

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 15-CV-23142-KMW

ABC BARTENDING SCHOOL OF MIAMI, INC.,  
individually and as representative of a  
class of similarly-situated persons,

Plaintiff,

v.

AMERICAN CHEMICALS & EQUIPMENT, INC.  
(*d.b.a.* "AMERICAN OSMENT", "GORILLA GLIDES",  
and "STOCKUP.COM"), and STEVEN MOTE,

Defendants.

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CASE NO. 16-CV-24705-KMW

BAIS YAAKOV OF SPRING VALLEY,  
on behalf of itself and all others similarly situated,

Plaintiff,

v.

AMERICAN CHEMICALS & EQUIPMENT, INC.  
d/b/a AMERICANOSMENT d/b/a STOCKUP.COM,

Defendant.

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**FINAL APPROVAL ORDER**

**THIS MATTER**, having come before the Court for a fairness hearing on April 5, 2017, upon Plaintiffs, ABC Bartending School of Miami, Inc. and Bais Yaakov of Spring Valley's ("Plaintiffs") Amended Unopposed Motion for Entry of Final Approval Order and Judgment (D.E. 119) ("Motion"), and the Court being fully advised in the premises, it is

**ORDERED AND ADJUDGED** as follows:

1. This Court has jurisdiction over the Parties, the Settlement Class Members, and the claims asserted in this Action.

2. The Court finds, pursuant to Federal Rule of Civil Procedure 23(e), that the settlement of this Action pursuant to the terms of the Settlement Agreement is, and is finally approved to be, a fair, reasonable, and adequate settlement in the best interests of the Settlement Class, in light of the factual, legal, practical, and procedural considerations raised in the Action.

3. The Settlement Class is defined as follows:

All persons or legal entities in the United States who, during the Class Period, owned, used, subscribed to, or controlled any fax number(s) on the Facsimile List, and who received a facsimile advertisement from or on behalf of Defendants American Chemicals & Equipment, Inc., including its subsidiaries, affiliates, and d/b/a's and/or Steven K. Mote, including but not limited to facsimile advertisements promoting (1) "Gorilla Glides", "www.GorillaGlides.com", and offering "Gorilla Glides" floor protection products, and/or (2) "StockUp.com", and offering office supply products.

4. The Court finds that the Settlement Agreement was entered in good faith, and following arm's length negotiations conducted by experienced counsel.

5. The Court finds that certification for purposes of settlement is proper because (a) the Settlement Class is so numerous that joinder of all members is impractical; (b) there are questions of law and fact common to the Settlement Class, which predominate over any questions affecting only individual members; (c) Plaintiffs' claims are typical of the claims of the Settlement Class; (d) Plaintiffs and their attorneys will fairly and adequately protect the interests of the Settlement Class; and (e) a class action is the superior means of resolving this Action.

6. The Court appoints Plaintiffs as the representatives of the Settlement Class pursuant to Federal Rule of Civil Procedure 23(a), and appoints Plaintiffs' attorneys—Wallen Hernandez Lee Martinez, LLP; Bellin & Associates LLC; and Schlam Stone & Dolan LLP—as Class Counsel pursuant to Federal Rule of Civil Procedure 23(g).

7. Based on the Settlement Agreement, Preliminary Approval Order, and upon the Declaration of Jonathan Shaffer (D.E. 121-1), the Court finds that Class Notice provided to the Settlement Class was the best notice practicable under the circumstances and it satisfied the requirements of due process and Federal Rule 23(e)(1).

8. Upon the Declaration of Joseph F. Mahan (D.E. 108-1), the Court finds that notice has been provided to the appropriate State and Federal officials in accordance with the requirements of the Class Action Fairness Act (28 U.S.C. § 1715).

9. No objections were received.

10. The following persons/entities validly requested exclusion from the Settlement Class and the Settlement Agreement, and they are thus excluded from both: (1) Calvary Evangelical Church, 10686 Van Wert Decatur Road, Van Wert, OH 45891; (2) Emmanuel Christian Academy, 3120 Hualapal Mountain Road, Kingman, AZ 86401.

11. After due consideration of, among other things, the uncertainty about the likelihood of: (a) the Settlement Class's ultimate success on the merits; (b) the range of the Settlement Class's possible recovery; (c) the complexity, expense and duration of the litigation; (d) the substance and amount of opposition to the Settlement Agreement; (e) the state of proceedings at which the Settlement Agreement was achieved; (f) all written submissions, declarations and arguments of counsel; and (g) after notice and hearing, this Court finds that the financial settlement terms fall within the range of settlement terms that would be considered fair, adequate and reasonable. Accordingly, this Settlement Agreement should be and is APPROVED, and shall govern all issues regarding the settlement and all rights of the Parties and the Settlement Class Members thereunder. Each Settlement Class Member shall be bound by the Settlement Agreement, including being subject to the Release set forth in the Settlement Agreement.

12. Defendants shall make their required deposits into the Settlement Common Fund, in accordance with the amounts and the schedule set forth in the Settlement Agreement, to fund all: (a) Benefit Checks to Approved Claimants; (b) Incentive Awards; (c) Attorneys' Fees and Costs; and (d) Settlement Administration Costs. Funds remaining in the Net Common Fund, if any, shall revert to Defendants in accordance with the Settlement Agreement.

13. Approved Claimants shall be paid Benefit Checks in the amounts and in the manner set forth in the Settlement Agreement. The Court approves a \$15,000 incentive award to ABC Bartending School of Miami, Inc., and a \$10,000 incentive award to Bais Yaakov of Spring Valley, for serving as the Class Representatives. Those amounts shall be paid from the Settlement Common Fund as set forth in the Settlement Agreement.

14. The Court approves an award of attorneys' fees to Class Counsel in the total amount of \$516,666.66, and out-of-pocket expenses not to exceed \$42,123.06, based on Counsel's submission of detailed invoices to the Settlement Administrator regarding same. Those amounts shall be paid from the Settlement Common Fund as set forth in the Settlement Agreement.

15. The Court expressly adopts and incorporates herein all of the terms of the Settlement Agreement. The Parties to the Settlement Agreement shall carry out their respective obligations under that Agreement.

16. This Action is dismissed with prejudice and without taxable costs to any Party.

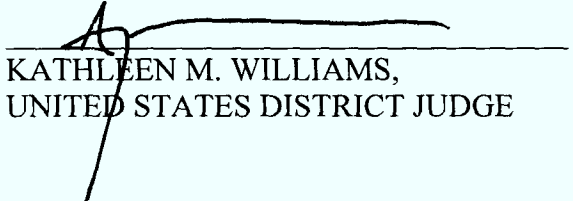
17. In accordance with the Release, the Released Parties are mutually released and discharged, and Settlement Class Members are hereby enjoined from asserting any Released Claims.

18. Defendants are enjoined from future violations of 47 U.S.C. § 227.

19. Should the Settlement Agreement be terminated under its terms, or the Effective Date not occur, then any and all orders entered pursuant to the Settlement Agreement shall be deemed vacated, and this Final Approval Order shall be void and deemed vacated.

20. The Court retains jurisdiction over this Action, the Parties, and the Settlement Class Members, to determine all matters relating in any way to this Final Approval Order, the Preliminary Approval Order, and the Settlement Agreement, including but not limited to, their administration, implementation, interpretation, or enforcement. The Court further retains jurisdiction to enforce this Order.

**DONE AND ORDERED** in chambers, in Miami, Florida, this 10<sup>th</sup> day of April 2017.

  
KATHLEEN M. WILLIAMS,  
UNITED STATES DISTRICT JUDGE