name, address, and telephone number of the person or entity objecting and must be  
19 signed by the objector; (b) must contain a statement of the Class Member's objection or objections,  
20 and the specific reason for each objection, including any legal and evidentiary support the Settlement  
21 Class Member wishes to bring to the Court's attention; and (c) must include information sufficient  
22 to prove membership in the Class. Objectors who enter an appearance and desire to present evidence  
23 at the Settlement Hearing in support of their objection must include in their written objections or  
24 notice of appearance the identity of any witnesses they may call to testify and any exhibits they  
25 intend to introduce into evidence at the hearing.

26 **ADMINISTRATION FEES, EXPENSES AND TAXES**

27 19. All reasonable costs incurred in identifying and providing Notice to Class Members  
28 of the Settlement, as well as in administering the Settlement, shall be paid as set forth in the

1 Stipulation without further order of the Court.

2 20. The Escrow Agent is authorized and directed to prepare any tax returns and any other  
3 tax reporting form for or in respect to the Settlement Fund, and to otherwise perform all obligations  
4 with respect to Taxes and any reporting or filings or payment in respect thereof without further order  
5 of the Court in a manner consistent with the provisions of the Stipulation.

6 **STAY OF PROCEEDINGS AND TEMPORARY INJUNCTION**

7 21. Until otherwise ordered by the Court, the Court stays all proceedings in the Action  
8 other than proceedings necessary to carry out or enforce the terms and conditions of the Stipulation.

9 22. Pending final determination of whether the Settlement should be approved, the Court  
10 bars and enjoins Plaintiff, and all other Class Members, from commencing or prosecuting any and  
11 all of the Released Claims against any of the Defendants.

12 **TERMINATION OF SETTLEMENT**

13 23. In the event that the Stipulation is not approved by the Court or the Settlement set  
14 forth in the Stipulation is terminated or fails to become effective in accordance with its terms, the  
15 Settling Parties shall be restored to their respective positions in the Litigation as of January 27, 2023.  
16 In such event, the terms and provisions of the Stipulation, with the exception of ¶¶ 8.7 to 8.9 thereof,  
17 shall be null and void, have no further force and effect, and shall not be used in the Litigation or in  
18 any other proceeding for any purpose, and any judgment or order entered by the Court in accordance  
19 with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*, and shall not be used in  
20 the Litigation or in any other proceeding for any purpose.

21 **SETTLEMENT TIMELINE**

22 24. The Court orders the following schedule:

23 a. No later than **10 DAYS AFTER PRELIMINARY APPROVAL**, the  
24 Administrator and Defendants shall:

- 25 i. launch the Settlement Website as described in Paragraph 10 of this  
26 Order;  
27 ii. disseminate the Summary Notice as described in Paragraph 10 of this  
28 Order; and

1                   iii.     commence publication of the Notice as described in Paragraph 10 of  
2                                   this Order;

3                   b.     All requests for exclusion must be submitted to the Claims Administrator on  
4 or before **70 DAYS AFTER PRELIMINARY APPROVAL** in accordance this Order.

5                   c.     No later than **80 DAYS AFTER PRELIMINARY APPROVAL** Plaintiff's  
6 Counsel shall file with the Court the Administrator's Declaration of Compliance with Class  
7 Notice, and a list of the names and addresses of Class Members who have requested to be  
8 excluded from the Settlement (regardless of whether such exclusion requests comply with  
9 Paragraph 15 of this Order);

10                  d.     No later than **85 DAYS AFTER PRELIMINARY APPROVAL**, Plaintiff's  
11 Counsel shall file Plaintiff's Motion for Final Approval, and motion for any Fee and Expense  
12 Award and/or Service Award with the Court, and provide them to the Claims Administrator  
13 to be promptly posted on the Settlement Website.

14                  e.     All Proof of Claim forms must be submitted in accordance with this Order on  
15 or before **95 DAYS AFTER PRELIMINARY APPROVAL**, unless later accepted by  
16 Plaintiff's Counsel.

17                  f.     All objections must be served on Plaintiff's Counsel and Defendants' Counsel  
18 in accordance with this Order on or before **95 DAYS AFTER PRELIMINARY**  
19 **APPROVAL**.

20                  g.     All notices of appearance, motions to intervene, and any documents or  
21 materials that any Class Member wishes the Court to consider at the final Settlement Hearing,  
22 must be filed with the Court and served on Plaintiff's Counsel and Defendants' Counsel in  
23 accordance with this Order on or before **95 DAYS AFTER PRELIMINARY APPROVAL**.

24                  h.     No later than **105 DAYS AFTER PRELIMINARY APPROVAL**,  
25 Plaintiff's Counsel shall file with the Court:

26                         i.     their replies in support of Plaintiff's Motion for Final Approval, and  
27                                   motion for any Fee and Expense Award and/or Service Award; and

28                         ii.    all written objections received from Class Members.

1           25.     A final Settlement Hearing shall be held before this Court on **120 DAYS AFTER**  
2 **PRELIMINARY APPROVAL**, at **TIME**, in Department 304 of the San Francisco Superior Court,  
3 400 McAllister Street, San Francisco, California 94102, to determine all necessary matters  
4 concerning the Stipulation, including whether the proposed Settlement is fair, reasonable, and  
5 adequate, whether this Court should grant final approval, whether this Court should approve the Plan  
6 of Allocation, whether there should be any Fee and Expense Award and/or Service Award, and the  
7 amounts of any such awards.

8           26.     Class Counsel, Defendants, and the Administrator are directed to carry out their  
9 obligations under the Stipulation.

10  
11  
12 **IT IS SO ORDERED**

13  
14 DATED: March \_\_\_\_, 2023

\_\_\_\_\_  
15 Hon. Ethan P. Schulman  
16 JUDGE OF THE  
17 SAN FRANCISCO SUPERIOR COURT

# **EXHIBIT B**



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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**JONATHAN SHOMRONI**, Individually and  
on behalf of others similarly situated,

Plaintiff,

v.

**FEI LABS INC.**, a Delaware Corporation,  
**JOSEPH SANTORO**, an Individual,  
**BRIANNA MONTGOMERY**, an Individual,  
**SEBASTIAN DELGADO**, an Individual, and  
**DOES 1-10**.

Defendants,

**Case No: CGC-22-598995**

*Assigned for all purposes to  
the Hon. Ethan P. Schulman, Dep't 304*

**CLASS ACTION**

**[PROPOSED] FINAL JUDGMENT AND  
ORDER GRANTING PLAINTIFF'S  
MOTION FOR FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT AND  
PLAN OF ALLOCATION**

Date: **DATE, 2023**

Time: **TIME**

Dept: 304

1 On DATE, this Court entered the Preliminary Approval Order preliminarily approving the  
2 class action Settlement set forth in the Stipulation of Settlement dated DATE (the “Stipulation”),  
3 finding that the Settlement appeared fair, reasonable and adequate to the Class Members, free of  
4 collusion or indicia of unfairness, and within the range of possible judicial approval, and thereby  
5 sufficient to warrant dissemination of Notice to the Class Members. The Court also conditionally  
6 certified the Class pursuant to California Code of Civil Procedure § 382 and California Rule of Court  
7 3.769(d).

8 Currently pending before the Court is Plaintiff Jonathan Shomroni’s Motion for Final  
9 Approval of Class Action Settlement and Plan of Allocation (the “Motion”), which was heard on  
10 DATE. In connection with the Motion, the Court considered the proposed class action Stipulation  
11 of Settlement, the submissions of counsel, and all other papers filed in this action.

12 Due and adequate notice having been given of the class action Settlement, the Stipulation  
13 and of the final Settlement Hearing as required by the Preliminary Approval Order, and the Court  
14 having considered all papers, including the number of objections and exclusions filed, and having  
15 heard oral argument by the Settling Parties and any Class Member who wished to be heard, and  
16 otherwise being fully informed, and for good cause appearing:

17 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

18 1. This Final Order incorporates by reference the definitions in the Stipulation, as  
19 submitted to the Court at DOCKET. All capitalized terms used in this Final Judgment and Order  
20 shall have the meanings and/or definitions given to them in the Stipulation unless otherwise defined  
21 herein.

22 2. This Court has jurisdiction over the subject matter of the Litigation, the parties, all  
23 Class Members, and over those persons and entities undertaking affirmative obligations to  
24 effectuate the Settlement, including the Claims Administrator and Escrow Agent.

25 3. Pursuant to California Code of Civil Procedure § 382 and California Rule of Court  
26 3.769(d), and for purposes of, and solely in connection with, the Settlement, the Court hereby  
27 certifies the Class comprised of:  
28

1           **All persons and entities who, directly or through an intermediary, purchased**  
2           **the digital assets “FEI” and “TRIBE” in exchange for ETH as part of the**  
3           **Genesis Group between March 31, 2021 and April 3, 2021, including those who**  
4           **“pre-swapped” their Genesis Group FEI token allocation for TRIBE tokens.**

5 Excluded from the Class are: (i) Defendants; (ii) any person, firm, trust, corporation, or other entity  
6 directly affiliated with any Defendant; (iii) any justice or judicial officer presiding over this matter  
7 and members of their immediate families and judicial staff. Also excluded from the Class are those  
8 Persons who timely and validly request exclusion.

9           4.       The Court finds, for Settlement purposes only, that certification of the Class satisfies  
10 the requirements of California Code of Civil Procedure § 382 and California Rule of Court  
11 3.769(d). In support of this ruling, the Court finds that: (a) there is an ascertainable Class; (b) the  
12 Class Members are so numerous that joinder of all members is impracticable; (c) there are questions  
13 of law and fact common to the Class Members that predominate; (d) the named Plaintiff’s claims  
14 are typical of the claims of the Class Members; (e) the named Plaintiff and Plaintiff’s Counsel  
15 identified below are able to fairly and adequately represent the Class Members; and (f) class-wide  
16 treatment of the disputes raised in the Complaint is superior to other available methods for  
17 adjudicating the controversy. *See Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1021  
18 (2012).

19           5.       The Court finds that notice was given to Class Members in accordance with the  
20 Preliminary Approval Order entered on DATE, at DOCKET. As described in the  
21 ADMINISTRATOR DECLARATION, notice has been successful and (i) fairly and accurately  
22 described the Litigation and the proposed Settlement; (ii) provided sufficient information so that  
23 Class Members were able to decide whether to accept the benefits of the Settlement, exclude  
24 themselves from the Settlement or object to the Settlement; (iii) adequately described the manner  
25 in which Class Members could file Claims, exclude themselves from the Settlement or object to  
26 the Settlement, and/or to appear at the final Settlement Hearing; and (iv) provided the date, time  
27 and place of the Settlement Hearing.

1           6.       The Court hereby finds that the Notice was (i) the best notice practicable under the  
2 circumstances, (ii) constituted notice that was reasonably calculated, under the circumstances, to  
3 apprise Class Members of the Settlement; (iii) was reasonable and constituted due, adequate, and  
4 sufficient notice to all Persons entitled to receive notice; and (iv) constituted due and sufficient  
5 notice of the Litigation, the Settlement, and the final Settlement Hearing to all Persons affected by  
6 and/or authorized to participate in the Settlement, in full compliance with California Code of Civil  
7 Procedure § 382, California Rules of Court 3.766 and 3.769, the California and United States  
8 Constitutions (including the Due Process Clauses), and all other applicable laws and rules.

9           7.       The Court considered any objections by Class Members **DESCRIBE**.

10          8.       The Class Members in **Exhibit 1** to this Final Judgment and Order timely and validly  
11 requested exclusion from the Settlement (the “Opt Outs”). These Opt Outs are hereby excluded  
12 from any and all terms of the Stipulation and Settlement, including the releases contained therein.

13          9.       The Court hereby finds that the number of objections and requests for exclusion  
14 from the Settlement indicates that the majority of Class Members found the Settlement and  
15 Stipulation to be fair, reasonable, and adequate.

16          10.      The Court finds that a full and fair opportunity has been afforded to the Class  
17 Members to exclude themselves from and object to the Settlement and Stipulation, and to  
18 participate in the Settlement Hearing. Therefore, pursuant California Rule of Court 3.769, all Class  
19 Members, other than the Opt Outs listed in Exhibit 1, are bound by this Final Judgment and Order  
20 and by the terms of the Stipulation.

21          11.      This Court gives final approval to the Settlement and finds that the Stipulation is  
22 fair, reasonable, adequate, and in the best interests of the Class Members considering the strength  
23 of Plaintiff’s case; the risk, expense, complexity and likely duration of further litigation; the risk of  
24 maintaining class action status through trial; the amount offered in settlement; the extent of  
25 discovery completed and the stage of the proceedings; the experience and views of counsel; and  
26 the reaction of the Class Members.

27          12.      The Court finds that the record in this Litigation was sufficiently developed, and  
28 that the publicly-available nature of blockchain records, the information exchanged by the Settling

1 Parties during mediation, the damages analysis performed at the direction of Plaintiff's Counsel,  
2 and the exchange of confirmatory discovery in connection with the Settlement were sufficient for  
3 Plaintiff, Plaintiff's Counsel, and the Court to evaluate and consider the fairness, adequacy, and  
4 reasonableness of the Settlement.

5 13. The Court finds that the Settlement Amount of \$17,850,000 provided for under the  
6 Stipulation and Settlement, constitutes a fair value given in exchange for the Released Claims  
7 against the Released Defendants. The complex legal and factual posture of this case, including  
8 issues of first impression, and the fact that the Settlement is the result of arm's-length negotiations  
9 between the Parties, support this finding.

10 14. The Court gives final approval to the Plan of Allocation, and finds that the Plan of  
11 Allocation is fair, reasonable and adequate, and is based on a reasonable and rational basis. The  
12 Court further finds that the Plan of Allocation appropriately allocates the Net Settlement Fund  
13 among Class Members who qualify as Authorized Claimants based on a formula reasonably related  
14 to Class Members' underlying claim under Section 12(a) of the Securities Act of 1933, in a manner  
15 that treats all Class Members equitably relative to each other, and does not grant preferential  
16 treatment to the Plaintiff or other segments of the Class.

17 15. The Court finds there is no evidence or other indicators of fraud or overreaching by,  
18 or collusion between, the Settling Parties. All evidence indicates the Settlement is the product of  
19 an arm's-length negotiating process facilitated by a skilled mediator, Michelle Yoshida of Phillips  
20 ADR Enterprises.

21 16. The Court finds that the Plaintiff and Plaintiff's Counsel adequately represented the  
22 Class Members for the purposes of litigating this matter and entering into and implementing the  
23 Stipulation and Settlement.

24 17. The Court finds that the Settling Parties' Supplemental Agreement with respect to  
25 opt-out thresholds was sufficiently disclosed to the Class Members and the Court *in camera* to  
26 ensure the Supplemental Agreement did not affect the interests of Class Members by altering what  
27 they might receive or forgo through the Settlement.  
28

1           18.     Accordingly, the Settlement is hereby finally approved in all respects, and the  
2 Settling Parties and their counsel are hereby directed to implement and consummate the Stipulation  
3 and Settlement according to the Stipulation’s terms and provisions. The Stipulation is hereby  
4 incorporated into this Final Judgment and Order in full and shall have the full force of an Order of  
5 this Court.

