

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

KELLY O’SULLIVAN, RAFAEL COLE, and
BIRDELL H. CAPPS, on behalf of themselves
and others similarly situated,

Plaintiffs,

v.

WAM HOLDINGS, INC. D/B/A ALL STAR
MANAGEMENT, INC.,

Defendant.

Civil Action No. 19-CH-11575

FINAL ORDER AND JUDGMENT

This matter coming to be heard on Plaintiffs’ Unopposed Motion for Final Approval of Class Action Settlement (“the Motion”), due and adequate notice having been given to the Settlement Class, and the Court having considered the papers filed and proceedings in this matter, and being fully advised in the premises, IT IS HEREBY ORDERED, ADJUDGED, and DECREED as follows:

1. Unless otherwise noted, all capitalized terms in this Final Order and Judgment shall have the same meaning as ascribed to them in the Settlement Agreement between Plaintiffs Kelly O’Sullivan, Rafael Cole, and Birdell H. Capps and Defendant WAM Holdings, Inc., *d/b/a* All Star Management, Inc. (together, “the “Parties”).

2. This Court has jurisdiction over the subject matter of the Litigation and personal jurisdiction over all parties to the Litigation, including all Settlement Class Members.

3. The Court preliminarily approved the Settlement Agreement by Preliminary Approval Order dated June 7, 2021, and the Court finds that adequate notice

was given to all members of the Settlement Class pursuant to the terms of the Preliminary Approval Order.

4. The Court has read and considered the papers filed in support of this Motion for Final Approval, including the Settlement Agreement and exhibits thereto and supporting declarations.

5. The Court held a Final Approval Hearing on September 2, 2021, at which time the Parties and all other interested persons were afforded the opportunity to be heard in support of and in opposition to the Settlement.

6. Based on the papers filed with the Court and the presentations made to the Court by the Parties and other interested persons at the Final Approval Hearing, the Court now gives final approval to the Settlement and finds that the Settlement Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class. The complex legal and factual posture of the Litigation further support this finding.

7. Pursuant to 735 ILCS 5/2-801 and 2-802, the Court finally certifies, for settlement purposes only, the following Settlement Class:

All individuals working for Defendant WAM Holdings, Inc. d/b/a All Star Management, Inc. in the State of Illinois who had any information that allegedly could be covered under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.*, collected, captured, received, obtained, maintained, stored, transmitted, or disclosed by Defendant within the five-year period preceding the date the Complaint was filed through the date of Preliminary Approval, and who do not timely opt-out of the settlement ("Settlement Class").

8. For settlement purposes only, the Court confirms the appointment of Plaintiffs Kelly O'Sullivan, Rafael Cole, and Birdell H. Capps as the Class Representatives of the Settlement Class.

9. For settlement purposes only, the Court confirms the appointment of the following counsel as Class Counsel, and finds they are experienced in class litigation and have adequately represented the Settlement Class:

Ryan F. Stephan
James B. Zouras
Haley R. Jenkins
STEPHAN ZOURAS, LLP
100 N. Riverside Plaza, Suite 2150
Chicago, Illinois 60606
312.233.1550

David Fish
Mara A. Baltabols
Fish Potter Bolaños, P.C.
200 East Fifth Avenue, Suite 123
Naperville, Illinois 60563
630.355.7590

10. The Court approves Chicago Volunteer Legal Services and as the *cy pres* recipient, including the distribution set forth in the Settlement Agreement: 50% of such unclaimed funds shall be distributed to Chicago Volunteer Legal Services and 50% of unclaimed funds shall be distributed to Defendant or its insurers.

11. With respect to the Settlement Class, this Court finds, for settlement purposes only, that: (a) the Settlement Class defined above is so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the Settlement Class, and those common questions predominate over any questions affecting only individual members; (c) the Class Representatives and Class Counsel have fairly and adequately protected, and will continue to fairly and adequately protect, the interests of the Settlement Class; and (d) certification of the Settlement Class is an appropriate method for the fair and efficient adjudication of this controversy.

12. The Court has determined that the Notice given to the Settlement Class Members, in accordance with the Preliminary Approval Order, fully and accurately informed Settlement Class Members of all material elements of the Settlement and constituted the best notice practicable under the circumstances, and fully satisfied the

requirements of 735 ILCS 5/2-803, applicable law, and the Due Process Clauses of the U.S. Constitution and Illinois Constitution.

13. The Court orders the Parties to the Settlement Agreement to perform their obligations thereunder. The terms of the Settlement Agreement shall be deemed incorporated herein as if explicitly set forth and shall have the full force of an order of this Court.

