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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: October 27, 2023

Time: 10:00 a.m.

Dept: 304

Judge: Hon. Ethan P. Schulman

1 On June 28, 2023, this Court entered the Preliminary Approval Order preliminarily
2 approving the class action Settlement set forth in the Amended Stipulation of Settlement dated May
3 29, 2023 (the “Stipulation”), finding that the Settlement appeared fair, reasonable and adequate to
4 the Class Members, free of collusion or indicia of unfairness, and within the range of possible
5 judicial approval, and thereby sufficient to warrant dissemination of Notice to the Class Members.
6 The Court also conditionally certified the Class pursuant to California Code of Civil Procedure §
7 382 and California Rule of Court 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 October 27, 2023. In connection with the Motion, the Court considered the proposed class action
11 Amended Stipulation of Settlement, the submissions of counsel, and all other papers filed in this
12 action.

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

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

19 1. This Final Order incorporates by reference the definitions in the Stipulation, as
20 submitted to the Court as Exhibit I to the May 30, 2023 *Supplemental Declaration of William R.*
21 *Restis In Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement*. All
22 capitalized terms used in this Final Judgment and Order shall have the meanings and/or definitions
23 given to them in the Stipulation unless otherwise defined herein.

24 2. This Court has jurisdiction over the subject matter of the Litigation, the parties, all
25 Class Members, and over those persons and entities undertaking affirmative obligations to
26 effectuate the Settlement, including the Claims Administrator and Escrow Agent.
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1 3. Pursuant to California Code of Civil Procedure § 382 and California Rule of Court
2 3.769(d), and for purposes of, and solely in connection with, the Settlement, the Court hereby
3 certifies the Class comprised of:

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

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

12 4. The Court finds, for Settlement purposes only, that certification of the Class satisfies
13 the requirements of California Code of Civil Procedure § 382 and California Rule of Court
14 3.769(d). In support of this ruling, the Court finds that: (a) there is an ascertainable Class; (b) the
15 Class Members are so numerous that joinder of all members is impracticable; (c) there are questions
16 of law and fact common to the Class Members that predominate; (d) the named Plaintiff’s claims
17 are typical of the claims of the Class Members; (e) the named Plaintiff and Plaintiff’s Counsel,
18 identified below, are able to fairly and adequately represent the Class Members; and (f) class-wide
19 treatment of the disputes raised in the Complaint is superior to other available methods for
20 adjudicating the controversy. *See Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1021
21 (2012).

22 5. The Court finds that notice was given to Class Members in accordance with the
23 Preliminary Approval Order entered on June 28, 2023. As described in the September 21, 2023
24 *Declaration of Simpluris In Support of Plaintiff’s Motion for Final Approval of Class Action*
25 *Settlement*, notice has been successful and (i) fairly and accurately described the Litigation and the
26 proposed Settlement; (ii) provided sufficient information so that Class Members were able to decide
27 whether to accept the benefits of the Settlement, exclude themselves from the Settlement or object
28 to the Settlement; (iii) adequately described the manner in which Class Members could file Claims,

1 exclude themselves from the Settlement or object to the Settlement, and/or appear at the final
2 Settlement Hearing; and (iv) provided the date, time and place of the Settlement Hearing.

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

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

12 8. The single Class Member in **Exhibit 1** to this Final Judgment and Order timely and
13 validly requested exclusion from the Settlement (the “Opt Out”). This sole Opt Out is hereby
14 excluded from any and all terms of the Stipulation and Settlement, including the releases contained
15 therein.

16 9. The Court hereby finds that the number of objections and the single request for
17 exclusion from the Settlement indicate that the large majority of Class Members found the
18 Settlement and Stipulation to be fair, reasonable, and adequate.

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

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

3 12. The Court finds that the record in this Litigation was sufficiently developed, and
4 that the publicly-available nature of blockchain records, the information exchanged by the Settling
5 Parties during mediation, the damages analysis performed at the direction of Plaintiff's Counsel,
6 and the exchange of confirmatory discovery in connection with the Settlement were sufficient for
7 Plaintiff, Plaintiff's Counsel, and the Court to evaluate and consider the fairness, adequacy, and
8 reasonableness of the Settlement.

