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12 *and the Putative Class*

13 **SUPERIOR COURT OF CALIFORNIA**  
14 **FOR THE COUNTY OF ORANGE**

15 JOSH BINGHAM, individually, and on behalf  
of all others similarly situated,

16 Plaintiff,

17 v.

18 ACORNS GROW, INC., a California  
19 corporation; ACORNS ADVISERS, LLC, a  
Delaware limited liability company; and  
20 DOES 1-10, inclusive,

21 Defendants.

Case No: 30-2019-01050842-CU-NP-CXC

16 **[PROPOSED] FINAL APPROVAL ORDER**  
17 **AND JUDGMENT**

Date: September 30, 2022

Time: 10:00 a.m.

Judge: Hon. Randall Sherman

Dept.: CX 105

Action Filed: February 13, 2019

Trial Date: None

1 This Court granted preliminary approval of the Settlement Agreement and Release  
2 (“Settlement”) and certified a provisional settlement class on February 28, 2022 (the “Class”). Due  
3 and adequate notice having been given to the Class Members, and the Court having considered the  
4 Settlement, all papers filed and proceedings had herein, and all oral and written comments received  
5 regarding the Settlement, and having reviewed the record in this litigation, and good cause appearing,

6 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:**

7 1. Unless otherwise provided, all terms used herein shall have the same meaning as  
8 provided in the Settlement.

9 2. The Court has jurisdiction over the subject matter of this litigation and over the Parties  
10 to this litigation, including all Class Members.

11 3. For settlement purposes, the Court now finally certifies the Class, defined to include all  
12 persons in the State of California who from February 13, 2015 through preliminary approval had an  
13 overdraft or nonsufficient funds fee on the same day or day after an Acorns transfer.

14 4. The Court appoints Named Plaintiff Josh Bingham as the Class Representative.

15 5. The Court appoints KCC, LLC as the Claims Administrator. The Claims Administrator  
16 shall be subject to the jurisdiction of the Court with respect to the administration of the Settlement and  
17 shall comply with the terms of the Settlement.

18 6. The Court finds that the distribution of the Notice of the Settlement has been completed  
19 in conformity with the Court's preliminary approval order. The Court finds that the notice was the  
20 most practicable under the circumstances and provided due and adequate notice of the proceedings and  
21 of the terms of the Settlement. The Court finds that the notice fully satisfied the requirements of due  
22 process. The Court also finds that all Class Members were given a full and fair opportunity to  
23 participate in the Final Approval Hearing, all Class Members wishing to be heard have been heard,  
24 and all Class Members have had a full and fair opportunity to exclude themselves from the Class.

25 7. The Court finds that zero (0) members of the Class requested exclusion from the class.

26 8. The Court finds that no member of the Class objected to the Settlement.

27 9. The Court hereby grants final approval of the terms set forth in the Settlement and finds  
28 that the Settlement is, in all respects, fair, adequate, and reasonable, and directs the parties to

1 effectuate the Settlement according to its terms. The Court finds that the Settlement has been reached  
2 as a result of informed and non-collusive arms-length negotiations. The Court further finds that the  
3 parties have conducted extensive investigation and research, and their attorneys were able to  
4 reasonably evaluate their respective positions.

5 10. The Court finds that settlement now will avoid additional and potentially substantial  
6 litigation costs, as well as delay and risks.

7 11. The Settlement is not an admission by Defendants, nor is this Order a finding of the  
8 validity of any allegations or of any wrongdoing by Defendants. Neither this Order, the Settlement,  
9 nor any document referred to herein, nor any action taken to carry out the Settlement, may be  
10 construed as, or may be used as, an admission of any fault, wrongdoing, omission, concession, or  
11 liability whatsoever by or against Defendants.