14. The Court dismisses the Litigation with prejudice and without costs (except as otherwise provided herein and in the Settlement Agreement) as to Plaintiffs and all Settlement Class Members' claims against Defendant. The Court adjudges that the Released Claims and all of the claims described in the Settlement Agreement are released against the Releasees.

15. The Court adjudges that the Plaintiffs and all Settlement Class Members who have not opted out of the Settlement Class shall be deemed to have fully, finally, and forever released, relinquished, and discharged all Released Claims against the Releasees, as defined under the Settlement Agreement.

16. The Court further adjudges that, upon entry of this Order, the Settlement Agreement and the above-described release of the Released Claims will be binding on, and have *res judicata* preclusive effect in, all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and all other Settlement Class Members who did not validly and timely exclude themselves from the Settlement, and their respective predecessors, successors, heirs, executors, administrators, and assigns, as set forth in the Settlement Agreement. The Releasees may file the Settlement Agreement and/or this Final Order and Judgment in any action or proceeding 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 other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

17. The following people requested exclusion from the Settlement Class and the settlement and are hereby excluded: Lenworth Taylor and Aurelio Cardenas Diaz. Only they are excluded from the Settlement Class and all other Class Members are bound by this Final Approval Order and Judgment.

18. Plaintiffs and Settlement Class Members who did not validly and timely request exclusion from the Settlement are permanently barred and enjoined from asserting, commencing, prosecuting, or continuing any of the Released Claims or any of the claims described in the Settlement Agreement against any of the Released Parties.

19. No objections were filed in advance of the hearing and no objectors were present at the hearing. To the extent any person may have objected, any objections to the Settlement Agreement are overruled and denied in all respects. The Court finds that no reason exists for delay in entering this Final Order and Judgment. Accordingly, the Clerk is hereby directed forthwith to enter this Final Order and Judgment.

20. The Court approves payment of attorneys' fees of 35% of the Settlement Fund, or \$2,047,500.00, plus costs and expenses to Class Counsel in the amount of \$869.95. The Court further approves Administrative Expenses in the amount of \$25,616.00 to Analytics Consulting, LLC. These amounts shall be paid from the Settlement Fund in accordance with the terms of the Settlement Agreement. The Court, having considered the materials submitted by Class Counsel in support of final approval of the Settlement and their request for attorneys' fees, costs, and expenses and in response to any timely filed objections thereto, finds the award of attorneys' fees, costs and expenses appropriate and reasonable for the following reasons: First, the Court finds that the Settlement provides

substantial benefits to the Settlement Class. Second, the Court finds the payment fair and reasonable in light of the substantial work performed by Class Counsel. Third, the Court concludes that the Settlement was negotiated at arms-length without collusion, and that the negotiation of the attorneys' fees only followed agreement on the settlement benefits for the Settlement Class Members. Finally, the Court notes that the Class Notice specifically and clearly advised the Settlement Class that Class Counsel would seek an award in the amount sought.

21. The Court approves the incentive awards in the amount of Seven Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00) for each of Class Representative Kelly O'Sullivan, Rafael Cole, and Birdell H. Capps, and specifically finds such amount to be reasonable in light of the services performed by Plaintiffs for the Settlement Class, including taking on the risks of litigation and helping to achieve the results to be made available to the Settlement Class. This amount shall be paid from the Settlement Fund in accordance with the terms of the Settlement Agreement.

22. Neither this Final Order and Judgment, nor the Settlement Agreement, nor the payment of any consideration in connection with the Settlement shall be construed or used as an admission or concession by or against Defendant or any of the Releasees of any fault, omission, liability, or wrongdoing, or of the validity of any of the Released Claims. This Final Order and Judgment is not a finding of the validity or invalidity of any claims in this Litigation or a determination of any wrongdoing by Defendant or any of the Releasees. The final approval of the Settlement does not constitute any position, opinion, or determination of this Court, one way or another, as to the merits of the claims or defenses of Plaintiffs, the Settlement Class Members, or Defendant.

23. The Parties, without further approval from the Court, are hereby permitted to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all exhibits to the Settlement Agreement) so long as they are consistent in all material respects with the Final Order and Judgment and do not limit the rights of the Settlement Class Members.

IT IS SO ORDERED.

ENTERED:

/s/ Michael T. Mullen
Honorable Judge Michael T. Mullen

Judge Michael T. Mullen

SEP 02 2021



Circuit Court - 2084

Date