

FILED ENDORSED

MAY - 5 2023

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17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **COUNTY OF SACRAMENTO**

19 ADAM J. HARMONING and MARCUS
20 CASTRO,

21 Plaintiffs,

22 vs.

FIRST BANK; FIRST BANKS, INC.; and
DOES 1 through 50 inclusive

Defendants.

Case No. 34-2017-00223939

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: May 5, 2023
Time: 9:00 a.m.
Dept: 28
Judge: Hon. Lauri A. Damrell
Reservation: 2697651

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BY FAX

1 This matter came on for hearing on May 5, 2023 in Department 28 of the above-captioned
2 Court on Plaintiffs' Renewed Motion for Order Granting Preliminary Approval of Class Action and
3 PAGA Settlement ("Motion"). Having fully reviewed the Motion, supporting memorandum of
4 Points and Authorities, Declarations of Class Counsel Isam C. Khoury, Darren Guez, and John T.
5 Stralen, Declarations of Plaintiffs Marcus Castro and Adam Harmoning, the Second Class Action
6 and PAGA Settlement Agreement ("Agreement"), and the proposed Notice of Class Action
7 Settlement, ("Class Notice"), attached as Exhibit A to the Agreement, having carefully analyzed the
8 Agreement and the Class Notice, and in recognition of the Court's duty to make a preliminary
9 determination as to the reasonableness of any proposed class action settlement, and if preliminarily
10 determined reasonable, to ensure proper notice is provided to Class Members in accordance with
11 due process requirements, and to set a Final Approval Hearing to consider the good faith, fairness,
12 adequacy and reasonableness of the proposed Settlement, THE COURT MAKES THE
13 FOLLOWING DETERMINATIONS AND ORDERS:

14 1. The Court conditionally finds, for purposes of approving this settlement only, the
15 proposed Class meets the requirements for certification under section 382 of the California Code of
16 Civil Procedure: (a) the proposed Class is ascertainable and so numerous joinder of all members of
17 the Class is impracticable; (b) there are questions of law or fact common to the proposed Class, and
18 a well-defined community of interest among members of the proposed Class with respect to the
19 subject matter of the class action; (c) the claims of the Class Representatives are typical of the claims
20 of the members of the proposed Class; (d) the Class Representatives have and will fairly and
21 adequately protect the interests of the Members of the Class; (e) a class action is superior to other
22 available methods for an efficient adjudication of this controversy in the context of settlement; and
23 (f) counsel of record for Class Representatives are qualified to serve as their counsel individually
24 and in their capacity Class Representatives.

25 2. The Court finds on a preliminary basis the Agreement, incorporated, and made a part
26 of this Order of preliminary approval, appears to be within the range of reasonableness of a
27 settlement which could ultimately be given final approval by this Court.

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1 3. It appears to the Court on a preliminary basis: (a) the Gross Settlement Amount is
2 fair and reasonable to Class Members when balanced against the probable outcome of further
3 litigation relating to class certification, liability and damages issues, and potential appeals; (b)
4 significant investigation, research, and informal discovery, were conducted and counsel for the
5 Parties are able to reasonably evaluate their positions; (c) settlement will avoid substantial costs,
6 delays, and risks of further prosecution of the case; and (d) the proposed Settlement was reached
7 through serious, non-collusive negotiations facilitated by an experienced mediator.

8 4. Accordingly, good cause appearing, the Motion for Order Granting Preliminary
9 Approval of Class Action Settlement is GRANTED, and the Court incorporates the Agreement.

10 5. For purposes of this Settlement, Class Members are defined as:

11 “persons employed by Defendant in California as Home Loan Consultants,
12 Home Loan Advisors, Mortgage Bankers or other similarly situated
13 employees of Defendant, however titled, including Plaintiffs, during the
period of December 18, 2013 until September 30, 2022.”

14 6. The Court finds the proposed Class Notice fairly and adequately advises Class
15 Members of (a) pendency of the Class Action Settlement; (b) conditional Class certification for
16 settlement purposes only; (c) preliminary Court approval of the proposed Settlement; (d) the date,
17 time and place of the Final Approval Hearing; (e) the terms of the proposed Settlement and the
18 benefits available to Class Members under the Settlement; (f) their right to receive a proportionate
19 share of the Net Settlement Amount without returning a claim form; (g) their right to request
20 exclusion, and procedures and deadline for doing so; (h) their right to object to the Settlement, and
21 the procedures and deadline for doing so; and, (i) their right to file documents in opposition to the
22 Settlement, and appear at the Hearing.

23 7. The Court finds the proposed Class Notice provides the best practicable notice to the
24 Class and comports with all constitutional requirements, including those of due process.
25 Accordingly, good cause appearing, the Court APPROVES the Class Notice.