12 12. By the deadline specified in the Settlement, Defendants shall transfer the Settlement  
13 Fund to the Claims Administrator, less any amounts advanced to the Claims Administrator. All  
14 payments of attorneys' fees and reimbursement of expenses to Class Counsel, the service award, and  
15 notices expenses in this case shall be made from the Settlement Fund, and the Released Parties shall  
16 have no liability or responsibility for the payment of Class Counsel's attorneys' fees or expenses, the  
17 service award, and notice expenses. The Released Parties' only and total liability is the Settlement  
18 Fund.

19 13. The amount paid to each Class Member shall be calculated as specified in the  
20 Settlement, and Individual Payments shall be paid to Class Members by the deadline specified in the  
21 Settlement and in accordance with its other terms. They shall be sent an email by the Settlement  
22 Administrator allowing for the electronic transmission of Individual Payments by electronic money  
23 transmission services such as Square Cash, Zelle, Venmo, Paypal or ACH. Settlement Class Members  
24 can also choose to receive a check. A secondary distribution shall be made of any funds not  
25 successfully received by Settlement Class Members. Notice of the Judgment will also be included in  
26 this payment election email sent to Class Members, and the Judgment will also be posted on the  
27 Settlement Website.

1           14. By the deadline specified in the Settlement, the Claims Administrator shall prepare a  
2 declaration which shall set forth the total payments issued to Class Members by the Claims  
3 Administrator, the total amount of any checks uncashed and/or returned, the efforts made to follow up  
4 on uncashed and undeliverable checks, and the total amount of money being held by the Claims  
5 Administrator.

6           15. The Final Report Hearing date shall be set for June 30, 2023, at 10:00 a.m., or as soon  
7 thereafter as is convenient for the Court. The Final Report and supporting documents shall be  
8 submitted to the Court at least 16 days before the Final Report Hearing date. The Final Report shall  
9 set forth: (a) the amounts paid to Class Members by the Claims Administrator; (b) any checks not  
10 cashed or returned; (c) the efforts undertaken to follow up on uncashed and/or returned checks; and  
11 (d) the total amount of money unpaid to Class Members.

12           16. Thirty days after the Final Report, the total amount of uncashed checks, and amounts  
13 held by the Claims Administrator at the time of the Final Report, shall be paid by the Claims  
14 Administrator to the Rose Foundation's Financial Literacy Education Fund.

15           17. Defendants shall comply with the Injunctive Relief. Defendants shall update their  
16 website and the Acorns' application with the additional NSF/OD disclosures. Round-Ups will initially  
17 be set to off, and a customer will have to turn on the Round-Ups feature of the application, ensuring  
18 that users must affirmatively agree to both the risks (including overdraft risks) and benefits of the  
19 service before turning it on. Defendants shall also generate a notification procedure that provides  
20 notice, if requested by a user, that a Round-Ups transfer has been initiated identifying the amount of  
21 the Round-Up and that it will be processed shortly.

22           18. In consideration of the payments to be made by Defendants pursuant to the terms of the  
23 Settlement and of the Injunction, the Named Plaintiff and all non-excluded Class Members, and any  
24 person claiming or receiving a benefit under this Settlement, and all of their respective past, present  
25 and future predecessors, successors, assigns, devisees, relatives, heirs, legatees, insurers, spouses,  
26 agents, and representatives of any kind (collectively, the "Releasers") hereby release and discharge  
27 Defendants, and all of their past, present and future businesses, affiliates, parents, subsidiaries, joint  
28 venturers, assigns, trustees, owners, investors, principals, officers, directors, shareholders, agents,

