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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

KARL ADAMS, III and SHIANNA  
NOTSCHER, individually, and on behalf of all  
others similarly situated,

Plaintiffs,

vs.

MARKETSTAR CORPORATION, a  
corporation; CREATE MARKETING AND  
SOLUTIONS INC., a corporation; and DOES 1  
through 10, inclusive,

Defendants

No. 2:14-cv-02509-TLN-DB

**ORDER**

1           The above-referenced class action case ("Action") having come before the Court on  
2 August 24, 2017, for an Order of Final Approval of the Class Action Settlement, Class  
3 Representatives' Service Awards, and Attorneys' Fees and Litigation Costs ("Order"),  
4 consistent with the Court's Preliminary Approval Order ("Preliminary Approval Order"), filed  
5 and entered on February 1, 2017, and as set forth in the Parties' Joint Stipulation for Class  
6 Action Settlement and Release of Claims ("Agreement") in the above-referenced Action, and  
7 due and adequate notice having been given to Class Members as required by the Preliminary  
8 Approval Order, and the Court having considered all papers filed and proceedings had herein  
9 and otherwise being fully informed and good cause appearing therefore, it is hereby  
10 ORDERED, ADJUDGED AND DECREED THAT:

11           1.       All terms used herein shall have the same meaning as defined in the Agreement.

12           2.       Consistent with the definitions provided in the Agreement, the term Settlement  
13 Class Members shall include the following: "All persons currently or formerly employed by  
14 Defendant MarketStar Corporation or Create Marketing and Sales Solutions Inc. in the State of  
15 California, as Product Specialists, Brand Advocates, Market Sell-Through Managers, Market  
16 Managers, Territory Managers, Territory Representatives, Field Sales Advocates, Field Sales  
17 Representatives, Field Marketing Managers, Specialists, Trainers and any other field positions,  
18 which either or both Defendants classified as exempt, whose job responsibilities included making  
19 store visits and/or interacting with store personnel, whether to assist in sales, promote brand  
20 awareness or train store personnel or other field employees, during the period from August 15,  
21 2010 through April 22, 2016." The "Class" and "Class Members" includes those who failed to  
22 exclude themselves from the terms of the Agreement.

23           3.       For purposes of the Settlement and this Final Judgment, "Defendant" and/or the  
24 "Released Parties" includes Defendants MarketStar Corporation ("MarketStar") and Create  
25 Marketing and Solutions, Inc. ("Create") (collectively, "Defendants") and their predecessors,  
26 successors, parents, subsidiaries, affiliated, and/or related entities.

27           4.       This Court has jurisdiction over the subject matter of this Action and over all  
28 Parties to this Action, including the Representative Plaintiffs and Settlement Class Members.

1           5.       Distribution of the Notice of Class and Collective Action Settlement and Final  
2 Hearing (“Notice”) and Claim Form (collectively, the “Notice Packet”) directed to Settlement  
3 Class Members as set forth in the Agreement and the other matters set forth therein have been  
4 completed in conformity with the Preliminary Approval Order, including individual notice to all  
5 Settlement Class Members who could be identified through reasonable effort, and the best notice  
6 practicable under the circumstances. The Notice provided due and adequate notice of the  
7 proceedings and of the matters set forth therein, including the proposed settlement set forth in the  
8 Agreement, to all persons entitled to such notice, and the Notice fully satisfied the requirements  
9 of due process. All Settlement Class Members and all Released Claims are covered by, included  
10 with, and subject to the Agreement and this Final Judgment.

11           6.       The Court hereby finds the Agreement was entered into in good faith following  
12 arms-length negotiations, and further finds that the Settlement and Agreement are fair,  
13 reasonable, and adequate and that the Named Plaintiffs have satisfied the standards and  
14 applicable requirements for final approval of this class action settlement under Federal Rule of  
15 Civil Procedure 23.

16           7.       The Court hereby approves the Settlement as set forth in the Agreement and finds  
17 that the Settlement and Agreement are, in all respects, fair, adequate, and reasonable, and directs  
18 the Parties to effectuate the Settlement according to the terms outlined in the Agreement.

19           8.       As of the date of this Final Approval Order and Judgment and the effective date as  
20 set forth in the Agreement (“Effective Date”), all Released Claims of each Settlement Class  
21 Member are and shall be deemed to be conclusively released as against Released Parties. The  
22 Released Claims shall mean all claims alleged in the Consolidated Action, and any and all  
23 claims, demands, rights, liabilities and/or causes of action of any nature and description  
24 whatsoever, known or unknown, in law or in equity, whether or not concealed or hidden, asserted  
25 or that might have been asserted by either Plaintiff, or any Class Member, relating to, or arising  
26 from, the claims alleged in the Consolidated Action, including the following:

27                 All claims or causes of action against the Released Parties that are pled in, or  
28                 reasonably arise from or relate to the facts pled in, the Amended Complaint