6           19.     The Court orders the Claims Administrator and Escrow Agent to effectuate the terms  
7 of the Stipulation in all respects, including to distribute the Settlement Fund pursuant to the  
8 Stipulation and this Final Judgment and Order to such Authorized Claimants who submitted valid  
9 Claims; to pay all costs and expenses reasonably and actually incurred, including Notice and  
10 Administration Expenses, Taxes and Tax Expenses, the Fee and Expense Award and Service  
11 Award, and other expenses reasonably and actually incurred in the administration of the Settlement;  
12 and to perform all other duties and responsibilities that remain under the Stipulation and this Final  
13 Judgment and Order.

14           20.     The Court orders the Settling Parties and their counsel to carry out, or cause to be  
15 carried out, all other obligations under the Stipulation.

16           21.     The Claims Administrator shall post a copy of this Final Judgment and Order on the  
17 Settlement Website within five (5) days of entry of this Order.

18           22.     The Court orders the payment of \$\_\_\_\_\_ in attorneys’ fees and  
19 litigation expenses in the amount of \$\_\_\_\_\_ (the Fee and Expense Award) from the  
20 Settlement Fund to the law firms of The Restis Law Firm, P.C., AFN Law PLLC, and HGT Law,  
21 finding such Fee and Expense Award to be fair and reasonable for the following reasons and those  
22 stated in Court. In assessing the requested attorneys’ fees, the Court has considered the relief  
23 achieved for the Class Members, the time and effort devoted by Plaintiff’s Counsel as demonstrated  
24 by their sworn declarations, and the complexity of the legal and factual issues involved. The Court  
25 finds that the Fee and Expense Award is fair and reasonable under both a common fund approach  
26 and a lodestar approach.

27           23.     The Court orders the payment of a Service Award in the amount of \$\_\_\_\_\_  
28 to Plaintiff Jonathan Shomroni to be paid from the Settlement Fund to compensate him for his

1 efforts and commitment on behalf of the Class, and finds that this amount is fair, reasonable, and  
2 justified under the circumstances of this case.

3 24. Except as otherwise set forth in this Final Judgment and Order and the Stipulation,  
4 the Parties shall bear their own costs and attorneys' fees.

5 25. Upon the Effective Date, the Releasing Plaintiff Parties shall be deemed to have,  
6 and by operation of this Final Judgment and Order shall have, fully, finally, unconditionally and  
7 forever waived, released, relinquished, dismissed with prejudice, and discharged all Released  
8 Claims (including Unknown Claims) against the Released Defendants, whether arising under  
9 federal, state, common, or foreign law, whether or not the Plaintiff or Class Member executes and  
10 delivers a Proof of Claim or shares in the Settlement Fund.

11 26. Upon the Effective Date, each of the Released Defendants shall be deemed to have,  
12 and by operation of this Final Judgment and Order shall have, fully, finally, and forever released,  
13 relinquished, and discharged all of Released Defendants' Claims (including Unknown Claims)  
14 against Plaintiff, Plaintiff's Related Parties, and Class Members, whether arising under federal,  
15 state, common or foreign law. Upon the Effective Date, the Defendants will be forever barred from  
16 commencing, instituting, prosecuting or continuing to prosecute any action or other proceeding in  
17 any court of law or equity, arbitration tribunal, or administrative forum, asserting the Released  
18 Defendants' Claims against the Plaintiff, Plaintiff's Related Parties and Class Members.

19 27. With respect to any and all Released Claims and the Released Defendants' Claims,  
20 upon the Effective Date, each of the Settling Parties shall be deemed to have waived the provisions,  
21 rights, and benefits of California Civil Code § 1542 and any law of the United States, or any state  
22 or territory thereof, or principle of common law or foreign law, which is similar, comparable, or  
23 equivalent to California Civil Code § 1542.

24 28. Neither the Stipulation nor any act performed or document executed pursuant to or  
25 in furtherance of the Stipulation or the Settlement, is or may be deemed to be or may be used as:  
26 (a) an admission or concession of, or evidence of, the validity of any Released Claim or any fault,  
27 wrongdoing, or liability of the Released Defendants; (b) an admission or concession by Plaintiff or  
28 any Class Member of any infirmity in the claims asserted in the Complaint; or (c) an admission or

1 concession of, or evidence of, any fault, wrongdoing, or liability of any of the Settling Parties or  
2 the Released Defendants in any civil, criminal, or administrative proceeding in any court,  
3 administrative agency, or other tribunal. The released parties may file the Stipulation and/or this  
4 Final Judgment and Order in any action that may be brought against them in order to support a  
5 defense or counterclaim based on principles of res judicata, collateral estoppel, equitable estoppel,  
6 judicial estoppel, release, good-faith settlement, judgment bar or reduction, or any theory of claim  
7 preclusion or issue preclusion or similar defense or counterclaim. Any of the Settling Parties may  
8 file the Stipulation and documents executed in furtherance thereof in any action to enforce the  
9 Settlement.

10 29. Without affecting in any way the finality of this Final Judgment and Order, the Court  
11 reserves continuing and exclusive jurisdiction for purposes of administering, interpreting,  
12 implementing, effectuating, and enforcing the Settlement as set forth in the Stipulation, the Plan of  
13 Allocation and distribution of the Settlement Fund, and matters within the scope of this Final  
14 Judgment and Order, and matters relating thereto. Without further Order of the Court, the parties  
15 may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

16 30. The Complaint in this Litigation herein is dismissed on the merits with prejudice as  
17 against the Released Defendants and without costs except for the payments expressly provided for  
18 in the Stipulation.

19 31. There is no just reason for delay in the entry of final judgment, and the Court directs  
20 the Clerk of the Court to enter judgment in accordance with the terms of this Final Judgment and  
21 Order upon submission by the Settling Parties of a conforming order.

22  
23 **IT IS SO ORDERED**

24  
25 DATED: \_\_\_\_\_, 2023

26 \_\_\_\_\_  
27 Hon. Ethan P. Schulman  
28 JUDGE OF THE  
SAN FRANCISCO SUPERIOR COURT



# EXHIBIT B



(949) 760-5280  
PHILLIPSADR.COM  
2101 EAST COAST HWY, STE 250  
CORONA DEL MAR, CA 92625

MICHELLE M. YOSHIDA, ESQ  
MEDIATOR

Michelle Yoshida has been a full-time mediator, arbitrator, and special master since 2007 and she joins Phillips ADR Enterprises at its November 2014 inception.



As a neutral, Michelle has previously primarily worked with former Judge Daniel Weinstein and the Weinstein Team. She has been involved in successfully mediating and managing multi-party and multi-faceted cases, with an aggregate settlement value of billions of dollars, annually. She brings her comprehensive experience in ADR process design and mediation of issues in complex matters to Phillips ADR Enterprises. She has been involved in the mediation of over five hundred disputes, involving a myriad of diverse matters, including financial and accounting cases, securities and derivative matters, insurance coverage, regulatory matters, professional liability, ERISA, and trustee issues.

She is known for her ability to ascertain and comprehend legal and factual issues quickly, and she is particularly adept in managing large, complex ADR cases proficiently and objectively. She has been recognized for her resolute determination and equanimity in assisting the parties in evaluating and finding

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MICHELLE YOSHIDA  
myoshida@phillipsadr.com  
(707) 337-6315

reasoned and practical solutions. Her cases have ranged from personal contractual disputes to multi-faceted disputes involving major NYSE and NASDAQ corporations. Michelle has outstanding skills in building relationships of trust, candor, respect and productive interactions with mediation participants.

Prior to becoming a neutral, Michelle was as a trial attorney in private practice, litigating complex business matters including contract, insurance coverage, intellectual property, real estate, regulatory and white collar matters. She also served as a Presidential Appointee, Legislative Director at the U.S. Commission on Civil Rights. She was General Counsel to the National Japanese American Citizens League from 2002 to 2012 and has participated in significant proceedings, in state court matters and to the U.S. Supreme Court. She received her juris doctor from Golden Gate University School of Law and her Bachelor's Degree from the University of California at Irvine.

# EXHIBIT C

## **Proposed Plan of Allocation of Net Settlement Fund Among Authorized Claimants**

1. The Plan of Allocation set forth herein is the plan that is being proposed to the Court for approval by Plaintiff after consultation with his damages consultant. The Court may approve the Plan of Allocation with or without modification, or approve another plan of allocation, without further notice to the Class. Any Orders regarding a modification to the Plan of Allocation will be posted on the website [www. .com](http://www. .com). Defendants have had, and will have, no involvement in or responsibility for the terms or application of the Plan of Allocation.

2. The objective of the Plan of Allocation is to equitably distribute the Net Settlement Fund among those Class Members who suffered economic losses as a result of the alleged violations of the federal securities laws with respect to the unregistered offer and sale of the digital tokenized assets FEI (“FEI”) and TRIBE (“TRIBE”) in the Genesis Event. All Persons who purchased the digital assets FEI and TRIBE in exchange for Ethereum (“ETH”) as part of the Genesis Group, including those who “pre-swapped” any portion of their Genesis Group FEI token allocation for TRIBE tokens between March 31, 2021 and April 3, 2021, are potentially eligible for compensation.

3. Calculations made pursuant to the Plan of Allocation do not represent a formal damages analysis that has been adjudicated in the Litigation and are not intended to measure the amounts that Class Members would recover after a trial. Nor are these calculations intended to be estimates of the amounts that will be paid to Authorized Claimants pursuant to the Settlement. The computations under the Plan of Allocation are only a method to weigh the relative claims of Authorized Claimants against one another for the purposes of making a *pro rata* allocation of the Net Settlement Fund.

### **CALCULATION OF RECOGNIZED LOSS AMOUNTS**

4. For each digital wallet used to make a contribution to the Genesis Event, a “**Recognized Loss Amount**” will be calculated as set forth below for all FEI and TRIBE tokens purchased or otherwise acquired using that digital wallet, as listed in the Proof of Claim form and for which adequate documentation is provided.

5. For each digital wallet, a Claimant’s “Starting Value” will be calculated as the U.S. dollar value of ETH contributed to the Genesis Event and used to purchase FEI and TRIBE digital assets in the Genesis Group offering by multiplying the number of ETH contributed by \$2,009.19, the U.S. dollar value of ETH employed in the execution of the Genesis transaction.<sup>1</sup>

6. For each digital wallet, a Claimant’s “Ending Value” will be the sum of their calculated FEI Sales Values, TRIBE Sales Values, FEI Holding Values, and TRIBE Holding Values. These values are calculated as U.S. dollar amounts as follows:

- a. For each FEI purchased in the Genesis Group offering and:

---

<sup>1</sup> See Genesis Transaction, Ethereum blockchain transaction hash: 0xc9851f374701f76024c1f44f7166e0ef8a99456750463dc9d7b426e6359b9b20, available at <https://etherscan.io/tx/0xc9851f374701f76024c1f44f7166e0ef8a99456750463dc9d7b426e6359b9b20> (showing, under “More Details,” “Ether Price: \$2,009.19 / ETH”).

- i. Sold prior to January 27, 2023, the “FEI Sales Value” is equal to the sales price.<sup>2</sup>
  - ii. Held as of January 27, 2023, the “FEI Holding Value” is equal to \$1.00.
- b. For each TRIBE purchased or otherwise received in the Genesis Group offering (including TRIBE acquired from “pre-swapping” FEI and bonus TRIBE received) and:
  - i. Sold prior to January 27, 2023, the “TRIBE Sales Value” is equal to the sales price.<sup>3</sup>
  - ii. Held as of January 27, 2023, the “TRIBE Holding Value” is equal to \$0.25.

For each digital wallet used in the Genesis Event, a Claimant’s “**Recognized Loss Amount**” is equal to the Starting Value minus the Ending Value. If the Recognized Loss Amount is less than or equal to zero, the Recognized Loss Amount for that digital wallet shall be set to zero.

### **ADDITIONAL PROVISIONS**

7. The Net Settlement Fund will be allocated among all Authorized Claimants whose Distribution Amount (defined in ¶ 11 below) is \$10.00 or greater.

8. **Calculation of Claimant’s “Recognized Claim”:** A Claimant’s “Recognized Claim” will be the sum of his, her, or its Recognized Loss Amounts as calculated above with respect to all digital wallets used to purchase or acquire FEI and TRIBE as part of the Genesis Group.

9. **“Sale Prices”:** For the purposes of calculations under this Plan of Allocation, “sale price” means the sale price calculated as described above, before deducting any fees, taxes, or commissions.

10. **“Purchase/Sale” Dates:** Purchases, acquisitions, and sales of FEI and TRIBE will be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date. The receipt or grant through staking, by gift, inheritance, or operation of law of FEI or TRIBE shall not be deemed an eligible purchase or acquisition for the calculation of a Claimant’s Recognized Loss Amount, nor shall the receipt or grant be deemed an assignment of any claim relating to the FEI or TRIBE unless (i) the donor or decedent purchased or acquired the FEI or TRIBE as part of the Genesis Group during the Genesis Event; (ii) the instrument of gift or assignment specifically provides that it is intended to transfer such rights; and (iii) no Claim was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to those FEI and TRIBE purchases.

11. **Determination of Distribution Amount:** The Net Settlement Fund will be distributed to Authorized Claimants on a *pro rata* basis based on the relative size of their Recognized Claims. Specifically, a “Distribution Amount” will be calculated for each Authorized Claimant, which will be the Authorized Claimant’s Recognized Claim divided by the total

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<sup>2</sup> Sales price for FEI token sales shall equal to the FEI closing price (in dollars) associated with the documented sales date found at <https://coinmarketcap.com/>.

<sup>3</sup> Sales price for TRIBE token sales shall equal the TRIBE closing price (in dollars) associated with the documented sales date found at <https://coinmarketcap.com/>.

Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund.

12. If any Authorized Claimant's Distribution Amount calculates to less than \$10.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

13. Distributions will be made to Authorized Claimants after all Claims have been processed, after the Court has finally approved the Settlement and after any appeals are resolved. After the initial distribution of the Net Settlement Fund, the Claims Administrator will make reasonable and diligent efforts to have Authorized Claimants cash outstanding distribution checks. To the extent any monies remain in the Net Settlement Fund after the initial distribution, and if Plaintiff's Counsel, in consultation with the Claims Administrator, determines that it is cost-effective to do so, the Claims Administrator, no less than six (6) months after the initial distribution, will conduct a re-distribution of the funds remaining after payment of any unpaid fees and expenses incurred in administering the Settlement, including for such re-distribution. The re-distribution will be made to Authorized Claimants who have cashed their initial distributions and who would receive at least \$10.00 from such re-distribution. Additional re-distributions to Authorized Claimants who have cashed their initial distributions and who would receive at least \$10.00 on such additional re-distributions may occur thereafter if Plaintiff's Counsel, in consultation with the Claims Administrator, determines that additional re-distributions, after the deduction of any additional fees and expenses incurred in administering the Settlement, including for such re-distributions, would be cost-effective. At such time as it is determined that the re-distribution of funds remaining in the Net Settlement Fund is not cost-effective, the remaining balance will be contributed to an appropriate 501(c)(3) non-profit organization selected by, and unaffiliated with, Plaintiff's Counsel, subject to approval by the Court.

