



FILED
San Francisco County Superior Court

JUN 28 2023

CLERK OF THE COURT
BY: *Stella Echeverria*
Deputy Clerk

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
DEPARTMENT 304

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

ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

1 Plaintiff Jonathan Shomroni (“Plaintiff”) and Defendants Fei Labs Inc., Joseph Santoro,
2 Brianna Montgomery, and Sebastian Delgado (collectively, “Defendants”) have reached a settlement
3 in this putative class action. Plaintiff filed a Motion for Preliminary Approval of a Class Action
4 Settlement. In connection with Plaintiff’s Motion, the Court considered the Amended Stipulation
5 of Settlement (attached as Exhibit I to the Supplemental Declaration of William Restis filed May 30,
6 2023), the submissions of counsel, and all other papers filed in this action. This Order incorporates
7 by reference the definitions in the Amended Stipulation of Settlement (“Settlement”). The matter
8 having been submitted, and good cause appearing:

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

10 1. The provisions of the Settlement are hereby preliminarily approved. The Court finds
11 that the Settlement is the result of extensive arm’s-length negotiations with Defendants after
12 Plaintiff’s counsel adequately investigated the claims. As such, the Court finds that the Settlement
13 preliminarily appears to be fair, adequate, and reasonable to the Class Members, and is sufficient to
14 warrant the dissemination of Notice to the Class Members.

15 **PROVISIONAL CERTIFICATION OF THE CLASS**

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

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

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

28 3. In support of this ruling, the Court conditionally and preliminarily finds that: (a) there

1 is an ascertainable Class; (b) the Class Members are so numerous that joinder of all members is
2 impracticable; (c) there are questions of law and fact common to the Class Members that
3 predominate; (d) the named Plaintiff's claims are typical of the claims of the Class Members; (d) the
4 named Plaintiff and Plaintiff's Counsel identified below are able to fairly and adequately represent
5 the Class Members; and (e) class-wide treatment of the disputes raised in the Complaint is superior
6 to other available methods for adjudicating the controversy. (See *Brinker Restaurant Corp. v.*
7 *Superior Court* (2012) 53 Cal.4th 1004, 1021.)

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

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

20 **APPOINTMENT OF SETTLEMENT CLASS REPRESENTATIVE AND CLASS**
21 **COUNSEL**

22 6. The Court preliminarily appoints and designates Plaintiff as the settlement class
23 representative for the Class Members.

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

27 THE RESTIS LAW FIRM, P.C.
28 William R. Restis, Esq. (Cal. Bar No. 246823)
225 Broadway, Suite 2220

1 San Diego, California 92101
2 619.270.8383
3 william@restislaw.com

4 AFNLAW PLLC
5 Angus F. Ni (Wash. Bar No. 53828)
6 (*Admitted pro hac vice*)
7 506 2nd Ave, Suite 1400
8 Seattle, WA 98104
9 646.453.7294
10 angus@afnlegal.com

11 HGT LAW
12 Hung G. Ta (Cal. Bar No. 331458)
13 Alex Hu (Cal. Bar No. 279585)
14 250 Park Avenue, 7th Floor
15 New York, NY 10177
16 (646) 453-7288
17 hta@hgtlaw.com

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

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

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

28 **APPROVAL OF NOTICE**

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

- a. The Claims Administrator shall send at least one copy of the Summary Notice
to each Ethereum wallet address provided by Fei Labs;¹

¹ The approved Summary Notice is attached as Exhibit M to the Second Supplemental Restis Declaration filed June 26, 2023.

- 1 b. The Claims Administrator shall cause publication notice of the Settlement as
2 described in the Simpluris Declarations filed April 21, 2023, May 30, 2023, and
3 June 26, 2023, and such publication notice shall link to the Settlement Website;
- 4 c. The Claims Administrator shall establish and run the Settlement Website to
5 provide information regarding the Settlement, which shall include relevant
6 documents from the Litigation, including Plaintiff's complaint, Defendants'
7 answer, the Settlement, a copy of the Summary Notice and Long Form Notice²,
8 a copy of the Proof of Claim³, an electronic version of the Proof of Claim,
9 Plaintiff's Motion for Preliminary Approval and supporting documents, this
10 Preliminary Approval Order, Plaintiff's motion for any Fee and Expense Award
11 and Service Award and supporting documents (when filed), Motion for Final
12 Approval and supporting documents (when filed), Final Order and Judgment
13 (when filed), and other relevant information;
- 14 d. The Claims Administrator shall establish a mailing address, toll free phone
15 number, and electronic mail address to receive inquiries by Class Members or
16 other interested Persons, about the Stipulation or the Settlement;
- 17 e. Fei Labs shall prominently post a link to the Settlement Website on
18 <https://fei.money>, <https://tribedao.xyz>, <https://tribe.fei.money>, and
19 <https://medium.com/fei-protocol>.

20 11. The Court finds that the above Notice procedure is the best means practicable of
21 providing notice to the Class under the circumstances. Counsel for the Parties are authorized to
22 correct any typographical errors in the Stipulation to and make clarifications to the extent the same
23 are found or needed so long as such corrections do not materially alter the substance of the
24 documents.

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27 ² The approved Long Form Notice is attached as Exhibit L to the Supplemental Restis Declaration
 filed May 30, 2023.

28 ³ The approved Proof of Claim Form is attached as Exhibit S to Second Supplemental Restis
 Declaration filed June 26, 2023.

