

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

CHRISTINE FARAG and JESSICA VASIL, )  
individually and on behalf of a class of similarly )  
situated individuals, )

*Plaintiffs,* )

v. )

KIIP, INC., a Delaware corporation, )

*Defendant.* )

Case No. 19-CH-01695

Hon. Celia G. Gamrath

**FINAL ORDER AND JUDGMENT**

This matter having come before the Court for hearing on Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement and Unopposed Motion for Approval of Attorneys' Fees, Expenses, and Incentive Awards, due and adequate notice having been given to all Parties and the Settlement Class Members, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED:

1. All capitalized terms used in this Final Order and Judgment shall have the meanings ascribed to them in the Parties' Settlement Agreement unless stated otherwise.
2. The Court has read and considered the papers filed in support of Plaintiffs' Motions, including the Settlement Agreement and exhibits thereto and supporting declarations.
3. This Court has jurisdiction over the subject matter of the Litigation and all claims raised therein, and has personal jurisdiction over all Parties to the Litigation, including all Settlement Class Members.
4. The Court preliminarily approved the Parties' Settlement Agreement in its Preliminary Approval Order dated June 13, 2019. Pursuant to the Preliminary Approval Order and

the Parties' plan for providing notice to the Settlement Classes, the Settlement Class Members were notified of the terms of the proposed Settlement and of a Final Approval Hearing to determine, *inter alia*, whether the terms and conditions of the Settlement Agreement are fair, reasonable, and adequate for the release and dismissal of the Released Claims against the Releasees.

5. The Court held a Final Approval Hearing on October 18, 2019 at 10:00 a.m., 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. Settlement Class members were notified of their right to appear at the hearing in support of or in opposition to the proposed Settlement.

6. Based on the papers filed with the Court and presentations made to the Court by the Parties and other interested persons at the Final Approval Hearing, the Court now grants final approval of the Settlement and finds that the Settlement Agreement is fair, adequate, reasonable, and in the best interests of the Settlement Class, taking into account the risks that both sides faced with respect to the merits of the claims alleged and remedies requested, the risks of maintaining a class action, and the expense and duration of further litigation, and therefore the Settlement is approved. The fact that the Settlement Agreement is the result of arms-length negotiations presided over by a neutral mediator fully supports this finding.

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

All individuals who used a software app integrated with the Kiip advertising platform during the Class Period.

8. For settlement purposes only, the Court confirms the appointment of Plaintiffs Christine Farag and Jessica Vasil as Class Representatives of the Settlement Class.

9. For settlement purposes only, the Court confirms the appointment of the following

counsel as Class Counsel:

Myles McGuire  
Paul T. Geske  
Timothy Kingsbury  
McGuire Law, P.C.  
55 W. Wacker Drive, 9th Floor  
Chicago, IL 60601

10. 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 Members; and (d) certification of the Settlement Class is an appropriate method for the fair and efficient adjudication of this controversy.

11. The Court finds that adequate notice was given to all Settlement Class Members pursuant to the terms of the Preliminary Approval Order. The Court has further determined that the Class 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, 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 Constitution of the United States and the Illinois Constitution.

12. 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 stated and shall have the full force of an order of this Court.

13. The Court enters judgment and dismisses the Litigation with prejudice, with each

Party to bear its own 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.

14. The Court adjudges that 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.

15. 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 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 opt out of the Settlement, and their respective affiliates, assigns, heirs, executors, administrators, successors, agents, and insurers, 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.

16. Plaintiff 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 Releasees.

17. The Court approves payment of attorneys' fees, costs and expenses to Class Counsel in the amount of \$348,348.69. This amount 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 Notices specifically and clearly advised the Settlement Class Members that Class Counsel would seek an award in the amount sought.

18. The Court approves payment of Incentive Awards in the amount of \$5,000 for the Class Representatives, Christine Farag and Jessica Vasil, and specifically finds such amount to be reasonable in light of the services performed by Plaintiff for the Settlement Class, including taking on the risks of litigation and helping 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.

19. The Parties are directed to distribute *cy pres* funds consistent with 735 ILCS 5/2-807. The Parties are to confer and agree upon a *cy pres* recipient, and submit the name of the recipient to the Court by agreed order for approval. All checks issued to Settlement Class Members remaining un-cashed ninety (90) days after their issue date shall be distributed to the *cy pres* recipient.

20. Neither this Final Order and Judgment, 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 as to 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 Agreement does not constitute any position, opinion, or determination of this Court as to the merits of the claims or defenses of the Parties or the Settlement Class Members.

21. There was one objection to the Settlement, brought by *pro se* objector Daniel Kennedy Brown. Mr. Brown appeared at the Final Approval Hearing and, for the reasons stated on the record, agreed to voluntarily withdraw his objection. No consideration was provided to Mr. Brown in exchange for withdrawing his objection. Although Mr. Brown did not submit a claim by the close of the claims period, he shall be permitted to submit a claim and his claim shall be deemed timely.

22. The Court finds that no reason exists for delay in entering this Final Order and Judgment. Accordingly, the Clerk is directed to enter this Final Order and Judgment.

23. For the reasons stated on the record at the Final Approval Hearing, the Court approved several changes to the proposed final approval order attached as Exhibit 5 to the Parties' Settlement Agreement. Notice of these changes shall be posted on the Settlement Website. All Parties appearing at the Final Approval Hearing agreed to the changes. The Parties, without further approval from the Court, are 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: \_\_\_\_\_

Judge Celia G. Gamrath

OCT 18 2019  
Circuit Court - 2031

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