1 claims administrators, employees, independent contractors, suppliers, insurers, attorneys and  
2 representatives, and each of them. (collectively, the “Defendant Releasees”) means all claims,  
3 liabilities, demands, causes of action, or lawsuits of the Settlement Class Members, whether known or  
4 unknown, whether legal, statutory, equitable, or of any other type or form, whether under federal,  
5 state, local law, or regulations (such as any violations the California Consumers Legal Remedies Act,  
6 California False Advertising Law, or California Unfair Competition Law), and whether brought in an  
7 individual, representative, collective, or other capacity that were or could be asserted in the lawsuit  
8 reasonably related to the facts alleged in the operative complaint, including without limitation claims  
9 that arise from or relate to the manner in which Acorns transfers are made or attempted to be made,  
10 that arise from or relate to overdraft fees or insufficient funds charges, that arise from or relate to any  
11 statement, misrepresentation, or omission by Acorns regarding or referring to the manner in which  
12 Acorns transfers are made or attempted to be made, overdraft fees, insufficient fund fees, or account  
13 balances. The release will also include a California Civil Code § 1542 release from the Named  
14 Plaintiff only. Class members on behalf of themselves and each of their respective successors, heirs,  
15 assigns will release the above claims for the Released Parties. The Released Parties are Acorns Grow  
16 Incorporated, Acorns Advisers, LLC, and each of their respective past, present, and future businesses,  
17 affiliates, parents, subsidiaries, joint venturers, assigns, trustees, owners, investors, principals, officers,  
18 directors, shareholders, agents, claims administrators, employees, independent contractors, suppliers,  
19 insurers, attorneys and representatives, and each of them. The Court approves the release of all  
20 Released Claims by all members of the Class except for the class members who excluded themselves  
21 from the Class. Named Plaintiff, in addition to the releases above, also agrees to a general release of  
22 any and all claims against the Released Parties. The general release applies to any and all claims that  
23 were brought or could have been brought on any subject in any forum up until the time of Final  
24 Approval. The Court approves the Named Plaintiff’s general release.

25 19. The Court finds ~~that the requested~~ attorney fees of \$875,000 ~~\$950,000~~ to be reasonable  
26 based on both a percentage of the common fund and the lodestar approach. The awarded ~~requested~~  
27 amount is 35% ~~38%~~ of the common Settlement Fund, which is appropriate for this case, and is further  
28 validated under a cross-check with the lodestar approach. Class Counsel evidences a lodestar amount

1 of \$1,314,909.05. The hourly rates of the attorneys are reasonable and in line with prevailing market  
2 rates, and the hours worked are also reasonable. The Court further finds that the fee-sharing  
3 arrangement among Class Counsel was disclosed to and approved by the Named Plaintiff. The Court,  
4 therefore, awards fees in the amount of \$875,000 ~~\$950,000~~ to be paid to Class Counsel from the  
5 Settlement Fund by the deadline specified in the Settlement.

6 20. The Court further finds that the request for reimbursement of litigation costs in the  
7 amount of \$72,000 is reasonable based on the work necessary to achieve this favorable class  
8 settlement, and is to be paid to Class Counsel from the Settlement Fund by the deadline specified in  
9 the Settlement.

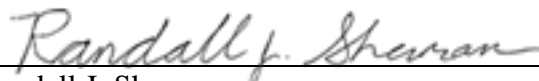
10 21. The Court finds that Named Plaintiff Josh Bingham assisted with the prosecution and  
11 litigation of the case, including producing documents, responding to written discovery, and having  
12 been willing to testify at trial. The Court therefore awards a service award in the amount of \$5,000 to  
13 be paid to Named Plaintiff Josh Bingham from the Settlement Fund by the deadline specified in the  
14 Settlement.

15 22. The Court approves payment of the Claims Administrator's fees and costs of \$70,000,  
16 including those amounts if any previously paid to the Claims Administrator by Defendants, to be paid  
17 to the Claims Administrator from the Settlement Fund by the deadline specified in the Settlement.

18 23. Pursuant to California Rules of Court, Rule 3.769(h), the Court retains jurisdiction over  
19 the Parties, Class Counsel, and the case to enforce the Settlement and the terms of this Judgment.

20 **IT IS SO ORDERED ADJUDGED AND DECREED.**

21  
22 Dated: September 30, 2022

  
\_\_\_\_\_  
Randall J. Sherman  
Judge of the Superior Court