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" or
20 substantially similar clear and unambiguous language; (iii) state the Ethereum wallet address that
21 the person used to participate in the Genesis Event; and (iv) be signed by the Person requesting
22 exclusion or an authorized representative. A request for exclusion shall not be effective unless it
23 provides all the information required and is postmarked or submitted on or before the exclusion
24 deadline provided in Paragraph 24 of this Order, or is otherwise accepted 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 below, such that it is postmarked or
2 delivered on or before the objection deadline provided in Paragraph 24 of this Order, or as the Court
3 may otherwise direct. Any Class Member who does not enter an appearance will be represented by
4 Plaintiff's Counsel.

5 **Plaintiff's Counsel**

6 THE RESTIS LAW FIRM, P.C.
7 William R. Restis, Esq.
8 225 Broadway, Suite 2220
9 San Diego, California 92101

5 **Defendants' Counsel**

6 QUINN EMANUEL URQUHART & SULLIVAN, LLP
7 Emily Kapur
8 555 Twin Dolphin Dr., 5th Floor
9 Redwood Shores, CA 94065

10 17. Any Class Member may appear and show cause why the proposed Settlement should
11 or should not be approved as fair, reasonable, and adequate, why a judgment should or should not
12 be entered thereon, why the proposed Plan of Allocation should or should not be approved, why
13 attorneys' fees and expenses should or should not be awarded to Plaintiff's Counsel, or why Plaintiff
14 should or should not be issued a Service Award; provided, however, that no Class Member or any
15 other Person shall be heard or entitled to contest such matters, unless that Person or entity has
16 submitted said objections to the Claims Administrator such that they are received on or before the
17 objection deadline provided in Paragraph 24 of this Order.

18 18. Any objections, filings and other submissions by the objecting Class Member: (a)
19 must state the name and current address of the person or entity objecting and must be signed by the
20 objector or an authorized representative; (b) must contain a statement of the Class Member's
21 objection or objections, and the specific reason for each objection, including any legal and
22 evidentiary support the Settlement Class Member wishes to bring to the Court's attention; and (c)
23 must include information sufficient to prove membership in the Class.

24 **ADMINISTRATION FEES, EXPENSES, AND TAXES**

25 19. All reasonable costs incurred in identifying and providing Notice to Class Members
26 of the Settlement, as well as in administering the Settlement, shall be paid as set forth in the
27 Settlement without further order of the Court.

28 20. The Escrow Agent is authorized and directed to prepare any tax returns and any other
tax reporting form for or in respect to the Settlement Fund, and to otherwise perform all obligations

1 with respect to Taxes and any reporting or filings or payment in respect thereof without further order
2 of the Court in a manner consistent with the provisions of the Settlement.

3 **STAY OF PROCEEDINGS AND TEMPORARY INJUNCTION**

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

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

9 **TERMINATION OF SETTLEMENT**

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

18 **SETTLEMENT TIMELINE**

19 24. The Court orders the following schedule:

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

- 22 i. launch the Settlement Website as described in Paragraph 10 of this
23 Order;
- 24 ii. disseminate the Summary Notice as described in Paragraph 10 of this
25 Order; and
- 26 iii. commence publication of the Notice as described in Paragraph 10 of
27 this Order.

28 b. All requests for exclusion must be submitted to the Claims Administrator on

1 or before **70 DAYS AFTER PRELIMINARY APPROVAL** in accordance with this Order.

2 c. No later than **85 DAYS AFTER PRELIMINARY APPROVAL** Plaintiff's
3 Counsel shall file with the Court the Administrator's Declaration of Compliance with Class
4 Notice, and a list of the names of Class Members who have requested to be excluded from
5 the Settlement (regardless of whether such exclusion requests comply with Paragraph 15 of
6 this Order);

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

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

14 f. All objections must be submitted to the Claims Administrator in accordance
15 with this Order on or before **95 DAYS AFTER PRELIMINARY APPROVAL**.

16 g. All notices of appearance and motions to intervene must be filed with the
17 Court and served on Plaintiff's Counsel and Defendants' Counsel in accordance with this
18 Order on or before **95 DAYS AFTER PRELIMINARY APPROVAL**.

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

- 21 i. their replies in support of Plaintiff's Motion for Final Approval, and
22 motion for any Fee and Expense Award and/or Service Award; and
23 ii. all written objections received from Class Members.

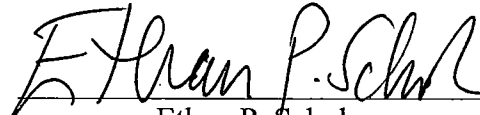
24 25. A final Settlement Hearing shall be held before this Court on **October 27, 2023**, at
25 **10:00 a.m.**, in Department 304 of the San Francisco Superior Court, 400 McAllister Street, San
26 Francisco, California 94102, to determine all necessary matters concerning the Settlement, including
27 whether the proposed Settlement is fair, reasonable, and adequate, whether this Court should grant
28 final approval, whether this Court should approve the Plan of Allocation, whether there should be

1 any Fee and Expense Award and/or Service Award, and the amounts of any such awards.

2 26. The Settling Parties, the Claims Administrator, and the Escrow Agent are directed to
3 carry out their obligations under the Settlement.

4
5 IT IS SO ORDERED.

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7 Dated: June 28, 2023

8 
9 Ethan P. Schulman
10 Judge of the Superior Court
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CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.260(g))

I, Felicia Green, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On June 28, 2023, I electronically served ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: **JUN 28 2023**

Brandon E. Riley, Court Executive Officer

By: 
Felicia Green, Deputy Clerk