14. Payment pursuant to the Plan of Allocation, or such other plan of allocation as may be approved by the Court, will be conclusive against all Claimants. No person shall have any claim against Plaintiff, Plaintiff's Counsel, Plaintiff's damages consultant, the Released Defendants, Defendants' Counsel, or the Claims Administrator or other agent designated by Plaintiff's Counsel arising from distributions made substantially in accordance with the Stipulation, the plan of allocation approved by the Court, or further Orders.

# EXHIBIT D



## William R. Restis

### EDUCATION

- ❖ *U. San Diego School of Law*, J.D., 2006
- ❖ *James Madison College*, Michigan State University, B.A. 2002 (*Dean's List*)

### BAR ADMISSIONS

- ❖ California 2006

### COURT ADMISSIONS

- ❖ Southern District of California
- ❖ Northern District of California
- ❖ Central District of California
- ❖ Eastern District of California
- ❖ Ninth Circuit Court of Appeals
- ❖ California Fourth District Court of Appeals
- ❖ California Supreme Court


Since 2006, William has been litigating complex, multi-district, and multi-party class actions. He has recovered over two hundred-seventy million dollars for class members and clients, and changed the law to help protect them.


He founded The Restis Law Firm, P.C. in late 2016. Prior to founding RLF, William represented investors and consumers at San Diego's oldest class action law firm, Finkelstein & Krinsk LLP.

In addition to class actions, William also practices other forms of complex litigation. This includes corporate governance and derivative claims, and representing whistleblowers before the Department of Justice and Securities and Exchange Commission.


William also served as general counsel for two technology start-ups, and is a longtime board member of a highly successful non-profit.

William is currently Lead Counsel or co-counsel to Lead Counsel in the following cases:

 *Kusada et al v. Jailin Niu et al.*, No. 20-2-03299-9 SEA (Wash. Sup. Ct.) (Mass action challenging "Golden Sun" Ponzi scheme. Preliminary injunction and two writ of attachment secured on \$40m+ of defendants' real property) (Co-Lead Counsel)

 *Hunichen v. Atonomi LLC et. al.*, No. 2:19-cv-00615-RAJ (W.D. Wash.) (\$6 million partial settlement in securities class action challenging whether "Initial Coin Offering" of cryptocurrency was illegal offer and sale of securities in violation of Washington State Securities Act. Class certified and case pending against remaining defendants) (Co-Lead Counsel)

Notable past class cases that William was either lead attorney or had significant involvement include:

 *In re Tezos Securities Litigation*, No. 3:17-cv-06779-RS (N.D. Cal.) (\$25 million settlement in class action challenging whether "Initial Coin Offering" of cryptocurrency was an illegal offer and sale of securities in violation of the Securities Act of 1933) (Co-Counsel to Court appointed Lead Counsel)

A handwritten signature in cursive script, likely reading 'William R. Restis'.



🚩 *Greule v. Closets by Design, Inc.*, No. 2:19-cv-03881-JFW-AS (challenging fictitious discounts in violation of false advertising laws) (Lead Counsel)

🚩 *Beck v. PLPCC et al.*, No. 37-2017-00037524-CU-BT-CTL (San Diego Sup. Ct.) (Final approval granted to class settlement redistributing medical marijuana cooperative profits to cooperative members) (Lead Class Counsel)

🚩 *Faasse et al. v. Coinbase, Inc.*, No. 3:18-cv-01382-JD (N.D. Cal.) (challenging Coinbase's ability to keep Bitcoin that was sent from Coinbase users to third parties but was never claimed) (Lead Counsel)

🚩 *Blevins v. Capital Alliance Group*, No. 2:18-cv-364-EAS-KAJ (S.D. Ohio) (won dismissal of TCPA class action within 4 months) (Lead Counsel for Defendant)

🚩 *Northrup v. Capital Alliance Group*, No. 8:18-cv-23-JLS-DFM (C.D. Cal.) (won dismissal of TCPA class action within 8 months) (Lead Counsel for Defendant)

🚩 *Hahn v. Massage Envy Franchising LLC*, No. 3:12-cv-000153 (S.D. Cal.) (nationwide settlement with 75% restitution of class members' lost prepaid massages valued by experts between \$179-\$225 million). In *Massage Envy*, William won every motion, and established complete liability to the class on *plaintiff's* motion for summary judgment. 2014 WL 5100220 (S.D. Cal. Sept. 25, 2014). In doing so, the Court adopted his proposed extension of California's doctrines on unconscionability, liquidated damages and franchisor liability that have since been relied upon by several courts.

🚩 *Sanai v. BMW of North America*, No. 2:12-cv-06105 (D.N.J.) (nationwide settlement recovering lost warranty and 100% reimbursement of repair costs valued by expert at \$12.8 million)

🚩 *Derry v. Jackson Nat'l Insurance Co.*, No. 4:12-cv-1380 (N.D. Cal.) (California settlement recovering \$11.2 million in annuity surrender charges, and reducing future surrender charges)

🚩 *Klien v. Walgreen Company et al.*, No. GIC 795254 (S.D. Sup. Ct.) (California class settlement prohibiting pharmacies from using medical information for marketing)

🚩 *Utility Consumers Action Network v. Albertsons, Inc. et al.*, No. GIC830069 (S.D. Sup. Ct.) (California class settlement prohibiting pharmacies from using medical information for marketing)

🚩 *Scherer v. Tiffany and Company, Co.*, 3:11-cv-00532 (S.D. Cal.) (class action settlement providing free Tiffany's merchandise)

🚩 *Austin v. Michaels Stores Inc.*, No. 37-2011-00085906 (S.D. Sup. Ct.) (class action settlement providing free merchandise)

🚩 *Saratoga Advantage Trust v. ICG, Inc. et al.*, No. 2:08-cv-00011 (S.D.W. Va.) (\$1.4 million securities class action settlement)

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## **Anne Donovan, Paralegal**

Anne Donovan is a paralegal who has worked in the legal field since 1995. She was a co-owner of a legal services company operating in Southern California from 1995 through 2004, running the operations of the company as well as doing field work. Since 2004 she has worked in the San Diego area performing paralegal and office administrator duties for various law firms working in the fields of securities, class actions, and patent litigation among others.

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*The Restis Group, P.C.*

# EXHIBIT E

**CURRICULUM VITAE – SECURITIES AND CLASS ACTION LITIGATION****Angus F. Ni – Attorney**

Mr. Ni founded AFN after practicing commercial litigation and arbitration at Debevoise & Plimpton LLP, followed by securities class action litigation at Bernstein Litowitz Berger & Grossmann LLP—the top plaintiffs’ shareholder litigation firm in the country. Mr. Ni has handled complex litigation throughout his career, including over a dozen class actions with securities, commodities, and antitrust components for both plaintiffs and defendants, as well as numerous other commercial disputes.

**Education:**

**The University of Chicago Law School**, J.D. with Honors.

**University of Toronto**, Trinity College, B.A. with High Distinction, College Scholar.

**Sampling of Securities Litigation And Class Action Experience**

- Representing a U.S. listed Chinese education company in a securities class action alleging failure to disclose known regulatory risks in the wake of the Chinese government’s mid-2021 announcement of a new regulatory regime on the private education industry. (*Dagan Investments LLC v. First High-School Education Group Co., Ltd. et al* 1:22-cv-03831-JGK (S.D.N.Y.))
- Representing investors against a 2018 “Initial Coin Offering” Company in the first-ever Washington State Securities Act claim in the cyptocurrency space. (*Hunichen v. Atonomi LLC et al.* 2:19-cv-00615-RAJ (W.D.Wash.))
- Obtaining the voluntary dismissal of a shareholder litigation against NYSE-listed Chinese agricultural fertilizer manufacturer after filing motion to dismiss, and within 30 days of appearing in the action. (*Little v. China Green Agriculture, Inc. et al.*, Case No. 2:19-cv-01756-JCM-NJK (D.Nev.))
- Represented investors in a class action pursuant to the federal securities laws against a California-based cryptocurrency company that raised more than \$1 billion in an unregistered offering of cryptocurrency in 2017. (*In Re Tezos Securities Litigation*, Case No. 3:17-cv-06779. (N.D. Cal.))
- Defending a formerly NASDAQ-listed China-based cellphone contract design-and-manufacturing company in a securities class action alleging fraud pursuant to the PSLRA filed in the Eastern District of New York. (*Thomas v. China Techfaith Wireless*

## Complex Disputes

*Communication Technology Limited et al.*, Case No. 1:19-cv-00134-FB-CLP. (E.D.N.Y))

- Defending a NYSE-listed Chinese fertilizer manufacturer in shareholder lawsuits before the Southern District of New York. (*Chen v. China Green Agriculture Inc.*, Case No. 1:20-cv-09232-MKV (S.D.N.Y.)).
- Represented a China-based private investment fund in a first-of-its kind Delaware Chancery Court action concerning the application of 8 *Del. C.* § 242(a)(4) to corporate charter amendments. (*Kala International Investment Co., Ltd. vs Centrexion Therapeutics Corporation*, Case No. 2019-0517-JTL (Del. Ct. Ch.)).
- Represented a German investment fund against Wells Fargo in a securities fraud action arising from Wells Fargo’s fake accounts scandal. (*Hefler et al v. Wells Fargo & Company et al.* Case No. 4:16-cv-05479-JST (N.D.Cal.))
- Represented a U.S. pension fund against Pershing Square Capital Management and Valeant Pharmaceuticals in a first-of-its-kind Rule 14e-3 (Williams Act) insider trading class-action. (*Anthony Basile et al v. Valeant Pharmaceutical International, Inc. et al.* Case No. 8:14-cv-02004-DOC-KES (C.D.Cal.)).
- Represented a U.S. hedge fund against Salix pharmaceuticals in a PSLRA securities class action arising out of Salix’s “channel stuffing” scheme. (*Woburn Retirement System v. Salix Pharmaceuticals, Ltd. et al.*, Case No. 1:14-cv-08925-KMW (S.D.N.Y.)).
- Represented a direct plaintiff in an opt-out action, opting out of the Luckin securities class action. (*Ye v. Luckin Coffee, Inc. et al.*, Case No. 1:21-cv-02020-JPC (S.D.N.Y.)).
- Representing investors from around the world in a class action under the Securities Act against GTV Media Group Inc. and several other individuals and entities who conducted a multi-hundred-million-dollar unregistered securities offering. (*Zhengjun Dong et al v. GTV Media Group, Inc. et al.* Index No. 652190/2021 (New York County Supreme Court)).
- Representing investors in a China-based Ponzi Scheme that funneled over \$100 million in proceeds to Seattle—successfully froze over \$60 million in fraud-derived real property.<sup>1</sup>

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<sup>1</sup> See [Suit over alleged Ponzi scheme that financed Bellevue real estate can proceed, judge rules | TheSeattle Times](#)

# EXHIBIT F



## Attorney and Law Firm Resume

## FIRM OVERVIEW

HGT Law is a boutique commercial litigation firm which serves the needs of U.S. and international clients, both institutions and individuals. The firm's practice focuses on assisting clients who have suffered losses arising from misconduct such as securities fraud and other violations of federal and state securities laws; breaches of fiduciary duty by corporate directors and officers; breach of contract; and business torts. Among other cases, HGT Law has litigated cases involving stock drop losses as a result of fraud by companies and their executive officers and directors; investment losses suffered by foreign investors in U.S. EB-5 investment projects; improper related party transactions between companies and their controlling shareholders; insider trading by company directors and officers; failure of oversight by directors and officers; and undisclosed and improper executive compensation, waste of corporate assets, and other corporate governance violations.



## REPRESENTATIVE CASES OF HGT LAW

- *City of Monroe Employees' Retirement System v. Murdoch, et al.*, C.A. No. 2017-0833-AGB (Del. Ch.): Reached a \$90 million settlement in a shareholder derivative lawsuit against certain directors and officers of Twenty-First Century Fox, Inc. for breaches of fiduciary duty in connection with sexual harassment and racial discrimination incidents at Fox News.
- *In re Tezos Securities Litigation*, No. 17-cv-06779 (N.D. Cal.): As court-appointed co-lead counsel, obtained settlement of a class action brought on behalf of investors in the July 2017 Tezos blockchain ICO against Dynamic Ledger Solutions, Inc., Tezos Stiftung, Kathleen Breitman and Arthur Breitman for failing to register the ICO with the SEC in violation of the Securities Act of 1933.
- *Shomroni v. Fei Labs Inc., et al.*, No. CGC-22-598995 (Cal. Super.): Commenced a purported class action on behalf of investors in the offer and sale of FEI and TRIBE digital tokenized assets against Fei Labs Inc., Joseph Santoro, Brianna Montgomery and Sebastian Delgado, for failing to register the offering with the SEC in violation of the Securities Act of 1933.
- *Dong, et al. v. GTV Media Group, Inc., et al.*, No. 652190/2021 (N.Y. Sup. Ct.): Commenced a purported class action on behalf of investors in the securities of GTV Media Group, Inc. against GTV, Saraca Media Group, Inc. and Wengui Guo, for failing to register the offering with the SEC in violation of the Securities Act of 1933.
- *Bölling, et al. v. Dendreon Corp., et al.*, No. 13-cv-00872 (W.D. Wash.): Secured settlement in an opt-out securities fraud lawsuit on behalf of a group of investors of Dendreon Corporation.
- *Aly, et al. v. Valeant Pharmaceuticals International, Inc., et al.*, No. 19-3326 (3d Cir.): On appeal to the Third Circuit, obtained reversal of the District Court of New Jersey's holding that *American Pipe* tolling does not apply to individual claims that are filed *before* a court issues a class certification decision, with the Third Circuit joining the Second, Ninth and Tenth Circuits on the issue.
- *Colonial First State Investments Limited, et al. v. Valeant Pharmaceuticals International, Inc., et al.*, No. 18-cv-00383 (D. N.J.): An opt-out securities fraud lawsuit brought on behalf of certain investment funds against Valeant Pharmaceuticals International, Inc. and its senior officers for allegedly perpetrating a fraudulent scheme to inflate the company's revenues and profits.
- *Rubenstein v. Adamany, et al.*, No. 21-905-cv (2d Cir.): On appeal to the Second Circuit, obtained an order vacating the Southern District of New York's dismissal of claims brought under Section 14(a) of the Securities Exchange Act of 1934 in a shareholder derivative lawsuit against certain directors and officers of Jefferies Financial Group Inc. (f/k/a Leucadia National Corporation).
- *In re: OSI Systems, Inc. Derivative Litigation*, 14-cv-02910 MWF (C.D. Cal.): Obtained settlement in a shareholder derivative lawsuit against certain directors and officers of OSI Systems, Inc. for breaches of fiduciary duty in connection with the company's use of unauthorized parts in security equipment for the government, a near total debarment from performing any work for the government and the cancellation of two separate federal government contracts.

