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10 the Proposed Class

VENTURA
SUPERIOR COURT
FILED
NOV 20 2018
MICHAEL D. PLANET
Executive Officer and Clerk
BY: _____, Deputy
ELIZABETH MULLER

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF VENTURA

13 LYNETTE FLIEGELMAN, on behalf of
14 herself and all others similarly situated,

15 Plaintiff,

16 v.

17 THE TALBOTS, INC. and DOES 1 through
18 100, inclusive,

19 Defendants.

Case No.56-2018-00513611-CU-BT-VTA

~~[PROPOSED]~~ FINAL APPROVAL ORDER
AND JUDGMENT

Date: November 20, 2018
Time: 9:00 a.m.
Judge: Hon. Kevin DeNoce
Dept: 43

20 On November 20, 2018, this Court heard plaintiff Lynette Fliegelman's ("Plaintiff")
21 Motion for Final Approval of the Class Action Settlement and Plaintiff's Unopposed Motion for
22 Attorneys' Fees, Expenses and Incentive Award. This Court has reviewed the motions and the
23 supporting papers, including the Agreement of Settlement and Release ("Agreement"), along
24 with correspondence from one of the putative class members concerning the Settlement and the
25 Parties' responses thereto. Based on this review and the findings below, the Court finds good
26 cause to grant the Motion for Final Approval of the Class Action Settlement and the Motion for
27 Attorneys' Fees, Costs and Incentive Award.

28 1.

~~[PROPOSED]~~ FINAL APPROVAL ORDER AND JUDGMENT

1 **FINDINGS:**

2 1. Unless otherwise specified, defined terms in the Agreement have the same
3 definition as used in this Final Order and Judgment.

4 2. The Court finds the Settlement was entered into in good faith, that it is fair,
5 reasonable and adequate, and that it satisfies the standards and applicable requirements for final
6 approval of this class action settlement under California law, including the provisions of
7 California Code of Civil Procedure section 382 and California Rules of Court, Rule 3.769.

8 3. The Parties adequately performed their obligations under the Agreement.

9 4. Defendant The Talbots, Inc. ("Defendant" or "Talbots"), provided notice to Class
10 Members in compliance with Section 3.3 of the Agreement, California Code of Civil Procedure
11 section 382, California Rules of Court 3.766 and 3.769, the California and United States
12 Constitutions, and any other applicable law. The notice: (i) fully and accurately informed Class
13 Members about the lawsuit and Settlement; (ii) provided sufficient information so that Class
14 Members were able to decide whether to accept the benefits offered, opt-out and pursue their own
15 remedies, or object to the proposed Settlement; (iii) provided procedures for Class Members to
16 file written objections to the proposed Settlement, to appear at the hearing, and to state objections
17 to the proposed Settlement; and (iv) provided the time, date and place of the final fairness
18 hearing.

19 5. An award of \$325,000 in attorneys' fees and costs to Class Counsel is fair and
20 reasonable in light of the nature of this case, Class Counsel's experience and efforts in
21 prosecuting this Action, and the benefits obtained for the Class.

22 6. An incentive award to Plaintiff Lynette Fliegelman in the amount of \$3,000 is fair
23 and reasonable in light of: (a) Plaintiff's risks (including financial, professional, and emotional) in
24 commencing this action as the Class Representative; (b) the time and effort spent by Plaintiff in
25 litigating this action as the Class Representative; and (c) Plaintiff's public interest service.

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27 2.

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2 **IT IS ORDERED THAT:**

3 **7. Class Members.** For Settlement purposes, the Class is defined as follows:

4 All persons who, during the period of time beginning May 17, 2013 through
5 August 2, 2018, purchased one (1) or more products at any Talbots outlet store, in
6 the State of California and did not receive a refund or credit for their purchase(s).

7 **8. Binding Effect of Order.** This order applies to all claims or causes of action
8 settled under the Agreement, and binds all Class Members, including those who did not properly
9 request exclusion under the terms of the Preliminary Approval and Provisional Class Certification
10 Order. This order does not bind persons who filed timely and valid requests for exclusion.
11 Attached as Exhibit A is a list of the two persons who properly requested to be excluded from the
12 Settlement.

13 **9. Objection.** The Court has considered the purported objection submitted by
14 Susanne Brauer. The Court finds that Ms. Brauer failed to object in the manner specified in the
15 Full Notice. The Court also finds that the objection is non-meritorious and hereby overrules the
16 objection in its entirety.

17 **10. Release.** Plaintiff and all Class Members who did not properly request exclusion
18 are: (1) deemed to have released and discharged Talbots from all claims arising out of or asserted
19 in this Action and claims released under the Agreement; and (2) barred and permanently enjoined
20 from asserting, instituting, or prosecuting, either directly or indirectly, these claims.

21 **11. Class Relief.** Talbots will issue the appropriate Merchandise Credit to each Class
22 Member who is an Authorized Claimant or is otherwise entitled to a Merchandise Credit under
23 Section 2.1 of the Agreement, according to the procedure set forth in Section 2.2 of the
24 Agreement.

25 **12. Attorney's Fees and Costs.** Class Counsel is awarded \$325,000 total in fees and
26 costs. Talbots must pay Class Counsel this amount according to the timeline set forth in Section
27 2.4 of the Agreement.

1 **13. Incentive Awards.** Plaintiff Lynette Fliegelman is awarded \$3,000 in total, as an
2 incentive award. Talbots must pay Plaintiff this amount according to the timeline set forth in
3 Section 2.3 of the Agreement.

4 **14. Judgment.** The Court finds that there is no reason for delay and directs the Clerk
5 to enter judgment in accordance with the terms of this Order as of the date of this Order.

6 **15. Court's Jurisdiction.** Pursuant to the Parties' request, California Code of Civil
7 Procedure section 664.6, and California Rule of Court 3.769(h), the Court retains jurisdiction over
8 this action and the parties until final performance of the Agreement.

9 **IT IS SO ORDERED.**

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11 Dated: 11/20/18



JUDGE OF THE SUPERIOR COURT

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KEVIN G. DENOCE

EXHIBIT A

TIMELY LIST OF EXCLUSIONS

1. Barbara Burch
2. Jill Hancock

5.

~~[PROPOSED]~~ FINAL APPROVAL ORDER AND JUDGMENT