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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ERIC FELIX, an individual, on behalf
of himself and others similarly situated

PLAINTIFF,

v.

WM. BOLTHOUSE FARMS, INC.;
and DOES 1 thru 50, inclusive,

DEFENDANTS.

CASE NO. 1:19-CV-00312-AWI-JLT

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS
SETTLEMENT**

Date: May 4, 2020

Time: 9:00 a.m.

Magistrate Judge: Jennifer L. Thurston

1 On May 4, 2020, this Court, the Honorable Jennifer L. Thurston presiding,
2 conducted a hearing regarding two motions brought by Plaintiff ERIC FELIX (1) a
3 Motion for Final Approval of Class Action Settlement; and (2) Plaintiff’s Motion
4 for Final Approval of Attorneys’ Fees and Costs.

5 After considering the papers and the arguments of counsel, including the Class
6 Action Release and Settlement Agreement (“Settlement Agreement”), and good
7 cause appearing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED
8 THAT:

9 1. Incorporation of Other Documents. For purposes of this Order, the
10 Court incorporates the Settlement Agreement. All definitions set forth in the
11 Settlement Agreement unless a different definition is set forth in this Order.

12 2. Final Class Certification. The Court certifies for purposes of
13 implementing the Settlement Agreement, the Settlement Class consisting of: “all
14 applicants in the United States who filled out WM. BOLTHOUSE FARMS, INC.’s
15 standard ‘Consent to Request Consumer Report & Investigative Consumer Report
16 Information’ form as administered by Sterling Infosystems Inc.” from March 17,
17 2017 to July 31, 2018. The Court finds that the Class satisfies all of the requirements
18 of Federal Rule of Civil Procedure, Rule 23(a) and Rule 23(b)(3).

19 3. Class Notice. Pursuant to the Order Granting Motion for Preliminary
20 Approval of Class Action Settlement, a Notice of Class Action Settlement was
21 mailed to 1,227 members of the Class by first-class U.S. Mail on February 14, 2020.
22 No Class Members objected to the terms of the settlement or stated an intention to
23 appear at the final approval hearing. Two (2) individuals requested exclusion from
24 the Settlement Class. The Court finds that the Class Notice and its distribution to
25 Class Members have been implemented pursuant to the Settlement Agreement and
26 this Court’s Preliminary Approval Order and that they:

- 27 a. constitute the best notice practicable under the circumstances;
28 b. constitute valid, due and sufficient notice to all members of the Class,

1 complying fully with the requirements of Rule 23 of the Federal Rules
2 of Civil Procedure, the Constitution of the United States, and any other
3 applicable laws;

4 c. constitute notice that was reasonably calculated under the
5 circumstances, to apprise Settlement Class Members of (i) the
6 pendency of the Class Action; (ii) the material terms and provisions of
7 the settlement; (iii) their right to object to any aspect of the proposed
8 settlement (including final certification of the Class, the fairness and
9 reasonableness and adequacy of the settlement, the adequacy of the
10 Class's representation by Named Plaintiff and Class Counsel, and/or
11 the award of the Enhancement Payments, and attorneys' fees, and
12 litigation cost); (iv) their right to claim a Settlement Award; (v) their
13 right to appear at the Final Approval Hearing; and (vii) the binding
14 effect of the orders and judgment in the Class Action, whether favorable
15 or unfavorable, on all Participating Class Members;

16 d. constitute notice that meets due process requirements under the United
17 States Constitution, and any other applicable law.

18 4. Final Settlement Approval. The Court finds that the requirements of
19 Rule 23 of the Federal Rules of Civil Procedure and other laws and rules applicable
20 to final settlement approval of class actions have been satisfied, and the Court
21 approves the settlement of this Action as memorialized in the Settlement Agreement,
22 which is incorporated herein by this reference, as being fair, just, reasonable and
23 adequate to the Settlement Class and its members. The Gross Settlement Amount of
24 \$118,275.00 appears to be the product of arm's length and informed negotiation and
25 treats all Settlement Class Members fairly.

26 5. Binding Effect. The terms and provisions of the Settlement Agreement
27 and this Final Approval Order are binding on the Participating Class Members, as
28 well as their heirs, executors and administrators, successors, and assigns, and those

1 terms shall have res judicata and other preclusive effect in all pending and future
2 claims, lawsuits, or other proceedings maintained by or on behalf of any such
3 persons, to the extent those claims, lawsuits, or other proceedings involve matters
4 that were or could have been raised in the Class Action and are encompassed by the
5 release of the Participating Class Members' Released Claims, as set forth in the
6 Settlement Agreement. The settlement will have no binding effect upon, and provide
7 no res judicata preclusion to, those Class Members who have submitted Requests for
8 Exclusion.

9 6. Releases. Pursuant to the Settlement Agreement, upon entry of this
10 order, Plaintiff and each Settlement Class Member are bound by the release of their
11 Released Claims as provided in the Settlement Agreement, regardless of whether
12 such persons received any compensation under the Settlement Agreement. The
13 Court expressly adopts all defined terms in the Settlement Agreement and the release
14 of Participating Class Members' Settled Claims.