- *Diep v. Sather, et al.*, C.A. No. 12760-VCL (Del. Ch.): Obtained settlement with certain defendants in a shareholder derivative lawsuit against directors, officers and controlling stockholders of El Pollo Loco Holdings, Inc. for breaches of fiduciary duties in connection with certain, alleged insider trading profits.
- *In re McKesson Corp. Derivative Litigation.*, No. 4:17-cv-01850-CW (N.D. Cal.): Obtained settlement in a shareholder derivative lawsuit against the board of directors and senior officers of McKesson Corporation in connection with breaches of fiduciary duty of oversight with respect to the company's sale of opioid drugs and controlled substances.
- *Reynolds v. Dow Chemical Co.*, C.A. No. 2017-0203-JRS (Del. Ch.): Obtained settlement in a shareholder investigation of improper reporting of significant amounts of personal expenses incurred by the CEO of Dow Chemical Co.
- *Kohl v. Trans High Corporation*, No. 655200/2016 (N.Y. Sup. Ct.): Obtained settlement after prevailing on summary judgment as to liability on behalf of the former CEO of Trans High Corporation against the company for breach of his employment agreement.
- *Tang v. American Everglow Regional Center, LLC, et al.*, No. CV RI 21 04400 (Cal. Super.): Commenced a derivative lawsuit against American Everglow Regional Center, LLC, Legend Investment Management, LLC, Glory Investment International Inc., Hua Guo and Steven Zhi Qin to recover losses on behalf of a partnership established under the federal EB-5 Immigration Investor Program, which sets aside EB-5 immigrant visas for participants who invest in commercial enterprises approved by the U.S. Citizenship and Immigration Services.
- *Beach Orangethorpe Hotel, LLC, et al.*, No. 30-2022-01252985-CU-BT-CJC (Cal. Super.): Commenced an action against Evertrust Bank, M&D Regional Center LLC and M+D Properties to recover plaintiff's loan investment in connection with the development of a hotel, which investment was made under the federal EB-5 Immigration Investor Program, which sets aside EB-5 immigrant visas for participants who invest in commercial enterprises approved by the U.S. Citizenship and Immigration Services.
- *Cuadrado, et al. v. Sun Hung Kai Strategic Capital Limited*, No. 4:22-cv-01623-YGR (N.D. Cal.): Represent Sun Hung Kai Strategic Capital Limited in a lawsuit arising from the alleged conversion of Social Finance, Inc. stock, which resulted from errors made by stockholder's adviser/broker and transfer agent.



## HUNG G. TA

### Founder and Managing Director

Hung G. Ta is the founder and managing director of HGT Law. Prior to starting the firm, Mr. Ta practiced as a litigation attorney for more than eleven years at the law firms of Milbank Tweed Hadley & McCloy LLP and Grant & Eisenhofer P.A. Before that, Mr. Ta clerked with the Honorable Justice Mary Gaudron of the High Court of Australia.

Mr. Ta's practice focuses on helping investors recover losses as a result of misconduct such as: securities fraud; breaches of fiduciary duty by corporate directors and officers and other corporate governance violations; breach of contract; and business torts.

Mr. Ta has litigated and settled many securities fraud and other securities litigation cases (both class actions and direct, opt-out actions), including *In re Shuffle Master, Inc. Sec. Litig.*; *In re Am. Dental Partners, Inc. Sec. Litig.*; *Bölling, et al. v. Dendreon Corp., et al.*; *Colonial First State Inv. Ltd. v. Valeant Pharm. Int'l, Inc., et al.*; *In re Tezos Securities Litigation*; *Dong v. TV Media Group, Inc.*; and *Shomroni v. Fei Labs Inc.*

In addition, Mr. Ta has litigated and settled significant cases alleging breaches of fiduciary duty by corporate directors and officers, such as *In re Del Monte Foods Co. Shareholder Litig.* (in which the Delaware Chancery Court issued a landmark opinion upholding the need for corporate advisors to disclose their conflicts of interest and for boards to oversee their advisors); *Kocen v. Chopra, et al.* and *Steinberg v. Bryant, et al.* (claims against boards of directors and officers for failure to discharge their duty of oversight); and *Reynolds v. Dow Chemical Co.* and *Burbrink v. Campbell, et al.* (shareholder derivative actions challenging related party transactions between companies and their controlling shareholders/ directors/ officers, and the failure by a company's board to adequately disclose executive perquisites).

Mr. Ta has represented clients in numerous other general commercial litigation contexts, including litigating claims of a former CEO against his company for breach of an employment contract (*Kohl v. Trans High Corporation*); litigating claims on behalf of a hedge fund for professional malpractice against a major accounting firm (*GoldenTree Asset Management LP v. BDO Seidman LLP*); and litigating claims for malpractice against a law firm in connection with a real estate transaction.

#### Bar Admissions:

State of New York  
State of California

#### Court Admissions:

Second Circuit Court of Appeals  
Third Circuit Court of Appeals  
Ninth Circuit Court of Appeals  
Southern District of New York  
Eastern District of New York  
Northern District of California  
Central District of California  
New South Wales, Australia

#### Education:

University of New South Wales,  
LL.B.  
University of New South Wales,  
B.Com.

#### Contact:

Tel: (646) 453-7290  
Email: [hgt@hgtlaw.com](mailto:hgt@hgtlaw.com)



## **JOOYUN KIM**

### **Partner**

JooYun Kim is a partner and practices in general commercial litigation, securities litigation and corporate governance. Ms. Kim has litigated and settled cases on behalf of investors in opt-out securities fraud actions, and derivative actions for breaches of fiduciary duties. Ms. Kim has also represented clients in commercial disputes involving breaches of contract and fraud.

Ms. Kim previously was a senior litigation associate at Fox Horan & Camerini LLP where she represented international and U.S. clients in cases involving corporate governance under domestic and foreign law, breach of contract disputes, and corporate fraud. Before that, Ms. Kim was a litigation associate at Milbank Tweed Hadley & McCloy where she focused on securities fraud matters and other complex commercial litigation cases, including the representation of investment advisers, issuer companies, officers and directors, and an insurance company.

Among other matters, Ms. Kim has represented:

- a prominent international sports association in a breach of contract dispute with a major sponsor;
- a company against claims for civil RICO violations, in which a favorable opinion was obtained from the U.S. Supreme Court; British Virgin Islands companies seeking to establish their interests in a Latin American telecommunications conglomeration;
- various directors and officers against claims for breach of contract, fraud, breach of fiduciary duty and conversion;
- companies and individuals in bankruptcy-related adversarial proceedings and clawback actions; and
- a foreign attorney in successfully defending a legal malpractice action through a bench trial and appeal to the Second Circuit.

#### **Bar Admissions:**

State of New York  
State of New Jersey

#### **Court Admissions:**

Second Circuit Court of Appeals  
Third Circuit Court of Appeals  
Ninth Circuit Court of Appeals  
Southern District of New York  
Eastern District of New York  
District of New Jersey

#### **Education:**

New York University, J.D.  
Amherst College, B.A.

#### **Contact:**

Tel: (646) 453-7292  
Email: [jooyun@hgtlaw.com](mailto:jooyun@hgtlaw.com)



## NATALIA WILLIAMS

### Senior Counsel

Natalia Williams is a senior counsel and practices in the areas of general commercial litigation, securities litigation and corporate governance. Prior to joining the firm, Ms. Williams was a litigation associate at Grant & Eisenhofer P.A. where she worked on cases involving violations of the securities laws, corporate governance matters, and class action litigation. Ms. Williams was part of the litigation teams on a number of prominent cases including *In re Barnes & Noble Stockholders Derivative Litig.*; *In re Alstom SA Sec. Litig.*; and *In re Global Cash Access Holdings Sec. Litig.*

Ms. Williams began her career as an attorney at Legal Services of New York where she was a Senior Attorney in the Family Law division and handled trials in New York Supreme Court and Family Court.

Ms. Williams is admitted to practice law in the State of New York. She is also admitted to practice law in the Southern District of New York and the Eastern District of New York. Ms. Williams earned her J.D. from New York University School of Law and following graduation received a Legal Fellowship at the United Nations Development Programme. She received her B.A. from Grinnell College.

#### Bar Admissions:

State of New York

#### Court Admissions:

Southern District of New York

Eastern District of New York

#### Education:

New York University, J.D.

Grinnell College, B.A.

#### Contact:

Tel: (646) 453-7291

Email: natalia@hgtlaw.com



## ALEX HU

### Senior Counsel

Alex Hu is a senior counsel and practices in the areas of general commercial litigation, securities litigation, employment litigation, and intellectual property litigation. In addition, Mr. Hu has represented clients in co-founder/corporate control disputes. Mr. Hu has an engineering background, and has significant experience handling matters involving emerging technologies.

Prior to joining HGT Law, Mr. Hu was a litigation attorney at Quinn Emanuel Urquhart & Sullivan, Davis Polk & Wardwell, and LTL Attorneys LLP. Mr. Hu also clerked for the Honorable Charlene Honeywell of the Middle District of Florida.

Among other matters, Mr. Hu has:

- second-chaired a \$100 million breach of contract arbitration, obtaining entire initial demand, consequential damages, and attorneys' fees following six days of hearings;
- represented an individual in a \$5 million probate matter, second-chairing and obtaining a complete defense victory at trial, and briefing and arguing the appeal, resulting in complete affirmance of judgment;
- defended an electric scooter startup company in class action trespass and nuisance litigation, obtaining dismissal of class allegations and a favorable settlement;
- defended a multinational company in a \$170 million class action for alleged labor code violations, resulting in settlement of less than 1% of potential liability;
- defended a bet-the-company trademark infringement matter against a large, well-known cosmetics brand, obtaining a complete defense victory following a six-day jury trial, which was affirmed by the Ninth Circuit on appeal; and
- represented a co-founder concerning ownership of an Internet-based language tutoring startup in a dispute spanning California, Cayman Islands, and British Virgin Islands.

#### Bar Admissions:

State of California

#### Court Admissions:

Southern District of California

Central District of California

Northern District of California

Eastern District of California

#### Education:

Columbia Law School, J.D.

University of California,

San Diego, M.S.

Cornell University, B.S.

#### Contact:

Tel: (646) 453-7470

Email: alex@hgtlaw.com



**ANGUS NI**  
**Of Counsel**

Mr. Ni is one of a handful of U.S. attorneys practicing complex commercial litigation, who is also fluent in Mandarin. Mr. Ni advises investors and companies in a variety of litigation and legal risk-management matters, with a particular expertise in securities litigation risk for cryptocurrency startups and listed companies.

Prior to becoming Of Counsel to HGT Law, Mr. Ni was a litigator at Bernstein Litowitz Berger & Grossman LLP, one of the leading shareholder rights law firms in the U.S., where he litigated numerous securities class actions against U.S. listed corporations on behalf of hedge fund and pension fund investors. These actions ranged across a multitude of industries, were before diverse jurisdictions throughout the U.S., and involved both domestic and international discovery.

Earlier in his career, Mr. Ni also practiced as an associate in the litigation department of a major transnational law firm, where he participated in complex arbitrations before the International Chamber of Commerce (ICC) and World Bank Investment Treaty (ICSID) Tribunals, and in large-scale corporate investigations in several jurisdictions.

**Bar Admissions:**

State of New York  
State of Washington

**Education:**

University of Chicago, J.D.  
University of Toronto, B.A.

**Contact:**

Tel: (646) 453-7294  
Email: [angus@hgtlaw.com](mailto:angus@hgtlaw.com)

# EXHIBIT G



## LEGAL NOTICE

### **IF YOU PURCHASED FEI OR TRIBE TOKENS IN THE GENESIS EVENT YOU COULD RECEIVE A PAYMENT FROM A CLASS ACTION SETTLEMENT**

A settlement has been proposed in a class action lawsuit concerning the sale of “FEI” or “TRIBE” tokens through the Fei Protocol in an initial sale conducted between March 31, 2021 and April 3, 2021, called the “Genesis Event.” The Settlement will provide \$17,850,000.00 to pay claims to persons and entities who purchased FEI or TRIBE tokens in the Genesis Event. If you qualify, you can submit a Proof of Claim form to get your share of the settlement, exclude yourself from the settlement to retain your right to sue, or object to the settlement.

The Superior Court of California for San Francisco County authorized this notice. Before any money is paid, the Court will have a hearing to decide whether to approve the settlement.

#### **WHO IS INCLUDED IN THE SETTLEMENT?**

You are a class member and could get a payment if you purchased the digital assets FEI or TRIBE in exchange for ETH in the Genesis Event conducted between March 31, 2021 and April 3, 2021, including if you “pre-swapped” your FEI token allocation for TRIBE.

If you are not sure if you are included, you can get more information, including a detailed notice and class definition, at [www.website.com](http://www.website.com) or by calling toll free **888-427-9229**.

#### **WHAT IS THIS LAWSUIT ABOUT?**

The lawsuit claims that the sale of FEI and TRIBE tokens in the Genesis Event was a sale of unregistered securities. The plaintiff claims that this entitles persons who purchased FEI and TRIBE tokens directly from the Fei Protocol in the Genesis Event to get compensation. The defendants deny any wrongdoing, and the Court has not found that any defendant has committed wrongdoing.

#### **WHAT DOES THE SETTLEMENT PROVIDE?**

The settlement creates a fund of \$17,850,000.00 that will be used to pay class claims, settlement administration costs, taxes, attorneys’ fees and costs, and a potential service award to the plaintiff. The Net Settlement Fund left over will be divided *pro rata* among all class members who timely file a valid Proof of Claim form and do not exclude themselves from the settlement.

Your share of the Net Settlement Fund will depend on the total number of valid claims submitted, the amount of FEI and TRIBE tokens you purchased, and the amount you recouped or could recoup from selling or surrendering the tokens. All of the \$17,850,000.00 fund will be paid out. Generally, if you bought more FEI and TRIBE tokens, and have more losses, you will receive a greater payment. If you bought fewer FEI and TRIBE tokens, and have fewer losses, you will receive a lesser payment.

### **HOW DO YOU REQUEST A PAYMENT?**

To qualify for a payment, you must submit a valid Proof of Claim form and supporting documentation. You can download a paper version of the Proof of Claim form or submit one online at the Settlement Website [www.website.com](http://www.website.com). **Proof of Claim forms are due by DATE.**

### **WHAT ARE YOUR OTHER OPTIONS?**

If you do not want to be legally bound by the settlement, you must exclude yourself by **DATE**, or you will not be able to sue or continue to sue the defendants about the legal claims in this case. If you exclude yourself, you cannot get money from the settlement. If you remain in the class, you may object to the settlement by **DATE**.

