



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE MINDBODY, INC.,
STOCKHOLDER LITIGATION

CONSOLIDATED
C.A. No. 2019-0442-KSJM

ORDER AND FINAL JUDGMENT

WHEREAS, a stockholder action is pending in this Court, entitled *In re Mindbody, Inc. Stockholder Litigation*, Consolidated C.A. No. 2019-0442-KSJM (the “Action”);

WHEREAS, by Order dated December 17, 2021, this Court certified the Action as a non-opt out class action pursuant to Court of Chancery Rules 23(a), 23(b)(1) and 23(b)(2) on behalf of a Class consisting of all holders of Mindbody common stock as of the closing of the merger with affiliates of Vista on February 15, 2019 (“Closing”), whether beneficial or of record, including their legal representatives, heirs, successors in interest, transferees and assignees of all such foregoing holders, but excluding (i) defendants in this Action, (ii) any person who is, or was at the time of Closing, an officer, director, or partner of Mindbody, Vista, or the IVP Entities, (iii) the immediate family members, meaning the parents, spouse, siblings, or children, of any of the foregoing, (iv) any trusts, estates, entities, or accounts that held Mindbody shares for the benefit of any of the foregoing, and (v) the legal representatives, heirs, successors in interest, successors, transferees, and assigns of the foregoing.

WHEREAS, (i) Lead Plaintiffs Luxor Capital Partners, LP, Luxor Capital Partners Offshore Master Fund, LP, Luxor Wavefront, LP, and Lugard Road Capital Master Fund, LP (collectively, “Lead Plaintiffs” or “Luxor”), on behalf of themselves and the Class; and (ii) defendants Eric Liaw (“Liaw”) and Institutional Venture Partners XIII, L.P. and Institutional Venture Management XIII LLC (the “IVP Entities” and, together with Liaw, the “Settling Defendants”) (Lead Plaintiffs and the Settling Defendants, together, the “Settling Parties”) have entered into a Stipulation and Agreement of Settlement, Compromise, and Release With Defendants Liaw and IVP Entities, dated February 26, 2022 (the “Stipulation”) that provides for a complete dismissal with prejudice of the claims asserted against the Settling Defendants in the Action on the terms and conditions set forth in the Stipulation, subject to the approval of this Court (the “Settlement”);

WHEREAS, the Stipulation (and the Settlement thereunder) does not release, resolve, compromise, settle, or discharge any claims or dissenter rights (including appraisal under Section 262 of the Delaware General Corporation Law (DGCL)) brought by Lead Plaintiffs against non-settling defendants Richard Stollmeyer, MINDBODY, Inc. (“Mindbody”), Vista Equity Partners Management, LLC (“Vista”), Torreys Parent, LLC, and Torreys Merger Sub, Inc. (together with their parents, affiliates, subsidiaries, officers, directors (except for Settling Defendant Liaw), predecessors, successors, and assigns, the “Non-Settling Defendants”);

WHEREAS, by Order dated March 28, 2022 (the “Scheduling Order”), this Court (i) ordered that notice of the proposed Settlement be provided to potential Class Members; (ii) provided Class Members with the opportunity to object to the proposed Settlement, the proposed Plan of Allocation, and/or Co-Lead Counsel’s application for an award of attorneys’ fees and Litigation Expenses in connection with the Settlement; and (iii) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, the Court conducted a hearing on June 8, 2022 (the “Settlement Hearing”) to consider, among other things: (i) whether the terms and conditions of the Settlement are fair, reasonable, and adequate to the Class, and should therefore be approved; (ii) whether a Judgment should be entered dismissing the Action with prejudice as against the Settling Defendants; (iii) whether the proposed Plan of Allocation of the Net Settlement Fund is fair and reasonable, and should therefore be approved; and (iv) whether the application by Co-Lead Counsel for an award of attorneys’ fees and Litigation Expenses in connection with the Settlement should be approved; and

WHEREAS, it appearing that due notice of the hearing has been given in accordance with the Scheduling Order; the Settling Parties having appeared by their respective attorneys of record; the Court having heard and considered evidence in support of the proposed Settlement; the attorneys for the respective Settling Parties

having been heard; an opportunity to be heard having been given to all other persons or entities requesting to be heard in accordance with the Scheduling Order; the Court having determined that notice to members of the Class was adequate and sufficient; and the entire matter of the proposed Settlement having been heard and considered by the Court;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, this 8th day of June, 2022, as follows:

1. **Definitions**: Unless otherwise defined herein, capitalized terms used herein shall have the same meanings given to them in the Stipulation.