1 filed in the Settled Class Action by Plaintiffs on behalf of themselves and/or the  
2 Settlement Class Members, including, but not limited to, (a) all claims of any  
3 kind related to alleged unpaid compensation, including without limitation all  
4 claims for wages, overtime, meal and rest period premiums, damages, unpaid  
5 costs, penalties (including late payment penalties), liquidated damages, punitive  
6 damages, interest, attorneys' fees, litigation expenses, restitution, or equitable  
7 relief, whether known or unknown; (b) overtime under California Labor Code  
8 sections 510, 515, 1194 and any other applicable sections, as well as under  
9 Industrial Welfare Commission Wage Order 4-2001; (c) all claims for  
10 inaccurate or deficient wage statements under Labor Code section 226 and any  
11 other applicable sections; (d) "waiting time" penalties for late paid or unpaid  
12 wages under California Labor Code section 203 and any other applicable  
13 sections; (e) claims based on (a) through (d) above, as a predicate for alleged  
14 violations of the California Unfair Competition Act, and in particular,  
15 California Business & Professions Code § 17200 *et seq.*; (f) all claims under  
16 PAGA; (f) all claims under the FLSA, and any premiums, penalties, interest,  
punitive damages, costs, attorneys' fees, injunctive relief, declaratory relief, or  
accounting based on or related to the alleged claims. The Settlement Class  
Members shall also waive all rights under California Civil Code Section 1542  
related to the released claims. To effectuate a release of all claims under the  
FLSA, each check representing any payment to a Settlement Class Member  
shall state on the reverse, "By accepting this payment I agree that I have chosen  
to participate in the settlement of the Consolidated Action and waive and release  
all Released Claims, as defined in the Notice, including claims under both  
Federal and State law. Only members of the Class that choose not to opt out  
and have chosen to remain in the case will be subject to the release, and only  
those who endorse the settlement checks will be subject to an FLSA release.

17 *Expressly excluded from the settlement are all unrelated claims including, but not limited to,*  
18 *claims for retaliation, discrimination, unemployment insurance, disability, workers*  
19 *compensation and claims outside the Settlement Class Period, which are not released. The*  
20 *release shall apply to the Settlement Class Members with regard to any claims arising during*  
21 *the Class Period, August 15, 2010 through April 22, 2016. This release does not apply to any*  
22 *claims in the Beauford v. ActionLink, LLC case.*

23 9. Neither the Settlement nor the Agreement are admissions by any of the Released  
24 Parties, nor is this Final Order and Judgment a finding of the validity of any claims in the Action,  
25 or of any wrongdoing by any of the Released Parties.

26 10. The Court hereby finds the \$2,500,000.00 Gross Settlement Amount consideration  
27 provided for under the Agreement to be fair and reasonable. The Court, therefore, orders  
28 Settlement Awards to be made and administered in accordance with the terms of the Agreement

1 and as set forth in the Court's Preliminary Approval Order to each Settlement Class Member who  
2 has submitted a Claim Form in accordance with the Agreement.

3 11. The Court hereby confirms Righetti Glugoski, P.C. and Rastegar Law Group, APC  
4 as Class Counsel.

5 12. Pursuant to the terms of the Agreement, and the authorities, evidence and  
6 argument submitted by Class Counsel, the Court hereby awards Class Counsel fees in the amount  
7 of \$833,333.33, to be split equally between Righetti Glugoski, P.C. and Rastegar Law Group,  
8 APC, and costs of \$33,250.08 to be paid from the Gross Settlement Amount as final payment for  
9 and complete satisfaction of any and all attorneys' fees and costs incurred by and/or owed to  
10 Class Counsel as set forth in the Agreement. The Court finds that the attorneys' fees requested  
11 were reasonable, based upon the submitted lodestar information and common fund doctrine, and  
12 reflect typical hourly rates in this area of practice and geographic region. The Court further finds  
13 that the multiplier required to align the submitted lodestar figure with the requested contingency  
14 fee is justified in light of the result achieved and the efficiency with which it was accomplished.  
15 Class Counsel has proceeded on a contingency basis despite the uncertainty of any fee award.  
16 Class Counsel was necessarily precluded from pursuing other potential sources of fees because of  
17 its work in connection with this Action.

18 13. The Court also hereby confirms Named Plaintiffs Karl Adams, III and Shianna  
19 Notscher as Class Representatives and authorizes payment to each Plaintiff in the amount of  
20 \$25,000.00 from the Maximum Settlement Amount (for a total of \$50,000) less applicable  
21 holdings.

22 14. The Court also orders that a Claims Administration Payment in the amount of  
23 \$14,000 be paid to the Claims Administrator, CPT Group, Inc., from the Maximum Settlement  
24 Amount for the costs of administration.

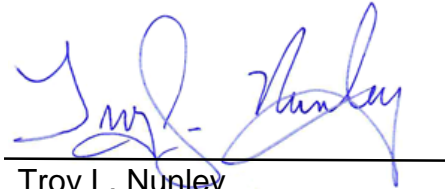
25 15. The Court also orders a PAGA Penalty Payment in the amount of \$10,000 from  
26 the Maximum Settlement Amount to be distributed as follows: \$7,500.00 to the California Labor  
27 and Workforce Development Agency and \$2,500.00 to be distributed to Settlement Class  
28 Members on a *pro rata* basis.

1           16.     In accordance with the Agreement, Settlement checks not cashed within 180 days  
2 will be voided and the funds will be sent to the *Cy Pres* Designee, and the failure to cash any  
3 check within 180 days shall in no way affect the binding nature of the settlement or the binding  
4 nature of any release of claims.

5           17.     The Court hereby enters judgment of the entire Action, and orders the Parties to  
6 act in accordance with and pursuant to the terms set forth in the Agreement. Without affecting  
7 the finality of this Final Approval Order and Judgment in any way, the Court hereby retains  
8 continuing jurisdiction over the interpretation, implementation and enforcement of the Settlement  
9 and Agreement and all orders entered in connection therewith.

10           IT IS SO ORDERED.

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12 Dated: August 29, 2017

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16           Troy L. Nunley  
17           United States District Judge  
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