The Court will hold a hearing on **DATE and TIME** to consider whether to approve the settlement, and a request by the lawyers representing class members for approximately \$4,500,000.00 in attorneys' fees and costs for investigating the facts, litigating the case, and negotiating the settlement, as well as a service award of up to \$10,000.00 for plaintiff for litigating class members' claims. These requested fees, costs, and service award would represent approximately 25% of the settlement fund if approved. You may request to appear at the hearing, but you do not have to.

For more information, you call toll free 888-427-9229, visit the website [www.website.com](http://www.website.com), email [info@website.com](mailto:info@website.com), or write to *FEI TRIBE Securities Settlement*, P.O. Box 25243, Santa Ana, CA 92799.

# EXHIBIT H

# NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO  
*Shomroni v. Fei Labs, Inc., et al., Case No. CGC-22-598995*

*A court authorized this Notice. This is not a solicitation from a lawyer.*

## IF YOU PURCHASED FEI OR TRIBE TOKENS IN THE GENESIS EVENT BETWEEN MARCH 31, 2021 AND APRIL 3, 2021, A CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS

Please read this Notice and the Stipulation of Settlement available at [www.website.com](http://www.website.com). Your legal rights will be affected whether you act or do not act. Please read this Notice carefully.

The Settlement affects individuals and entities who, directly or through an intermediary, purchased the digital assets “FEI” and “TRIBE” in exchange for ETH as part of the Genesis Group between March 31, 2021 and April 3, 2021 (the “Genesis Event”), including those who “pre-swapped” their Genesis Group FEI token allocation for TRIBE tokens.

The Settlement seeks to fully resolve a securities class action (the “Litigation”) pending in the Superior Court of California in the County of San Francisco (the “Court”), alleging that Defendants Fei Labs, Inc. (“Fei Labs”), Joseph Santoro, Brianna Montgomery and Sebastian Delgado (the “Individual Defendants,” and together with Fei Labs, “Defendants”) failed to comply with the registration requirements of the Securities Act of 1933 (the “Securities Act”) in conducting the sale of FEI and TRIBE tokens through the Fei Protocol during the Genesis Event. The Settlement creates a fund of \$17,850,000.00 (the “Settlement Fund”) that will pay the claims (“Claims”) of individuals or entities (“Claimants”) who timely submit a valid Proof of Claim, after deduction of fees, costs, taxes, and other items as ordered by the Court.

YOUR LEGAL RIGHTS AND OPTIONS		DEADLINE / DATE
<b>SUBMIT A CLAIM FOR PAYMENT</b>	If you purchased FEI or TRIBE tokens during the Genesis Event between March 31, 2021 and April 3, 2021, then you must submit a Proof of Claim by <b>DATE</b> in order to receive a payment under the Settlement. If you do not submit a valid Proof of Claim, you will not be eligible to share in the distribution of the net proceeds of the Settlement, but you will still be bound by any judgments or orders entered by the Court in the Litigation.	<b>DATE</b>

<b>EXCLUDE YOURSELF</b>	You can request to exclude yourself from the Settlement <b>by DATE</b> , in accordance with the instructions set forth in this Notice. If you properly exclude yourself from the Settlement, you will not be bound by any judgments or orders entered by the Court, and you will not be eligible to share in the proceeds of the Settlement.	<b>DATE</b>
<b>OBJECT TO THE SETTLEMENT</b>	You can write to the Court about why you do not like the Settlement <b>by DATE</b> , by following the instructions below.	<b>DATE</b>
<b>GO TO A HEARING</b>	You can ask to speak to the Court about the fairness of the Settlement. This final “Settlement Hearing,” to determine whether the Settlement should be approved, will take place on <b>DATE and TIME</b> .	<b>DATE AND TIME</b>

If you fail to timely submit a Proof of Claim or fail to timely submit a request to exclude yourself from the Settlement, you will not receive any payment from the Settlement, you will be giving up your legal right to sue or continue to sue Defendants for claims related to this Litigation, and you will be bound by any judgments or orders entered by the Court in the Litigation.

The Court in charge of this case still must decide whether to approve the Settlement. Settlement benefits will be available if the Court approves the Settlement and after any potential appeals are resolved. Please be patient and check the Settlement Website [www.website.com](http://www.website.com) for current information.

**BASIC INFORMATION**

**WHY DID I GET THIS NOTICE?**

You are receiving this Notice because records indicate you may be a person or entity who, directly or through an intermediary, purchased the digital assets “FEI” and “TRIBE” in exchange for ETH between March 31, 2021 and April 3, 2021, including those who “pre-swapped” their Genesis Group FEI token allocation for TRIBE tokens (the “Class”). These are the “Class Members” who received this Notice of Proposed Class Action Settlement. The Class excludes Defendants and their affiliates, and those who exclude themselves from the Settlement.

The Court authorized this Notice because you have a right to know about the proposed Settlement and all your options before the Court decides whether to approve the Settlement. This Notice explains the nature of the lawsuit, the general terms of the proposed Settlement and how the Settlement may impact you. This Notice also explains the ways you may participate in, object to, or exclude yourself from, the Settlement.

**WHAT IS THIS LAWSUIT ABOUT?**

A class action was brought by Jonathan Shomroni (“Plaintiff”), on behalf of himself and the Class, against Defendants Fei Labs, Joseph Santoro, Sebastian Delgado, and Brianna Montgomery, in the Superior Court of California, County of San Francisco, under the case caption Shomroni v. Fei Labs, Inc., et al., Case No. CGC-22-598995. The lawsuit alleges that Defendants violated the federal securities laws by conducting an unlawful offering and sale of FEI and TRIBE tokens during the Genesis Event that occurred between March 31, 2021 and April 3, 2021, without complying with the registration requirements of the Securities Act.

Plaintiff claims Defendants are liable to Class Members who purchased FEI and TRIBE tokens directly from the Fei Protocol during the Genesis Event and that Class Members have the right to get back the funds they invested, plus interest, or damages if they sold their tokens at a loss. Defendants deny any wrongdoing, and the Court has not found that any Defendant has committed wrongdoing.

More details about the lawsuit and the claims alleged against Defendants can be found in Plaintiff's Complaint, available on the Settlement Website at [www.website.com](http://www.website.com).

## WHAT IS A CLASS ACTION?

In a class action, one or more people commence a lawsuit to assert legal claims on behalf of themselves and other persons in the same or similar circumstances. Here, Plaintiff sued on behalf of himself and other people who have similar claims based on their purchase of FEI and TRIBE tokens from the Fei Protocol during the Genesis Event. Plaintiff serves as the Class Representative to represent his personal interests as well as the interests of the Class Members. One court resolves the issues for all Class Members except those who exclude themselves from the Class and the Settlement. The Honorable Judge Ethan P. Schulman presides over this class action.

## WHY IS THERE A SETTLEMENT?

Settlement avoids the costs and uncertainty of a trial and any related appeals. At the same time, the Settlement provides benefits to Class Members when the Settlement becomes final. The Court has not decided in favor of Plaintiff or Defendants. Instead, Plaintiff and Defendants (the "Settling Parties"), have agreed to resolve the Litigation. Plaintiff and his attorneys ("Plaintiff's Counsel") believe the Settlement is best for all Class Members.

## HOW DO I KNOW IF I CAN PARTICIPATE IN THE SETTLEMENT?

You are a Class Member and your rights are affected by the Settlement if you are:

A Person<sup>1</sup> who, directly or through an intermediary, purchased the digital assets "FEI" and "TRIBE" in exchange for ETH as part of the Genesis Group between March 31, 2021 and April 3, 2021, including those who "pre-swapped" their Genesis Group FEI token allocation for TRIBE tokens.

Excluded from the Class and the Settlement are: (i) Defendants; (ii) any person, firm, trust, corporation, or other entity directly affiliated with any Defendant; and (iii) any justice or judicial officer presiding over this matter and members of their immediate families and judicial staff. Also excluded from the Class and the Settlement are those persons who timely and validly request exclusion.

If you are a Class Member and you wish to be eligible to participate in the distribution of proceeds from the Settlement, you are required to submit the Proof of Claim form that is available on the Settlement Website at [www.website.com](http://www.website.com) (or which can be mailed to you upon request to the Claims Administrator), and any required supporting documentation as set forth therein, by submitting through the Settlement Website or by mail postmarked no later than **DATE**.

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<sup>1</sup> "Person" includes any individual or entity, as defined in the Stipulation of Settlement, which is available on the Settlement Website at [www.website.com](http://www.website.com)

## **I AM STILL NOT SURE IF I AM INCLUDED IN THE CLASS AND THE SETTLEMENT.**

If you are still not sure whether you are a Class Member and can participate in the Settlement, you can ask for free assistance. You can call 888-427-9229 for more information, or review all the Settlement documents on the Settlement Website at [www.website.com](http://www.website.com)

## **THE SETTLEMENT BENEFITS**

### **WHAT DOES THE SETTLEMENT PROVIDE?**

Defendants have agreed to pay \$17,850,000.00 into a Settlement Fund. This Settlement Fund will be used to pay notice, claims and administration costs, taxes, attorneys' fees and costs for Plaintiff's Counsel, and a potential Service Award to the Plaintiff as approved by the Court.

The "Net Settlement Fund," which is the amount left over after expenses, taxes, fees, and a Service Award, will be divided *pro rata* among all Class Members who timely file a valid Proof of Claim and do not exclude themselves from the Settlement. Payments from the Net Settlement Fund will be made under a Plan of Allocation approved by the Court.

Payments under the Plan of Allocation approved by the Court will be conclusive against all Class Members. No person shall have any claim against Plaintiff, Plaintiff's Counsel, or the Claims Administrator based on determinations or distributions made substantially in accordance with the Stipulation of Settlement, the Plan of Allocation approved by the Court, or further orders of the Court. Among other things, Defendants shall have no responsibility or liability whatsoever for: any act or omission related to the Settlement Fund or the Net Settlement Fund; the determination, administration, calculation, or payment of any Claim or nonperformance of the Claims Administrator; the payment or withholding of taxes; or any losses incurred in connection therewith.

The full Stipulation of Settlement, which is available on the Settlement Website at [www.website.com](http://www.website.com), sets forth the details about the proposed Settlement.

### **HOW WILL PAYMENTS FROM THE SETTLEMENT BE CALCULATED?**

Your Claim will be calculated based upon the provisions of Section 12(a) of the Securities Act, 15 U.S.C. § 77l(a), which generally provides that purchasers of unregistered securities are entitled to get back the value they paid for the unregistered securities, less any value received from selling them.

Unless a different plan of allocation is approved by the Court, the value of each Class Member's Claim will be calculated as follows:

1. For each digital wallet used to make a contribution to the Genesis Event, a "Recognized Loss Amount" will be calculated as set forth below for all FEI and TRIBE tokens purchased or otherwise acquired using that digital wallet, as listed in the Proof of Claim form and for which adequate documentation is provided.
2. For each digital wallet, a Claimant's "Starting Value" will be the U.S. dollar value of ETH contributed to the Genesis Event and used to purchase FEI and TRIBE digital assets in the

Genesis Group offering, calculated by multiplying the number of ETH contributed by \$2,009.19, the U.S. dollar value of ETH employed in the execution of the Genesis transaction.<sup>2</sup>

3. For each digital wallet, a Claimant's "Ending Value" will be the sum of their calculated FEI Sales Values, TRIBE Sales Values, FEI Holding Values, and TRIBE Holding Values. These values are calculated as U.S. dollar amounts as follows:
  - a. For each FEI purchased in the Genesis Group offering and:
    - i. Sold prior to January 27, 2023, the "FEI Sales Value" is equal to the sales price.<sup>3</sup>
    - ii. Held as of January 27, 2023, the "FEI Holding Value" is equal to \$1.00.
  - b. For each TRIBE purchased or otherwise received in the Genesis Group offering (including TRIBE acquired from "pre-swapping" FEI and bonus TRIBE received) and:
    - i. Sold prior to January 27, 2023, the "TRIBE Sales Value" is equal to the sales price.<sup>4</sup>
    - ii. Held as of January 27, 2023, the "TRIBE Holding Value" is equal to \$0.25.
4. For each digital wallet used in the Genesis Event, a Claimant's "Recognized Loss Amount" is equal to the Starting Value minus the Ending Value. If the Recognized Loss Amount is less than or equal to zero, the Recognized Loss Amount for that digital wallet shall be set to zero.
5. A Claimant's "Recognized Claim" will be the sum of his, her, or its Recognized Loss Amounts as calculated above with respect to all digital wallets used to purchase or acquire FEI and TRIBE as part of the Genesis Group.
6. The Net Settlement Fund will be distributed to Claimants whose Claims have been validated and approved by the Claims Administrator ("Authorized Claimants"), on a *pro rata* basis based on the relative size of their Recognized Claims. Specifically, a "Distribution Amount" will be calculated for each Authorized Claimant as that Authorized Claimant's Recognized Claim divided by the total Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund.
7. If any Authorized Claimant's Distribution Amount calculates to less than \$10.00, no distribution will be made to that Authorized Claimant.

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<sup>2</sup> See Genesis Transaction, Ethereum blockchain transaction hash: 0xc9851f374701f76024c1f44f7166e0ef8a99456750463dc9d7b426e6359b9b20, available at <https://etherscan.io/tx/0xc9851f374701f76024c1f44f7166e0ef8a99456750463dc9d7b426e6359b9b20> (showing, under "More Details," "Ether Price: \$2,009.19 / ETH").

<sup>3</sup> Sales price for FEI token sales shall equal to the FEI closing price (in dollars) associated with the documented sales date found at <https://coinmarketcap.com/>.

<sup>4</sup> Sales price for TRIBE token sales shall equal the TRIBE closing price (in dollars) associated with the documented sales date found at <https://coinmarketcap.com/>.



## **WHAT HAPPENS IF THE MONEY FROM THE SETTLEMENT IS NOT FULLY CLAIMED?**

In the event that the value of Claims does not exhaust the Net Settlement Fund, each valid Claim will be increased *pro rata* to exhaust the Net Settlement Fund.

In the event that the value of Claims exceeds the amount of money in the Net Settlement Fund, each Claim will be reduced *pro rata*. Whether increased or decreased, the pro rata share of all Authorized Claimants will be adjusted so that the entire Net Settlement Fund is paid out.

To the extent any monies remain in the Net Settlement Fund a reasonable time after the initial distribution, and if the Claims Administrator determines that it is cost-effective to do so, the Claims Administrator will reallocate the Net Settlement Fund remaining after payment of any unpaid fees and expenses incurred in administering the Settlement, to Authorized Claimants. The re-distribution will be made to Authorized Claimants who have cashed their initial distributions and who would receive at least \$10.00 from such re-distribution. Additional re-distributions to Authorized Claimants who have cashed their prior checks and who would receive at least \$10.00 on such additional re-distributions may occur thereafter if it is determined that it would be cost-effective. At such time as it is determined that the re-distribution of funds remaining in the Net Settlement Fund is not cost-effective, the remaining balance will be contributed to an appropriate 501(c)(3) non-profit organization selected by, and unaffiliated with, Plaintiff's Counsel, subject to approval by the Court.

