

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CYNTHIA WEST, KRISTINE)	
HOLLANDER, JENNIFER ZIMMERMAN,)	
MARY ROMAN, MARIE ESPOSITO, and)	
MICHELLE BALLON, individually and on)	
behalf of all others similarly situated,)	
)	Case No. 1:15-cv-05569
Plaintiffs,)	
)	
v.)	Judge Samuel Der-Yeghiayan
)	
ACT II JEWELRY, LLC, a Delaware limited)	
liability corporation d/b/a lia sophia, and)	
VICTOR K. KIAM, III,)	
)	
Defendants.)	

**PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Pursuant to Fed. R. Civ. P. 23, Plaintiffs Cynthia West, Kristine Hollander, Jennifer Zimmerman, Mary Roman, Marie Esposito, and Michelle Ballon (collectively, "Plaintiffs"), by their counsel, respectfully move for preliminary approval of class action settlement. In support thereof, Plaintiffs state:

1. Plaintiffs and Defendants Act II Jewelry, LLC ("Act II") and Victor K. Kiam, III (collectively, "Defendants") have reached an agreement regarding the above-styled class action (the "Settlement").

2. The Settlement is a product of over two years of litigation, extensive discovery, and four mediations. The Settlement resolves the dispute relating to Plaintiffs' claims of Defendants' breach of contract, violation of the Illinois Consumer Fraud and Deceptive Practices Act, fraud and unjust enrichment.

3. The Settlement provides for an “all-in,” non-reversionary common fund in the amount of **\$6,700,000** (the “Settlement Fund”).

4. The Settlement proposes certification of three Classes of individuals, all of whom will be eligible to receive monetary payments from the Settlement Fund. The three proposed Classes are as follows:

- (a) **Customer Class** – All individuals in the United States who purchased jewelry from Defendant Act II Jewelry, LLC between June 23, 2011, and December 1, 2014. The Customer Class is estimated to contain approximately 4.0 million individuals.
- (b) **Sales Advisor Class** – All individuals in the United States who sold at least \$250 of jewelry for Defendant Act II Jewelry, LLC between January 1, 2014, and August 17, 2014. The Sales Advisor Class is estimated to contain approximately 19,069 individuals.
- (c) **New Sales Advisor Class** – All individuals in the United States who purchased initial starter kits from Defendant Act II Jewelry, LLC between August 1, 2014, and December 1, 2014. The New Sales Advisor Class is estimated to contain approximately 2,709 individuals.

5. Subject to the Court’s approval, notice will be effected through direct notice via electronic mail and U.S. mail, and publication notice through social media, internet banners, and a press release. Assuming that preliminary approval is granted on **November 29, 2017**, the Parties propose the following notice and settlement administration deadlines:

<i>Action</i>	<i>Deadline</i>
Direct Notice via Email – The Settlement Administrator shall send direct notice by email to all Class Members for whom the Settlement Administrator is able to determine an email address based on the transaction records provided by Defendant Act II.	January 8, 2018 (40 days after Preliminary Approval)
Direct Notice via U.S. Mail – The Settlement Administrator shall send direct notice by U.S. mail to all Class Members for whom the Settlement Administrator is unable to determine an email address, and for all Class Members for whom email notice is sent that is returned.	January 23, 2018 (55 days after Preliminary Approval)

Settlement Website – The Settlement Administrator shall create a website where Class Members may obtain information about the Settlement and submit claims.	January 8, 2018 (40 days after Preliminary Approval)
Publication Notice via Social Media – Defendants shall post notice of the Settlement on the lia sophia outlet and lia sophia Facebook pages.	January 8, 2018 (40 days after Preliminary Approval)
Publication Notice via Internet Banners and Press Release – The Settlement Administrator shall implement a highly targeted outreach effort to serve over 3,000,000 impressions via Internet banners, as well as issue a press release to over 7,000 news outlets and journalists.	January 8, 2018 (40 days after Preliminary Approval)
Toll-Free Phone Line – The Settlement Administrator shall establish a phone line with touch-tone and interactive voice response for individuals to learn more about the Settlement.	January 8, 2018 (40 days after Preliminary Approval)
CAFA Notice – Defendants shall serve upon all relevant government officials notice of the Settlement pursuant to 28 U.S.C. § 1715.	December 9, 2017 (10 days after Preliminary Approval)
Claim Deadline – Class Members who wish to receive a benefit from this Settlement shall submit a Claim Form.	April 8, 2018 (90 days after notice is first effected)
Opt-Out Deadline – Class Members who wish to opt out of this Settlement must notify the Settlement Administrator.	April 8, 2018 (90 days after notice is first effected)
Objection Deadline – Class Members who wish to object to this Settlement must file an objection with the Court.	April 8, 2018 (90 days after notice is first effected)
Motion for Attorneys’ Fees and Incentive Awards – Class Counsel shall petition for attorneys’ fees and incentive awards.	March 25, 2018 (14 days before Claim Deadline)
Motion for Final Approval of Class Action Settlement – Plaintiff shall move for final approval of the Settlement.	May 21, 2018 (7 days before Final Approval Hearing)
CAFA Compliance – Defendants shall file proof of compliance with CAFA notice requirements.	May 21, 2018 (7 days before Final Approval Hearing)
Affidavit Of Settlement Administrator – The Settlement Administrator shall file a list of Class Members who opted out of the Settlement timely, along with an affidavit attesting to the completeness and accuracy thereof.	May 21, 2018 (7 days before Final Approval Hearing)
Final Approval Hearing – The Court shall hold a fairness hearing where the Court will determine whether the Settlement Classes should be certified and whether the proposed Settlement is fair, reasonable and adequate.	At the Court’s convenience, on or after May 28, 2018 (180 days after Preliminary Approval)

6. Further support for the Settlement is detailed in the accompanying Plaintiff's Memorandum In Support Of Motion For Preliminary Approval Of Class Action Settlement (the "Memorandum").

WHEREFORE, for all the reasons above and in Plaintiff's Memorandum, Plaintiffs respectfully request that the Court enter an Order:

- A. Preliminarily approving the Settlement as being fair, reasonable, and adequate;
- B. Preliminarily approving the form, manner, and content of the Class Notice;
- C. Setting the date and time of the Final Approval Hearing to be held no earlier than 180 days after entry of the Preliminary Approval Order;
- D. Provisionally certifying the proposed Classes under Rule 23 of the Federal Rules of Civil Procedure for settlement purposes only;
- E. Appointing Plaintiffs as Class Representatives;
- F. Appointing Joseph J. Siprut, Todd L. McLawhorn, and Siprut PC as Class Counsel; and
- G. Such other and further relief the Court deems just and proper.

Dated: November 21, 2017

Respectfully submitted,

By: s/ Todd L. McLawhorn

Joseph J. Siprut
jsiprut@siprut.com
Todd L. McLawhorn
tmclawhorn@siprut.com
Ke Liu
kliu@siprut.com
SIPRUT PC
17 N. State Street
Suite 1600
Chicago, Illinois 60602
Phone: 312.236.0000

Fax: 312.878.1342

***Counsel for Plaintiffs and
the Proposed Settlement Classes***

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that a true and correct copy of the foregoing **Plaintiffs' Motion For Preliminary Approval Of Class Action Settlement** was filed this 21st day of November 2017 via the electronic filing system of the United States District Court for the Northern District of Illinois, which will automatically serve all counsel of record.

s/ Todd L. McLawhorn