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

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

21 15. The Court finds there is no evidence or indicator of fraud or overreaching by, or
22 collusion between, the Settling Parties. All evidence indicates the Settlement is the product of an
23 arm's-length negotiating process facilitated by a skilled mediator, Michelle Yoshida of Phillips
24 ADR Enterprises.

25 16. The Court finds that Plaintiff and Plaintiff's Counsel adequately represented the
26 Class Members for the purposes of litigating this matter and entering into and implementing the
27 Stipulation and Settlement.
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1 17. The Court finds that the Settling Parties' Supplemental Agreement with respect to
2 opt-out thresholds was sufficiently disclosed to the Class Members and the Court *in camera* to
3 ensure the Supplemental Agreement did not affect the interests of Class Members by altering what
4 they might receive or forgo through the Settlement.

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

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

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

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

22 22. The Court orders the payment of \$_____ in attorneys' fees and
23 litigation expenses in the amount of \$_____ (the Fee and Expense Award) from the
24 Settlement Fund to the law firms of The Restis Law Firm, P.C., AFN Law PLLC, and HGT Law,
25 finding such Fee and Expense Award to be fair and reasonable for the following reasons and those
26 stated in Court. In assessing the requested attorneys' fees, the Court has considered the relief
27 achieved for the Class Members, the time and effort devoted by Plaintiff's Counsel as demonstrated
28 by their sworn declarations, and the complexity of the legal and factual issues involved. The Court

1 finds that the Fee and Expense Award is fair and reasonable under both a common fund approach
2 and a lodestar approach.

3 23. The Court orders the payment of a Service Award in the amount of \$ _____
4 to Plaintiff Jonathan Shomroni to be paid from the Settlement Fund to compensate him for his
5 efforts and commitment on behalf of the Class, and finds that this amount is fair, reasonable, and
6 justified under the circumstances of this case.

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

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

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

23 27. With respect to any and all Released Claims and the Released Defendants' Claims,
24 upon the Effective Date, each of the Settling Parties shall be deemed to have waived the provisions,
25 rights, and benefits of California Civil Code § 1542 and any law of the United States, or any state
26 or territory thereof, or principle of common law or foreign law, which is similar, comparable, or
27 equivalent to California Civil Code § 1542.
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1 28. Neither the Stipulation nor any act performed or document executed pursuant to or
2 in furtherance of the Stipulation or the Settlement, is or may be deemed to be or may be used as:
3 (a) an admission or concession of, or evidence of, the validity of any Released Claim or any fault,
4 wrongdoing, or liability of the Released Defendants; (b) an admission or concession by Plaintiff or
5 any Class Member of any infirmity in the claims asserted in the Complaint; or (c) an admission or
6 concession of, or evidence of, any fault, wrongdoing, or liability of any of the Settling Parties or
7 the Released Defendants in any civil, criminal, or administrative proceeding in any court,
8 administrative agency, or other tribunal. The Released Parties may file the Stipulation and/or this
9 Final Judgment and Order in any action that may be brought against them in order to support a
10 defense or counterclaim based on principles of res judicata, collateral estoppel, equitable estoppel,
11 judicial estoppel, release, good-faith settlement, judgment bar or reduction, or any theory of claim
12 preclusion or issue preclusion or similar defense or counterclaim. Any of the Settling Parties may
13 file the Stipulation and documents executed in furtherance thereof in any action to enforce the
14 Settlement.

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

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

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

1 **IT IS SO ORDERED**

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3 DATED: _____, 2023

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5 Hon. Ethan P. Schulman
6 JUDGE OF THE
7 SAN FRANCISCO SUPERIOR COURT
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EXHIBIT 1
OPT OUT

- Evgeny Boxer, Unit 7 2-12 Crows Nest Road, Waverton NSW 2060, Australia