## **HOW TO GET A PAYMENT – SUBMITTING A CLAIM**

### **HOW DO I GET A PAYMENT?**

To qualify for a payment from the Net Settlement Fund, **you must submit a Proof of Claim, along with supporting documentation or information--including proof or verification of wallet ownership--which can be submitted via the online claim filing module on the Settlement Website at [www.website.com](http://www.website.com).** Alternatively, you can also print out a paper copy of the Proof of Claim and mail it to the Claims Administrator at *FEI TRIBE Securities Settlement*, P.O. Box 25243, Santa Ana, CA 92799.

You will have to provide documentation demonstrating that you are indeed a Class Member, and supporting your losses. The Proof of Claim describes the types of documents and information you need, and how to submit a Claim. If you have any unanswered questions or require assistance in submitting a Proof of Claim, you can contact the Administrator at 888-427-9229.

**YOUR PROOF OF CLAIM MUST BE SUBMITTED THROUGH THE SETTLEMENT WEBSITE OR BE MAILED AND POSTMARKED NO LATER THAN [DATE](#).**

Late or unsupported Claims may be rejected, so please follow the instructions carefully.

### **WHEN WILL I RECEIVE MY SHARE OF THE NET SETTLEMENT FUND?**

The Court will hold the final Settlement Hearing on [DATE](#), to decide whether to approve the Settlement. If the Court approves the Settlement and there are no appeals, Claims will be paid after the approval of the Settlement. However, it is possible there may be appeals related to the final approval, any attorneys' fees

or costs awarded, or any Service Award to the Plaintiff. It is always uncertain whether and how these appeals will be resolved and resolving them may take time, perhaps more than a year. The Settlement Website, [www.website.com](http://www.website.com), will be updated with current information concerning the Settlement, including if final approval has been entered by the Court and the approximate dates that any Claims are expected to be paid. Please be patient.

### **WHAT AM I GIVING UP IF I STAY IN THE CLASS?**

If you are a Class Member and you do not exclude yourself from the Settlement, you will be releasing all of your legal claims concerning Defendants' conduct described in this Notice and in the Complaint (the "Release"). You will not be able to sue Defendants for anything related to your purchase of FEI or TRIBE tokens during the Genesis Event under any legal theory in any jurisdiction. This means that you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or their Related Parties about the legal issues in the Litigation. It also means that the Court's orders will apply to you and legally bind you.

This Notice provides only a summary of the Release. The specific details of the "Released Claims" against the "Released Defendants" being given up by Class Members who do not exclude themselves from the Settlement, are set forth in the Stipulation of Settlement, available on the Settlement Website at [www.website.com](http://www.website.com).

### **WHAT HAPPENS IF I DO NOTHING?**

If you do nothing and the Court finally approves the Settlement, you will be included in the Settlement and be bound by the release of claims as described above. However, if you do not timely submit a valid Proof of Claim as explained above, you will not receive any portion of the Net Settlement Fund. To be paid your Claim, you must timely submit a valid Proof of Claim with sufficient supporting documents and information as explained in the Proof of Claim form.

## **THE LAWYERS REPRESENTING YOU**

### **DO I HAVE A LAWYER IN THE ACTION?**

Plaintiff and the Class Members are represented by the law firms, The Restis Law Firm, P.C., HGT Law and AFN Law PLLC ("Plaintiff's Counsel").

You will not be directly charged for their work on the case except as approved by the Court from the Settlement Fund. If you want to be represented by your own lawyer, you may hire one at your own expense. You can contact Plaintiff's Counsel as follows:

William R. Restis  
**The Restis Law Firm, P.C.**  
225 Broadway, Suite 2220  
San Diego, CA 92101  
619-270-8383  
[support@restislaw.com](mailto:support@restislaw.com)

Hung G. Ta  
**HGT Law**  
250 Park Ave, 7th Floor

New York, NY 10177  
646-453-7288  
info@hgtlaw.com

Angus Ni  
AFN Law PLLC  
502 Second Ave, 14th Floor  
Seattle, WA 98104  
733-543-3223  
inquiry@afnlegal.com

## HOW WILL THE LAWYERS BE PAID?

Plaintiff's Counsel will ask the Court to approve payment of a maximum of twenty five percent (25%) of the Settlement Fund (\$4,462,500) for attorneys' fees, plus payment of litigation expenses from the Settlement Fund ("Fee and Expense Award").

Plaintiff's Counsel will also ask the Court to approve a payment of a maximum of \$10,000 to the Plaintiff for his assistance in prosecuting the Litigation on behalf of the Class ("Service Award").

The Court may award less than these amounts.

Plaintiff's Counsel have a deadline of **DATE** to file these requests with the Court. Plaintiff's Counsel will explain the basis for their requests, which will be available on the Settlement Website at [www.website.com](http://www.website.com).

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want the Settlement to apply to you, and do not want a portion of the Net Settlement Fund, but you want to keep your right to sue or continue to sue Defendants on your own about the legal issues relating to the Litigation, then you must take steps to get out of the Settlement. This is called excluding yourself from the Class and the Settlement (also referred to as "opting out").

## HOW DO I EXCLUDE MYSELF FROM THE SETTLEMENT?

To exclude yourself from the Settlement, you must send a written request, either by mail or email, to the Claims Administrator stating that you want to be excluded from the *Shomroni v. Fei Labs Inc.* Settlement. You cannot exclude yourself by phone.

This written request must include the following information:

1. Your full name, mailing address, telephone number and/or email address;
2. The Ethereum wallet address you used to contribute to the Genesis Event;
3. The statement, "I wish to exclude myself from the Class and do not wish to participate in the Settlement in *Shomroni v. Fei Labs, Inc.*, et al., Case No. CGC-22-598995" or substantially similar clear and unambiguous language; and,
4. Your handwritten signature. An attorney's signature or a typed signature is not sufficient.

To be valid, your request for exclusion **must be submitted or postmarked (if by mail) by DATE** to:

*FEI TRIBE Securities Settlement*  
ATTN: EXCLUSIONS  
P.O. Box 25243  
Santa Ana, CA 92799

If you submit both a Proof of Claim and a request for exclusion, the request for exclusion will be deemed invalid.

### **IF I DO NOT EXCLUDE MYSELF, CAN I BRING THE SAME CLAIMS AGAINST DEFENDANTS LATER?**

No. Unless you exclude yourself (opt out), you give up the right to sue Defendants for the claims released by the Settlement. You must exclude yourself from the Class if you want to pursue your own lawsuit.

### **WHAT HAPPENS IF I EXCLUDE MYSELF?**

If you request to be excluded, you will not receive any payments from the Net Settlement Fund and cannot object to the Settlement. If you request to be excluded from the Settlement, you will not be legally bound by anything that happens in the Litigation, even if the Court finally approves the Settlement.

## **OBJECTING TO THE SETTLEMENT**

You can inform the Court that you do not agree with all or any part of the Settlement or the Plan of Allocation. You can also object to the request for a Fee and Expense Award submitted by Plaintiff's Counsel, or any Service Award requested by the Plaintiff. This is called objecting to the Settlement.

### **HOW DO I OBJECT TO THE SETTLEMENT?**

If you are a Class Member and have not excluded yourself, you can object to the Settlement or the Stipulation of Settlement. You can also object to the Plan of Allocation, any Fee and Expense Award requested by Plaintiff's Counsel, or any Service Award requested by Plaintiff. You can provide reasons for the objection and why you think the Court should not approve the Settlement, any request for a Fee and Expense Award, or any request for a Service Award. The Court will consider your views.

To object, you must state in writing that you object to the settlement of the lawsuit entitled *Shomroni v. Fei Labs, Inc.*, et al., Case No. CGC-22-598995. Please note that it is not sufficient to simply state that you object. Rather, in your written objection, you must include your full name, current address, and evidence demonstrating that you are a Class Member impacted by the Settlement.

To assist the Court in considering your objection, you should include the factual and legal grounds for your objections, and copies of any documents supporting your positions.

To be considered, any written statement of objection must be postmarked by **DATE** and submitted to the Claims Administrator at:

*FEI TRIBE Securities Settlement*  
ATTN: OBJECTIONS  
P.O. Box 25243  
Santa Ana, CA 92799

If you fail to properly submit a written objection prior to **DATE**, your objection may not be heard during the final Settlement Hearing, and your objection(s) may be waived, or the Court will not consider them.

## **WHAT IS THE DIFFERENCE BETWEEN EXCLUDING YOURSELF AND OBJECTING?**

Objecting is simply informing the Court that you do not like something about the Settlement, the Plan of Allocation, any Fee and Expense Award requested by Plaintiff's Counsel, or any Service Award requested by the Plaintiff. If you submit a written objection, you will still be entitled to receive a share of the Net Settlement Fund if you submit a timely and valid Proof of Claim. Even if you submit an objection, you will still be bound by all terms of the Settlement and related orders if approved by the Court, whether or not you submit a Proof of Claim.

You can object only if you remain as a Class Member. Excluding yourself from the Class informs the Court that you do not want to be part of the Class and you will not receive any of the benefits under the Settlement. If you exclude yourself, you have no basis to object, because the case no longer affects you.

## **MAY I SPEAK AT THE FINAL SETTLEMENT HEARING?**

You may attend and ask to speak at the final Settlement Hearing, but you do not have to do so.

As explained above, the Court will hold a final Settlement Hearing on **DATE and TIME** to decide whether the Settlement is fair, reasonable, and adequate, and whether the Settlement and Stipulation of Settlement should be finally approved. At the final Settlement Hearing, the Court will also decide whether to approve the Plan of Allocation, grant Plaintiff's Counsel any Fee and Expense Award, and whether to grant Plaintiff any Service Award. If there are objections, the Court will consider them at the final Settlement Hearing.

At the final Settlement Hearing, Plaintiff's Counsel will answer any questions that the Court may have. You are not required to attend the final Settlement Hearing, but you are welcome to come at your own expense. If you send an objection, you do not have to come to the Court to talk about it. As long as you submitted your written objection on time as explained above, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

After the hearing, the Court will decide whether to approve the Settlement and Plan of Allocation, whether to grant any Fee and Expense Award to Plaintiff's counsel, and whether to grant any Service Award to Plaintiff. We do not know how long these decisions will take.

If you intend to speak at the final Settlement Hearing, you must file with the Court a Notice of Intention to Appear before **DATE**. You must include copies of any papers, exhibits, or other evidence that you or your lawyer intend to present to the Court in connection with the final Settlement Hearing. Your Notice of Intention to Appear must be served on all counsel:

**Plaintiff's Counsel:**

William R. Restis  
**The Restis Law Firm, P.C.**  
225 Broadway, Suite 2220  
San Diego, CA 92101  
619-270-8383  
support@restislaw.com

**Defendants' Counsel:**

Emily Kapur  
**Quinn Emmanuel Urquhart & Sullivan LLP**  
555 Twin Dolphin Dr, 5th Floor  
Redwood Shores, CA 94065  
emilykapur@quinnemanuel.com

If you fail to submit a proper Notice of Intention to Appear before **DATE**, along with copies of any papers, exhibits, or other evidence that you or your counsel intend to present to the Court in connection with the final Settlement Hearing, you may not be heard during the final Settlement Hearing. However, any timely written objection you submitted will be considered by the Court.

## GETTING MORE INFORMATION

This Notice summarizes the proposed Settlement. The Stipulation of Settlement and other documents provide more details. The Stipulation of Settlement, other case documents, and additional information and updates are available on the Settlement Website at [www.website.com](http://www.website.com).

You can also obtain additional information or request a copy of the Stipulation of Settlement by calling 888-427-9229 toll free or by writing to the Claims Administrator at [info@website.com](mailto:info@website.com).

PLEASE DO NOT TELEPHONE THE COURT OR THE CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.

1 THE RESTIS LAW FIRM, P.C.  
William R. Restis, Esq. (Cal Bar No. 246823)  
2 225 Broadway, Suite 2220  
San Diego, California 92101  
3 +1.619.270.8383  
william@restislaw.com

4 AFN LAW PLLC  
5 Angus F. Ni, Esq. (Wash. Bar No. 53828)  
Admitted *pro hac vice*  
6 506 2nd Ave, Suite 1400  
Seattle, WA 98104  
7 646.453.7294  
angus@afnlegal.com

8 HGT LAW  
9 Hung G. Ta, Esq. (Cal. Bar No. 331458)  
Alex Hu, Esq. (Cal. Bar No. 279585)  
10 250 Park Avenue, 7<sup>th</sup> Floor  
New York, NY 10177  
11 (646) 453-7288  
hta@hgtlaw.com

12 *Attorneys for Plaintiff Jonathan Shomroni*  
13 *And the Putative Class*

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **COUNTY OF SAN FRANCISCO**

16 **JONATHAN SHOMRONI**, Individually and  
on behalf of others similarly situated,

17 Plaintiff,

18 v.

19 **FEI LABS INC.**, a Delaware Corporation,  
20 **JOSEPH SANTORO**, an Individual,  
21 **BRIANNA MONTGOMERY**, an Individual,  
**SEBASTIAN DELGADO**, an Individual, and  
22 **DOES 1-10**.

23 Defendants,

**Case No: CGC-22-598995**

*Assigned for all purposes to  
the Hon. Ethan P. Schulman, Dep't 304*

**CLASS ACTION**

**DECLARATION OF SIMPLURIS IN  
SUPPORT OF PLAINTIFF'S MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

Date: May 19, 2023

Time: 11:00 am PST

Dept: 304

Judge: Hon. Ethan P. Schulman

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I, Jacob J. Kamenir, declare as follows;

1. My name is Jacob J. Kamenir. I have personal knowledge of the matters stated herein, and I believe them to be true and accurate.

2. I am the Senior Director of Notice at Simpluris, Inc. (“Simpluris”). Simpluris is a national full-service class action notice and claims administrator.

3. I am an attorney licensed to practice in Minnesota and hold a Master of Science in Industrial Administration (a variant of an MBA) from Purdue University. I have an extensive background in data analytics and legal marketing, and lead Simpluris’ legal noticing team. During my time in the US Army’s presidential honor guard, I held Top Secret security clearance.