2. **Jurisdiction**: The Court has jurisdiction over the subject matter of the Action, and all matters relating to the Settlement, as well as personal jurisdiction over the Settling Parties and each of the Class Members.

3. **Notice**: The Court finds that the dissemination of the Notice and the publication of the Summary Notice: (i) were implemented in accordance with the Scheduling Order; (ii) constituted the best notice practicable under the circumstances; (iii) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of: the pendency of the Action; the effect of the proposed Settlement (including the Releases to be provided thereunder); the proposed Plan of Allocation; Co-Lead Counsel's application for an award of attorneys' fees and Litigation Expenses; their right to object to any aspect of the

Settlement, the Plan of Allocation, and/or Co-Lead Counsel's application for an award of attorneys' fees and Litigation Expenses; and their right to appear at the Settlement Hearing; (iv) constituted due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (v) satisfied the requirements of Court of Chancery Rule 23, the United States Constitution (including the Due Process Clause), and all other applicable law and rules.

4. **Final Settlement Approval and Dismissal of Claims:** Pursuant to, and in accordance with, Court of Chancery Rule 23(e), this Court hereby fully and finally approves the Settlement set forth in the Stipulation in all respects (including, without limitation: the Settlement consideration; the Released Claims; and the dismissal with prejudice of the claims asserted against the Settling Defendants in the Action), and finds that the Settlement is, in all respects, fair, reasonable, and adequate to the Class. The Settling Parties are directed to implement, perform, and consummate the Settlement in accordance with the terms and provisions contained in the Stipulation, which this Judgment incorporates and makes a part hereof.

5. All claims asserted against the Settling Defendants in the Action by Lead Plaintiffs and the other Class Members are hereby dismissed with prejudice. The Settling Parties shall bear their own fees, costs, and expenses, except as otherwise provided in the Stipulation and this Judgment.

6. **Binding Effect:** The terms of the Stipulation and of this Judgment shall be forever binding on the Settling Parties and all Class Members (regardless of whether or not any individual Class Member was entitled to receive a distribution from the Net Settlement Fund or in fact receives a distribution from the Net Settlement Fund). The binding effect of this Judgment and the obligations of the Settling Parties and Class Members under the Stipulation shall not be conditioned upon or subject to the resolution of any appeal from this Judgment that relates solely to the issue of Co-Lead Counsel's fee and expense application or award, or the Plan of Allocation.

7. **Releases:** The Releases set forth in paragraphs 3 and 4 of the Stipulation, together with the definitions contained in paragraph 1 of the Stipulation relating thereto, are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, this Court orders that:

(i) Without further action by anyone, and subject to paragraph 8 below, upon the Effective Date of the Settlement, Lead Plaintiffs and each of the other Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged any and all Released Plaintiffs' Claims against Settling Defendants

and the other Released Settling Defendants' Persons, and shall forever be barred and enjoined from prosecuting any and all Released Plaintiffs' Claims against any of the Released Settling Defendants' Persons. This Release shall not apply to any of the Excluded Plaintiffs' Claims.

(ii) Without further action by anyone, and subject to paragraph 8 below, upon the Effective Date of the Settlement, Settling Defendants, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged any and all Released Settling Defendants' Claims against Lead Plaintiffs and the other Released Plaintiffs' Persons, and shall forever be barred and enjoined from prosecuting any and all Released Settling Defendants' Claims against any of the Released Plaintiffs' Persons. This Release shall not apply to any of the Excluded Settling Defendants' Claims.

8. Notwithstanding paragraphs 7(a)-(b) above, nothing in the Stipulation or in this Judgment shall bar any action by any of the Settling Parties to enforce or effectuate the terms of the Stipulation or this Judgment.

9. **Bar Order:** Upon the Effective Date of the Settlement, all claims for contribution under 10 *Del. C.* § 6304(b) based on or arising out of the Released

Plaintiffs' Claims (i) by any other alleged joint tortfeasors, including the Non-Settling Defendants, against the Settling Defendants and (ii) by any of the Settling Defendants against any other alleged joint tortfeasors, including the Non-Settling Defendants, are hereby barred.