15 7. Effectuation of Settlement. The Court orders the Parties to carry out
16 the terms of this order and to implement the Settlement Agreement according to its
17 terms including the calculations and the payments to made.

18 8. Adequacy of Representation. The Court hereby finds that Plaintiff and
19 Class Counsel adequately represented the Settlement Class for purposes of entering
20 into and implementing the Settlement. The Court hereby confirms Kingsley &
21 Kingsley, APC and Davtyan Professional Law Corporation as Class Counsel in the
22 Action.

23 9. Class Counsel Fees and Cost Award. The Court hereby finds the
24 unopposed application of Class Counsel for a costs and attorneys' fees award
25 provided for under the proposed Settlement to be fair and reasonable in light of all
26 the circumstances and is hereby granted. Of the Gross Settlement Fund, \$39,425.00
27 shall be paid for attorney fees and \$931.11 shall be paid for litigation costs.

28 10. Class Representative Enhancement Payment. The Class Representative

1 Enhancement Payment in the amount of \$5,000.00 for Plaintiff Eric Felix, to be paid
2 by Defendant to Named Plaintiff out of the Gross Settlement Amount, is reasonable
3 and appropriate. Therefore, the Enhancement Payment is approved and ordered paid
4 in accordance with the terms of the Settlement Agreement.

5 11. Settlement Administration Costs. The Court finds that the Settlement
6 Administration costs in the amount of \$18,500.00, to be paid by Defendant to the
7 Settlement Administrator JND Class Action Administration out of the Gross
8 Settlement Amount, to be reasonable and appropriate. Settlement Administration
9 Costs are to be paid to JND Class Action Administration in accordance with the
10 terms of the Settlement Agreement.

11 12. Retention of Jurisdiction. The Court retains jurisdiction over the
12 administration and effectuation of the Settlement and this Final Approval Order,
13 including, but not limited to:

- 14 a. the ultimate disbursement of Class Counsel's attorneys' fees and costs and
15 Plaintiff's Class Representative Enhancement Payment;
- 16 b. enforcing the terms and provisions of the Settlement Agreement;
- 17 c. resolving any disputes, claims, or causes of action in the Class Action
18 that, in whole or in part, are related to or arise out of the Settlement
19 Agreement or this Final Approval Order and Final Judgment;
- 20 d. entering such additional orders as may be necessary or appropriate to
21 protect or effectuate this Final Approval Order and Final Judgment
22 approving the Settlement Agreement, and permanently enjoining
23 Settling Plaintiffs from initiating or pursuing related proceedings, or to
24 ensure the fair and orderly administration of this settlement; and
- 25 e. entering any other necessary or appropriate orders to protect and
26 effectuate this Court's retention of continuing jurisdiction.

27 13. Defendants shall have no further liability for costs, expenses, interest,
28 attorneys' fees, or for any other charge, expense, or liability, except as

1 provided for in the Settlement and the Order Granting Plaintiffs' Motion for
2 Fees, Costs, and Class Representative Enhancement Payments.

3 14. Enforcement of Settlement. Nothing in this Order shall preclude any action to
4 enforce the Parties' obligations pursuant to the Settlement Agreement or
5 pursuant to this Order, including the requirement that Defendants make
6 payments to Participating Class Members in accordance with the Settlement.

7 15. No Admission. The Settlement Agreement is not an admission by
8 Defendants, nor is this Order a finding of the validity of any allegations or of
9 any wrongdoing by Defendants. Neither this Order, the Settlement, nor any
10 document referred to herein, nor any action taken to carry out the Settlement,
11 shall be construed or deemed an admission of liability, culpability, negligence,
12 or wrongdoing on the part of Defendants. In particular, neither this Settlement
13 Agreement, nor any document, statement, proceeding, or conduct related to
14 this Settlement Agreement, including the Final Approval Order and Final
15 Judgment, may be:

- 16 a. Construed as, offered, or admitted into evidence as, or deemed to be
17 evidence of a presumption, concession, indication, or admission by any
18 of the Released Parties of any liability, fault, wrongdoing, omission,
19 concession, or damages; or
- 20 b. Disclosed or referred to, or offered or received into evidence, in any
21 further proceeding in the Class Action, or any other civil, criminal, or
22 administrative action or proceeding against any of the Released Parties,
23 except for purposes of settling this Class Action, enforcing the terms of
24 the Settlement Agreement, or establishing that the settlement herein has
25 occurred.
- 26 c. However, the Settlement Agreement may be filed by any of the
27 Released Parties in an action to support a defense of res judicata,
28 collateral estoppel, release, waiver, good faith settlement, judgment bar

1 or reduction, full faith and credit, or any other theory of claim
2 preclusion, issue preclusion, or similar defense or counterclaim.

3 16. Attorneys' Fees and Costs. The Parties shall bear their own costs and
4 attorneys' fees except as otherwise provided by the Settlement Agreement,
5 the Order Granting Plaintiffs' Motion for Fees, Costs, and Class
6 Representative Enhancement Payments, and this Order.

7 **IT IS SO ORDERED.**

8 DATED: _____

9 _____
10 THE HON. JENNIFER L. THURSTON