**SUMMARY OF RELEVANT EXPERIENCE**

4. Simpluris has been administering class action settlements for over fifteen years, in which time we have been appointed in over 8,000 cases and distributed over \$7 billion in funds. Our leadership team has nearly 150 years of combined industry experience that includes some of the largest class action administrations in the United States, including *In re: Equifax, Inc., Customer Data Security Breach*, Case No. 1:17-md-2800 (N.D. Ga.); *In re: Premera Blue Cross Customer Data Security Breach*, Case No. 3:15-md-2633 (D. Or.); and *In re: Takata Airbag Products Liability Litigation*, Case No. 1:15-md-02599-FAM (S.D. Fla.). Additional representative cases include *Cordova et al v. United Education Institute et al*, Case No. 37-2012-00083573, Cal. Sup. Ct. (San Diego); *Shuts v. Covenant Holdco, LLC*, Case No. RG10551807, Cal. Sup. Ct. (Alameda); *Hamilton et al v. Suburban Propane Gas Corp.*, Case No. BC433779, Cal. Sup. Ct. (Los Angeles); *Upadhyay et al v. Prometheus Real Estate Group*, Case No. 1-08-CV-118002, Cal. Sup. Ct. (Santa Clara); *Starke v. Stanley Black & Decker Inc.*, Case No. C-03-CV-21-001091, Md. Cir. Ct. (Baltimore); *Hale v. Manna Pro Products LLC*, Case No. 2:18-cv-00209 (E.D. Cal.); *Rush v. Walter Energy Inc*, Case No. 2:12-cv-00829-VEH (N.D. Ala.); *Fernandez v. Knight Capital Group, et al.*, Case No. 212-cv-06760-MCA-LDW (D.N.J.); and *In re Zynga Inc. Securities Litigation*, Case No. 3:12-cv-04007-JSC (N.D. Cal.).



1           5.       Simpluris has been selected by counsel to serve as the class action Claims  
2 Administrator in this case. The administration will be governed by the estimate submitted by  
3 Simpluris on April 4, 2023, estimate number 20230315-PJI-02. Any material changes in scope will  
4 require appropriate written approval or authorization by the parties.

5       **PRIVACY AND SECURITY**

6           6.       Simpluris maintains robust data and cybersecurity practices, controls, and procedures.  
7 These include the use of layered, industry-leading software and hardware systems to prevent both  
8 external and internal unauthorized access to sensitive client and company data. Unique among other  
9 administrators, Simpluris has developed a comprehensive, integrated administration system,  
10 Cadence, that was designed specifically to provide the highest level of data privacy and anti-intrusion  
11 security. Our systems are monitored, tested, and constantly upgraded by a highly experienced team  
12 of IT professionals, and systemwide security is overseen directly by our CTO.

13          7.       Simpluris aligns compliance standards including SOC1 Type 1, SOC 2 Type 2,  
14 HIPAA, as well as federal and state privacy standards independently verified and audited regularly  
15 by third-party agencies. A security summary, further describing best practices and safeguards, is  
16 attached hereto as Exhibit A.

17          8.       Simpluris will access and handle class member data solely for the purpose of  
18 administering this settlement.

19       **OVERVIEW**

20          9.       Simpluris will be charged with, among other responsibilities: (a) create and  
21 disseminate direct non-fungible token (NFT) notice, containing the Summary Notice, by airdrop to  
22 affected Ethereum wallets; (b) supplement direct notice with a targeted media campaign including a  
23 press release translated into nine languages, print ads in a relevant industry publication, and an online  
24 notice program that will include social media ads and programmatic banner ads targeted to crypto  
25 investors; (c) establish and maintain a settlement post office box; (d) establish and maintain a  
26 settlement toll-free telephone number; (e) establish and maintain a settlement email inbox; (f) develop  
27 and maintain a settlement interactive website that will host class documents including the Long Form  
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1 Notice in plain English, FAQs, the Stipulation, the pleadings, the order granting preliminary approval,  
2 the motions for any Fee and Expense Award and Service Award and for final approval (when filed),  
3 important dates and deadlines, the final Settlement Hearing, and an electronic claim form allowing  
4 class members to submit claims and elect their payments options; (g) process incoming claims,  
5 exclusions, objections, and related class correspondence; (h) establish and maintain a 26 CFR §  
6 1.468B-1 compliant Qualified Settlement Fund; (i) calculate the amounts due to each class member  
7 pursuant to the settlement; (j) process payments to class members who have verified wallet ownership  
8 and made valid claims; (k) prepare, process, and file all applicable tax forms and tax returns with  
9 state and federal agencies.


10 10. NFT Notices will be non-transferrable and include collection metadata and unique  
11 identifiers to track views and clicks and verify claims. If necessary, based on the initial response to  
12 the direct NFT notice, Simpluris will perform additional airdrop campaigns to deliver supplemental  
13 NFT notices and/or coordinate direct wallet messaging outreach to qualified wallets.

14 11. The proposed notice plan, consisting of direct NFT notice, online notice, an interactive  
15 class website, and communication with class members via call center, email, and U.S. mail  
16 correspondence, represents “the best notice that is practicable under the circumstances” and will fully  
17 comply with the requirements set forth in Fed. R. Civ. P. 23(c)(2)(B).

18 12. The proposed administration as a whole will fully implement the settlement agreement  
19 reached by the parties.

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

22  
23 Executed on April 17, 2023 in Albert Lea, Minnesota.

24  
25  
26 

27 Jacob J. Kamenir

# **EXHIBIT A**

## SIMPLURIS SECURITY SUMMARY – WHITE PAPER

Simpluris is committed to the security and overall protection of its own and its customer's data and information. Simpluris regularly monitors, tests, and updates our Information Security Program to align with security best practices and compliance standards, including SOC 1 Type 1, SOC 2 Type 2, HIPAA, as well as federal and state privacy standards such as CCPA which are independently verified and audited regularly by third-party agencies. Simpluris has and maintains a comprehensive, written Information Security Program that complies with all applicable laws and regulations and that is designed to (a) ensure the security, privacy, and confidentiality of Client and Class Member Information, (b) protect against any reasonably anticipated threats or hazards to the security or integrity of Client or Class Member Information, and (c) protect against unauthorized access to use, delete, or modify Class Member Information. Simpluris has designated specific employees to be responsible for administering of its Information Security Program.

Simpluris uses Client and Class Member Information only for the purposes for which its' clients provide it, as described in any Agreements or Court Orders governing the provision of Simpluris' services in any particular case.

Simpluris has and maintains a process for identifying, assessing, and mitigating the risks to Class Member Information in each relevant area of Simpluris' operations and evaluating the effectiveness of the safeguards for controlling these risks.

Simpluris restricts access to Class Member Information only to those who need to know the information to perform their jobs. Simpluris performs background checks of all its employees that will have access to Sensitive Personal Information, including a review of their references, employment eligibility, education, and criminal background, to ensure they do not pose a risk to the security of Client or Class Member Information.

Simpluris adheres to the following industry best practices to safeguard its systems which process, store, or transmit Client and Class Member Information:

- Identity and Access Management;
- MFA with Conditional Access along with complex passwords that must be changed regularly;
- Role-based access control systems to limit individual employee access to network applications and systems based on their specific job role and function;
- Data Loss Prevention and Intrusion Prevention System software at multiple layers to prevent internal and external threats of data leaks, malicious activity, and policy violations;
- Encryption of Class Member Information in if it is transmitted over public or wireless networks (e.g., via email, ftp, Internet, etc.);
- Implementation of a Secure File Transfer system (using SSL encryption) for transmitting documents back and forth to clients;
- Encryption of servers, portable media, laptops, desktops, smartphones, mobile devices, and new technologies that store Class Member Information;
- Upon hire and annually thereafter, training of all employees with access to Class Member Information about their obligations to implement the Information Security Program;
- Disciplinary measures for employees who violate the Information Security Program;
- Preventing terminated employees from accessing Class Member Information;
- Appropriately configured and updated firewall, anti-virus, and spyware software;
- Prompt application of vendor-recommended security patches and updates to systems and other applications to avoid any adverse impact to Class Member Information;
- Separation of Duties;
- Infrastructure and Physical Security;
- Business Continuity Planning;
- Disaster Recovery Planning;
- Vulnerability Management; and
- Penetration testing.

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**JONATHAN SHOMRONI**, Individually and  
on behalf of others similarly situated,

Plaintiff,

v.

**FEI LABS INC.**, a Delaware Corporation,  
**JOSEPH SANTORO**, an Individual,  
**BRIANNA MONTGOMERY**, an Individual,  
**SEBASTIAN DELGADO**, an Individual, and  
**DOES 1-10**.

Defendants,

**Case No: CGC-22-598995**

*Assigned for all purposes to  
the Hon. Ethan P. Schulman, Dep't 304*

**CLASS ACTION**

**[PROPOSED] ORDER ON PLAINTIFF'S  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

Date: May 19, 2023

Time: 11:00 am

Dept: 304

1 Plaintiff Jonathan Shomroni’s Motion for Preliminary Approval of a Class Action Settlement  
2 (the “Motion”) was heard on May 19, 2023. In connection with the Motion, the Court considered  
3 the proposed class action Stipulation of Settlement (attached as Exhibit A to the Declaration of  
4 William Restis), the submissions of counsel, and all other papers filed in this action. This Order  
5 incorporates by reference the definitions in the Stipulation of Settlement. The matter having been  
6 submitted, and good cause appearing:

7 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

8 1. The provisions of the Stipulation are hereby preliminarily approved. The Court finds  
9 that the Settlement “appears to be the product of serious, informed, non-collusive negotiations, has  
10 no obvious deficiencies, does not improperly grant preferential treatment to class representatives or  
11 segments of the class, and falls within the range of possible [judicial] approval.” 4 WILLIAM B.  
12 RUBENSTEIN, ALBA CONTE & HERBERT NEWBERG, *Newberg on Class Actions* § 13:13 (5<sup>th</sup> ed. 2014)  
13 (quoting *Manual for Complex Litigation* (2<sup>nd</sup>) § 30.44 (1985). As such, the Court finds that the  
14 proposed Settlement preliminarily appears to be fair, adequate, and reasonable to the Class Members,  
15 and is sufficient to warrant the dissemination of Notice to the Class Members.

16 **PROVISIONAL CERTIFICATION OF THE CLASS**

17 2. Pursuant to California Code of Civil Procedure § 382 and California Rule of Court  
18 3.769(d), and for purposes of, and solely in connection with, the Settlement, the Court finds that  
19 each of the requirements for certification of the Class Members set forth in the Plaintiff’s Motion  
20 for Preliminary Approval are met and hereby conditionally certifies the Class comprised of:

21 **all Persons who, directly or through an intermediary, purchased the digital**  
22 **assets “FEI” and “TRIBE” in exchange for ETH as part of the Genesis Group**  
23 **between March 31, 2021 and April 3, 2021, including those who “pre-**  
24 **swapped” their Genesis Group FEI token allocation for TRIBE tokens.**

25 Excluded from the Class are: (i) Defendants; (ii) any person, firm, trust, corporation, or other entity  
26 directly affiliated with any Defendant; (iii) any justice or judicial officer presiding over this matter  
27 and members of their immediate families and judicial staff. Also excluded from the Class are thos  
28 Persons who timely and validly request exclusion.

1           3.       The Court, for Settlement purposes only, finds that certification of the Class satisfies  
2 the requirements of California Code of Civil Procedure § 382 and California Rule of Court 3.769(d).  
3 In support of this ruling, the Court conditionally and preliminarily finds that: (a) there is an  
4 ascertainable Class; (b) the Class Members are so numerous that joinder of all members is  
5 impracticable; (c) there are questions of law and fact common to the Class Members that  
6 predominate; (d) the named Plaintiff's claims are typical of the claims of the Class Members; (d) the  
7 named Plaintiff and Plaintiff's Counsel identified below are able to fairly and adequately represent  
8 the Class Members; and (e) class-wide treatment of the disputes raised in the Complaint is superior  
9 to other available methods for adjudicating the controversy. *See Brinker Rest. Corp. v. Superior*  
10 *Court*, 53 Cal. 4th 1004, 1021 (2012).

11           4.       If the Stipulation is terminated or not consummated or the Settlement is not finally  
12 approved, conditional certification of the Class shall be void. In that event, the Plaintiff, the Class  
13 Members, and Defendants shall be returned to their respective statuses as of January 27, 2023.

14           5.       Neither this Order, the Stipulation, nor any document referred to therein, nor any  
15 action taken to carry out the Settlement may be construed or used as an admission by or against  
16 Defendants or any of the other Released Parties of any fault, wrongdoing, or liability whatsoever.  
17 The entering into or carrying out of the Stipulation and any negotiations or proceedings related  
18 thereto shall not in any event be construed as or deemed to be evidence of an admission or concession  
19 with regard to the denials or defenses by Defendants or any of the other Released Parties and shall  
20 not be offered in evidence in any action or proceeding against Defendants or any of the Released  
21 Parties in any court, administrative agency, or other tribunal for any purpose whatsoever other than  
22 to enforce the provisions of this Order, the Stipulation, or any related agreement or releases.

23                   **APPOINTMENT OF SETTLEMENT CLASS REPRESENTATIVE AND CLASS**  
24                                   **COUNSEL**

25           6.       The Court appoints and designates Plaintiff as settlement class representative for the  
26 Class Members.

27           7.       The Court appoints and designates The Restis Law Firm, P.C., AFN Law PLLC, and  
28 HGT Law as settlement class counsel for the Class Members, at the following addresses:

1 THE RESTIS LAW FIRM, P.C.  
William R. Restis, Esq. (Cal Bar No. 246823)  
2 225 Broadway, Suite 2220  
San Diego, California 92101  
3 619.270.8383  
william@restislaw.com

4 AFN LAW PLLC  
Angus F. Ni, (Wash. Bar No. 53828)  
5 (Admitted pro hac vice)  
506 2nd Ave, Suite 1400  
6 Seattle, WA 98104  
646.453.7294  
7 angus@afnlegal.com

8 HGT LAW  
Hung G. Ta (Cal. Bar No. 331458)  
9 Alex Hu (Cal. Bar No. 279585)  
250 Park Avenue, 7<sup>th</sup> Floor  
10 New York, NY 10177  
(646) 453-7288  
11 hta@hgtlaw.com

12 **APPOINTMENT OF CLAIMS ADMINISTRATOR AND ESCROW AGENT**

13 8. Plaintiff's Counsel is hereby authorized to retain Simpluris as the Claims  
14 Administrator to supervise and administer the Notice procedure in connection with the proposed  
15 Settlement, as well as the processing of Claims.

16 9. The Claims Administrator is hereby authorized to retain Huntington Bank as the  
17 Escrow Agent to create and maintain the Escrow Account for receipt and administration of the  
18 Settlement Fund. The contents of the Settlement Fund held by the Escrow Agent shall be deemed  
19 and considered to be *in custodia legis* of the Court, and shall remain subject to the jurisdiction of the  
20 Court, until such time as they shall be distributed pursuant to the Stipulation and/or further order(s)  
21 of the Court.