10. Pursuant to 10 *Del. C.* § 6304(b), any joint damages recoverable against all other alleged tortfeasors, including the Non-Settling Defendants, shall be reduced by the *pro rata* share of the responsibility for such damages, if any, of the Settling Defendants, should it be determined that any of the Settling Defendants are joint tortfeasors. This language is intended to comply with 10 *Del. C.* § 6304(b) so as to preclude any liability of the Settling Defendants to any other alleged tortfeasors for contribution arising out of or relating to the claims asserted in the Action.

11. **No Admission of Wrongdoing:** Neither this Judgment, the Term Sheet, the Stipulation (whether or not consummated), including the Exhibits thereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of the Term Sheet and the Stipulation, nor any proceedings taken pursuant to or in connection with the Term Sheet, the Stipulation, and/or approval of the Settlement (including any arguments proffered in connection therewith): (i) shall be offered against any of the Released Settling Defendants' Persons as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the

Released Defendants' Persons with respect to the truth of any fact alleged by Lead Plaintiffs or the validity of any claim that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Released Settling Defendants' Persons or in any way referred to for any other reason as against any of the Released Settling Defendants' Persons, in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; (ii) shall be offered against any of the Released Plaintiffs' Persons, as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Released Plaintiffs' Persons that any of their claims are without merit, that any of the Released Settling Defendants' Persons had meritorious defenses, or that damages recoverable under the Complaint would not have exceeded the Settlement Amount or with respect to any liability, negligence, fault, or wrongdoing of any kind, or in any way referred to for any other reason as against any of the Released Plaintiffs' Persons, in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; or (iii) shall be construed against any of the Released Persons as an admission, concession, or presumption that the consideration to be

given under the Stipulation represents the amount which could be or would have been recovered after trial; *provided, however*, that the Settling Parties and the Released Persons and their respective counsel may refer to the Stipulation and this Judgment to effectuate the protections from liability granted under the Stipulation and this Judgment or otherwise to enforce the terms of the Settlement.

12. **Award of Attorneys' Fees and Litigation Expenses:** Plaintiffs' Counsel are hereby awarded attorneys' fees and Litigation Expenses in the amount of \$ 8,556,142.95, which sum the Court finds to be fair and reasonable. The award of attorneys' fees and Litigation Expenses shall be paid solely out of the Settlement Fund.

13. No proceedings or court order with respect to the award of attorneys' fees and Litigation Expenses to Plaintiffs' Counsel shall in any way affect or delay the finality of this Judgment (or otherwise preclude this Judgment from being entitled to preclusive effect), and shall not affect or delay the Effective Date of the Settlement.

14. **Plan of Allocation of Net Settlement Fund:** The Court hereby finds and concludes that the formula for the calculation of payments to Class Members as set forth in the Plan of Allocation provides a fair and reasonable basis upon which to allocate the proceeds of the Net Settlement Fund among Class Members with due consideration having been given to administrative convenience and necessity. No

proceedings or court order with respect to approval of the Plan of Allocation shall in any way affect or delay the finality of this Judgment (or otherwise preclude this Judgment from being entitled to preclusive effect), and shall not affect or delay the Effective Date of the Settlement.

15. **Modification of the Stipulation:** Without further approval from the Court, the Settling Parties are hereby authorized to agree to and adopt such amendments or modifications of the Stipulation or any Exhibits attached thereto to effectuate the Settlement that: (i) are not materially inconsistent with this Judgment; and (ii) do not materially limit the rights of Class Members in connection with the Settlement. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any provisions of the Settlement.

16. **Termination of Settlement:** If the Settlement is terminated as provided in the Stipulation or the Effective Date of the Settlement otherwise fails to occur, this Judgment shall be vacated, rendered null and void, and be of no further force and effect, except as otherwise provided by the Stipulation; this Judgment shall be without prejudice to the rights of the Settling Parties or the Class; and Lead Plaintiffs and Settling Defendants shall revert to their respective positions in the Action as of immediately prior to the execution of the Term Sheet on January 18, 2022, as provided in the Stipulation.

17. **Retention of Jurisdiction:** Without affecting the finality of this Judgment in any way, this Court retains continuing and exclusive jurisdiction over the Settling Parties and all Class Members for purposes of the administration, interpretation, implementation, and enforcement of the Settlement, and all other matters relating to the Action and the Settlement.

18. **Entry of Final Judgment:** There is no just reason to delay the entry of this Judgment as a final judgment in the Action. Accordingly, the Register in Chancery is expressly directed to immediately enter this final judgment in the Action.


Chancellor Kathaleen St. J. McCormick