26 8. The Court further finds mailing the Class Notice, Change and Address Form, and
27 pre-printed return envelope, collectively, (“Class Notice Packet”), to the last known address of Class
28 Members with measures taken for address verification and skip tracing of bad addresses, as

1 described in the Agreement, is an effective method of notifying Class Members of their rights in the
2 class action and the Settlement. Accordingly, it is ORDERED:

3 A. CPT Group, Inc. be appointed the Settlement Administrator to administer the
4 Settlement of this matter as more specifically set forth in the Agreement;

5 B. Isam C. Khoury and Michael Singer of Cohelan Khoury & Singer, Clayeo C.
6 Arnold and John T. Stralen of Clayeo C. Arnold, A Professional Law Corporation and Darren Guez
7 of The Darren Guez Law Firm be appointed as Class Counsel;

8 C. Plaintiffs Marcus Castro and Adam Harmoning be appointed as Class
9 Representatives;

10 D. Within fourteen (14) calendar days (or, if that date falls on a weekend or
11 holiday, the next business day) after the date the Court enters and Order Granting Preliminary
12 Approval of the Settlement, Defendant shall provide to the Settlement Administrator for each Class
13 Member the following information in a Microsoft Office Excel format: (i) full name; (ii) last known
14 address; (iii) last known telephone number; (iv) social security number; (v) employee identification
15 number; and (vi) number of pay periods worked during the Class Period as a Class Member and
16 number of pay period worked during the PAGA Period as a PAGA Period Employee (Class Data
17 List”).

18 E. Within fourteen (14) court days (or, if that date falls on a weekend or holiday,
19 the next business day) days after receipt of the Class Data List, the Settlement Administrator shall
20 mail the Class Notice Packet to each member of the Class by first class, regular U.S. mail, using the
21 most current mailing address information available, with measures taken for updating an address as
22 provided by the terms of the Agreement.

23 F. On or before sixty (60) calendar days from the date the Settlement
24 Administrator first mails the Class Notice Packet (or, if the 60th day falls on a Sunday or holiday,
25 the next business day that is not a Sunday or holiday), Class Members who wish to exclude
26 themselves from the Class must submit a written request for exclusion in the manner set forth in the
27 Class Notice. If the Class Notice is remailed to a Class Member, the date for that Class Member to
28 send a written Request for Exclusion will be the later of 15 calendar days from remailing, or 60 days

1 from the initial mailing. To be considered valid, a Request for Exclusion must be timely and must
2 comply with the instructions in the Class Notice. Class Members who submit a valid Request for
3 Exclusion will still be deemed a PAGA Period Employee, will still receive a pro rata share of the
4 PAGA Payment, and will be bound by any release of claims under PAGA related to the Released
5 PAGA Claims.

6 G. On or before sixty (60) calendar days from the date the Settlement
7 Administrator first mails the Class Notice Packet (or, if the 60th day falls on a Sunday or holiday,
8 the next business day that is not a Sunday or holiday), Class Members who wish to dispute the
9 number of pay periods upon which their Settlement Payment will be calculated must postmark and
10 return to the Settlement Administrator a letter of dispute as set forth in the instructions in the Class
11 Notice. If the Class Notice is remailed to a Class Member, the date for that Class Member to send a
12 written dispute will be the later of 15 calendar days from remailing, or 60 days from the initial
13 mailing.

14 H. On or before sixty (60) calendar days from the date the Settlement
15 Administrator first mails the Class Notice Packet (or, if the 60th day falls on a Sunday or holiday,
16 the next business day that is not a Sunday or holiday), Class Members who to Object to the
17 Settlement must submit a written objection in the manner set forth in the Class Notice. If the Class
18 Notice is remailed to a Class Member, the date for that Class Member to send a written objection
19 will be the later of 15 calendar days from remailing, or 60 days from the initial mailing. Written
20 objections should set forth the grounds for each objection made. Class Members may also appear at
21 the final approval hearing to orally object, even if they have not submitted a written objection.

22 9. IT IS FURTHER ORDERED that the Final Approval Hearing shall be held before
23 the undersigned at 9 a.m. on Sept. 15, 2023 in Department 28 of the Superior Court of
24 California, County of Sacramento located at 720 9th Street, Sacramento, California, 95814 to
25 consider the fairness, adequacy, and reasonableness of the proposed Settlement preliminarily
26 approved by this Order of Preliminary Approval, and to consider the application for Class
27 Representative Payments, Settlement Administrator expenses, and for Class Counsel's attorneys'
28 fees and litigation expenses incurred.

1 10. IT IS FURTHER ORDERED that if for any reason the Court does not execute and
2 file an Order Granting Final Approval, or if the Effective Date, as defined in the Agreement, does
3 not occur for any reason whatsoever, the Agreement and the proposed Settlement that is the subject
4 of this Order, and all evidence and proceedings in connection with the Order, shall be restored
5 without prejudice to the status quo ante as forth in the Agreement.

6 11. IT IS FURTHER ORDERED that pending further order of this Court, all
7 proceedings in this matter, except those contemplated by this Order and the Agreement are stayed.

8 12. The Court expressly reserves the right to adjourn or continue the Final Approval
9 Hearing from time to time without further notice to Class Members. However, if written objections
10 are submitted, Class Counsel shall notify objecting Class Members of the new date and time set for
11 the Final Approval Hearing.

12 IT IS SO ORDERED.

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14 Date: 5/5/23



Honorable Lauri A. Damrell
Judge of the Superior Court

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