22 **APPROVAL OF NOTICE**

23 10. The Court approves, as to form and content, the proposed Notice to the Class  
24 Members, and accordingly directs the Claims Administrator to disseminate Notice to the Class  
25 Members as follows:

- 26 a. The Claims Administrator shall send at least one copy of the Summary Notice  
27 to each Ethereum wallet address provided by Fei Labs;  
28 b. The Claims Administrator shall cause publication notice of the Stipulation and



1 Settlement as described in the Simpluris Declaration, and such publication  
2 notice shall link to the Settlement Website;

3 c. The Claims Administrator shall establish and run the Settlement Website to  
4 provide information regarding the Settlement, which shall include relevant  
5 documents from the Litigation, including Plaintiff's complaint, Defendants'  
6 answer, the Stipulation, a copy of the Summary Notice and Long Form Notice,  
7 a copy of the Proof of Claim, an electronic version of the Proof of Claim,  
8 Plaintiff's Motion for Preliminary Approval and supporting documents, this  
9 Preliminary Approval Order, Plaintiff's motion for any Fee and Expense Award  
10 and Service Award and supporting documents (when filed), Motion for Final  
11 Approval and supporting documents (when filed), Final Order and Judgment  
12 (when filed), and other relevant information;

13 d. The Claims Administrator shall establish a mailing address, toll free phone  
14 number, and electronic mail address to receive inquiries by Class Members or  
15 other interested Persons, about the Stipulation or the Settlement.

16 e. Fei Labs shall prominently post a link to the Settlement Website on  
17 <https://fei.money>, <https://tribedao.xyz>, <https://tribe.fei.money>, and  
18 <https://medium.com/fei-protocol>.

19 11. The Court finds that the above Notice procedure is the best means practicable of  
20 providing notice to the Class under the circumstances, and when completed shall constitute due and  
21 sufficient notice of the Litigation, the Settlement, and the final Settlement Hearing to all persons  
22 affected by and/or authorized to participate in the Settlement in full compliance with California Code  
23 of Civil Procedure 382, California Rules of Court 3.766 and 3.769, the California and United States  
24 Constitutions (including the Due Process Clauses), and all other applicable laws and rules. Counsel  
25 for the Parties are authorized to correct any typographical errors in the Stipulation to and make  
26 clarifications to the extent the same are found or needed so long as such corrections do not materially  
27 alter the substance of the documents.  
28

1 **PARTICIPATION IN THE SETTLEMENT**

2 12. Class Members who wish to participate in the Settlement and be eligible to receive a  
3 distribution from the Net Settlement Fund must complete and submit a valid Proof of Claim in  
4 accordance with the instructions contained therein within the time provided in Paragraph 24 of this  
5 Order.

6 13. Plaintiff’s Counsel shall have the discretion (but not an obligation) to accept late-  
7 submitted claims for processing by the Claims Administrator so long as the distribution of the Net  
8 Settlement Fund to Authorized Claimants is not materially delayed thereby. By submitting a Proof  
9 of Claim, a Person shall be deemed to have submitted to the jurisdiction of the Court with respect to  
10 the Person’s Claim and the subject matter of the Settlement.

11 14. Each Proof of Claim submitted must be signed under penalty of perjury and supported  
12 by such reasonably available documents as are specified in the Proof of Claim.

13 **EXCLUSION FROM THE SETTLEMENT CLASS**

14 15. Any Class Member who wishes to opt out of the settlement Class must submit a  
15 timely written request for exclusion to the Claims Administrator on or before the opt out date  
16 provided in Paragraph 24 of this Order, and must state (i) the name, address, email address, and  
17 telephone number of the person or entity requesting exclusion, and in the case of entities, the name  
18 and telephone number of the appropriate contact person; (ii) state that such person or entity “requests  
19 exclusion from the Settlement in *Shomroni v Fei Labs, Inc., et al.*, No. CGC-22-598995”; (iii) state  
20 the Ethereum wallet address that the person used to participate in the Genesis Event; and (iv) be  
21 signed by the Person requesting exclusion or an authorized representative. A request for exclusion  
22 shall not be effective unless it provides all the information required and is postmarked or delivered  
23 on or before the exclusion deadline provided in Paragraph 24 of this Order, or is otherwise accepted  
24 by the Court.

25 **OBJECTIONS TO THE SETTLEMENT**

26 16. Any Class Member who does not request exclusion from the settlement Class may  
27 enter an appearance in the Litigation, at their own expense, individually or through counsel of their  
28 own choice, by filing with the Clerk of Court and delivering a notice of appearance to both Plaintiff’s

1 Counsel and Defendants' Counsel, at the addresses set forth in paragraph 17 of this Order, such that  
2 it is postmarked or delivered on or before the objection deadline provided in Paragraph 24 of this  
3 Order, or as the Court may otherwise direct. Any Class Member who does not enter an appearance  
4 will be represented by Plaintiff's Counsel.

5 17. Any Class Member may appear and show cause why the proposed Settlement should  
6 or should not be approved as fair, reasonable, and adequate, why a judgment should or should not  
7 be entered thereon, why the proposed Plan of Allocation should or should not be approved, why  
8 attorneys' fees and expenses should or should not be awarded to Plaintiff's Counsel, or why Plaintiff  
9 should or should not be issued a Service Award; provided, however, that no Class Member or any  
10 other Person shall be heard or entitled to contest such matters, unless that Person or entity has  
11 submitted said objections, papers, and briefs to the Court and served copies of such objection on  
12 Plaintiff's Counsel and Defendants' Counsel at the addresses set forth below such that they are  
13 received on or before the objection deadline provided in Paragraph 24 of this Order.

14 **Plaintiff's Counsel**

15 THE RESTIS LAW FIRM, P.C.  
16 William R. Restis, Esq.  
17 225 Broadway, Suite 2220  
San Diego, California 92101

**Defendants' Counsel**

QUINN EMANUEL URQUHART & SULLIVAN, LLP  
Emily Kapur  
555 Twin Dolphin Dr., 5<sup>th</sup> Floor  
Redwood Shores, CA 94065

18 18. Any objections, filings and other submissions by the objecting Class Member: (a)  
19 must state the name, address, and telephone number of the person or entity objecting and must be  
20 signed by the objector; (b) must contain a statement of the Class Member's objection or objections,  
21 and the specific reason for each objection, including any legal and evidentiary support the Settlement  
22 Class Member wishes to bring to the Court's attention; and (c) must include information sufficient  
23 to prove membership in the Class. Objectors who enter an appearance and desire to present evidence  
24 at the Settlement Hearing in support of their objection must include in their written objections or  
25 notice of appearance the identity of any witnesses they may call to testify and any exhibits they  
26 intend to introduce into evidence at the hearing.

27 **ADMINISTRATION FEES, EXPENSES AND TAXES**

28 19. All reasonable costs incurred in identifying and providing Notice to Class Members

1 of the Settlement, as well as in administering the Settlement, shall be paid as set forth in the  
2 Stipulation without further order of the Court.

3 20. The Escrow Agent is authorized and directed to prepare any tax returns and any other  
4 tax reporting form for or in respect to the Settlement Fund, and to otherwise perform all obligations  
5 with respect to Taxes and any reporting or filings or payment in respect thereof without further order  
6 of the Court in a manner consistent with the provisions of the Stipulation.

### 7 **STAY OF PROCEEDINGS AND TEMPORARY INJUNCTION**

8 21. Until otherwise ordered by the Court, the Court stays all proceedings in the Action  
9 other than proceedings necessary to carry out or enforce the terms and conditions of the Stipulation.

10 22. Pending final determination of whether the Settlement should be approved, the Court  
11 bars and enjoins Plaintiff, and all other Class Members, from commencing or prosecuting any and  
12 all of the Released Claims against any of the Defendants.

### 13 **TERMINATION OF SETTLEMENT**

14 23. In the event that the Stipulation is not approved by the Court or the Settlement set  
15 forth in the Stipulation is terminated or fails to become effective in accordance with its terms, the  
16 Settling Parties shall be restored to their respective positions in the Litigation as of January 27, 2023.  
17 In such event, the terms and provisions of the Stipulation, with the exception of ¶¶ 8.7 to 8.9 thereof,  
18 shall be null and void, have no further force and effect, and shall not be used in the Litigation or in  
19 any other proceeding for any purpose, and any judgment or order entered by the Court in accordance  
20 with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*, and shall not be used in  
21 the Litigation or in any other proceeding for any purpose.

### 22 **SETTLEMENT TIMELINE**

23 24. The Court orders the following schedule:

24 a. No later than **10 DAYS AFTER PRELIMINARY APPROVAL**, the  
25 Administrator and Defendants shall:

26 i. launch the Settlement Website as described in Paragraph 10 of this  
27 Order;

28 ii. disseminate the Summary Notice as described in Paragraph 10 of this

1 Order; and

2 iii. commence publication of the Notice as described in Paragraph 10 of  
3 this Order;

4 b. All requests for exclusion must be submitted to the Claims Administrator on  
5 or before **70 DAYS AFTER PRELIMINARY APPROVAL** in accordance with this Order.

6 c. No later than **80 DAYS AFTER PRELIMINARY APPROVAL** Plaintiff's  
7 Counsel shall file with the Court the Administrator's Declaration of Compliance with Class  
8 Notice, and a list of the names and addresses of Class Members who have requested to be  
9 excluded from the Settlement (regardless of whether such exclusion requests comply with  
10 Paragraph 15 of this Order);

11 d. No later than **85 DAYS AFTER PRELIMINARY APPROVAL**, Plaintiff's  
12 Counsel shall file Plaintiff's Motion for Final Approval, and motion for any Fee and Expense  
13 Award and/or Service Award with the Court, and provide them to the Claims Administrator  
14 to be promptly posted on the Settlement Website.

15 e. All Proof of Claim forms must be submitted in accordance with this Order on  
16 or before **95 DAYS AFTER PRELIMINARY APPROVAL**, unless later accepted by  
17 Plaintiff's Counsel.

18 f. All objections must be served on Plaintiff's Counsel and Defendants' Counsel  
19 in accordance with this Order on or before **95 DAYS AFTER PRELIMINARY**  
20 **APPROVAL**.

21 g. All notices of appearance, motions to intervene, and any documents or  
22 materials that any Class Member wishes the Court to consider at the final Settlement Hearing,  
23 must be filed with the Court and served on Plaintiff's Counsel and Defendants' Counsel in  
24 accordance with this Order on or before **95 DAYS AFTER PRELIMINARY APPROVAL**.

25 h. No later than **105 DAYS AFTER PRELIMINARY APPROVAL**,  
26 Plaintiff's Counsel shall file with the Court:

27 i. their replies in support of Plaintiff's Motion for Final Approval, and  
28 motion for any Fee and Expense Award and/or Service Award; and

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ii. all written objections received from Class Members.

25. A final Settlement Hearing shall be held before this Court on **120 DAYS AFTER PRELIMINARY APPROVAL**, at **TIME**, in Department 304 of the San Francisco Superior Court, 400 McAllister Street, San Francisco, California 94102, to determine all necessary matters concerning the Stipulation, including whether the proposed Settlement is fair, reasonable, and adequate, whether this Court should grant final approval, whether this Court should approve the Plan of Allocation, whether there should be any Fee and Expense Award and/or Service Award, and the amounts of any such awards.

26. Class Counsel, Defendants, and the Administrator are directed to carry out their obligations under the Stipulation.

**IT IS SO ORDERED**

DATED: May \_\_\_\_, 2023

\_\_\_\_\_  
Hon. Ethan P. Schulman  
JUDGE OF THE  
SAN FRANCISCO SUPERIOR COURT

1 THE RESTIS LAW FIRM, P.C.  
2 William R. Restis, Esq. (Cal Bar No. 246823)  
3 225 Broadway, Suite 2220  
4 San Diego, California 92101  
5 +1.619.270.8383  
6 william@restislaw.com

7 AFN LAW PLLC  
8 Angus F. Ni, (Wash. Bar No. 53828)  
9 Admitted *Pro Hac Vice*  
10 506 2nd Ave, Suite 1400  
11 Seattle, WA 98104  
12 646.453.7294  
13 angus@afnlegal.com

14 HGT LAW  
15 Hung G. Ta (Cal. Bar No. 331458)  
16 Alex Hu (Cal. Bar No. 279585)  
17 250 Park Avenue, 7<sup>th</sup> Floor  
18 New York, NY 10177  
19 (646) 453-7288  
20 hta@hgtlaw.com

21 *Attorneys for Plaintiff Jonathan Shomroni*  
22 *And the Putative Class*

23 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
24 **COUNTY OF SAN FRANCISCO**

25 **JONATHAN SHOMRONI**, Individually and  
26 on behalf of others similarly situated,

27 Plaintiff,

28 v.

29 **FEI LABS INC.**, a Delaware Corporation,  
30 **JOSEPH SANTORO**, an Individual,  
31 **BRIANNA MONTGOMERY**, an Individual,  
32 **SEBASTIAN DELGADO**, an Individual, and  
33 **DOES 1-10**.

34 Defendants,

**Case No: CGC-22-598995**

**CLASS ACTION**

**PROOF OF SERVICE**

1 I, the undersigned, declare that I am over the age of eighteen (18) years and not a party to  
2 the within action. I am employed in the County of San Diego, State of California. My business  
3 address is 225 Broadway, Suite 2220, San Diego, CA 92101. On April 21, 2023, I served the  
4 following:

5 **SEE THE ATTACHED LIST OF DOCUMENTS SERVED,**

6 On the person(s) listed below:

7 **QUINN EMANUEL URQUHART & SULLIVAN, LLP**

8 Michael E. Liftik (CA Bar No. 232430)  
9 Sarah Heaton Concannon (*pro hac vice* forthcoming)  
10 1300 I Street, Suite 900  
11 Washington, D.C. 20005  
12 Telephone: (202) 538-8000  
13 [michaelliftik@quinnemanuel.com](mailto:michaelliftik@quinnemanuel.com)  
14 [sarahconcannon@quinnemanuel.com](mailto:sarahconcannon@quinnemanuel.com)

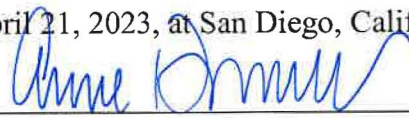
15 Emily C. Kapur (CA Bar No. 306724)  
16 555 Twin Dolphin Dr., 5th Fl.  
17 Redwood Shores, California 94065  
18 Telephone: (650) 801-5000  
19 [emilykapur@quinnemanuel.com](mailto:emilykapur@quinnemanuel.com)

20 Brenna D. Nelinson (*pro hac vice* forthcoming)  
21 51 Madison Avenue, 22nd Fl.  
22 New York, New York 10010  
23 Telephone: (212) 849-7000  
24 [brennelinson@quinnemanuel.com](mailto:brennelinson@quinnemanuel.com)

25 *Attorneys for Defendants Fei Labs Inc.,*  
26 *Joseph Santoro, Brianna Montgomery, and*  
27 *Sebastian Delgado*

28 XX By transmitting via e-mail to the attorneys identified above, per agreement.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct. Executed on April 21, 2023, at San Diego, California.

  
\_\_\_\_\_  
Anne Donovan



LIST OF DOCUMENTS SERVED

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1. NOTICE OF PLAINTIFF’S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT;
2. MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF’S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT;
3. DECLARATION OF WILLIAM R. RESTIS IN SUPPORT OF PLAINTIFF’S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT;
4. DECLARATION OF SIMPLURIS IN SUPPORT OF PLAINTIFF’S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT;
5. [PROPOSED] ORDER ON PLAINTIFF’S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT.