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10 Attorneys for Plaintiff KENNETH TRONE
11 on behalf of himself, the State of California,
12 and PAGA Members

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER

13 KENNETH TRONE, as an aggrieved
14 employee pursuant to the Private Attorneys
15 General Act (PAGA),

16 Plaintiff,

17 v.

18 SUGAR BOWL CORPORATION; and
19 DOES 1 to 20, inclusive,

20 Defendants.
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Case No. Case No.: S-CV-0045755

**JOINT STIPULATION OF PAGA
SETTLEMENT AND RELEASE**

1 This Joint Stipulation of Settlement and Release (hereinafter “Stipulation of Settlement”) is
2 made and entered into by and between KENNETH TRONE (“Plaintiff” or “PAGA Representative”),
3 individually and on behalf of himself, the State of California and all other allegedly similarly
4 aggrieved employees (“PAGA Members”), on the one hand, and SUGAR BOWL CORPORATION
5 (“Defendant”), on the other.

6 This Stipulation of Settlement shall be binding on Plaintiff, the State of California, and those
7 persons he represents as PAGA Members as provided herein, and on Defendant and its present and
8 former parents, affiliated or related companies, principals, partners, shareholders, members, officers,
9 directors, employees, agents, attorneys, insurers, re-insurers, predecessors, successors, assigns,
10 insurance companies, heirs, executors, administrators, investors, and all other persons, firms,
11 corporations, associations, partnerships, subsidiaries or entities having any legal relationship to
12 Defendant, and any individual or entity which could be jointly liable with Defendant, and their
13 respective counsel, subject to the terms and conditions hereof and the Court’s approval.

14 THE PARTIES STIPULATE AND AGREE as follows:

15 1. Plaintiff and Defendant are collectively referred to herein as “the Parties.”

16 2. On or about July 13, 2020, Plaintiff filed a Private Attorneys General Act (“PAGA”)
17 letter with the Labor and Workforce Development Agency, asserting various California Labor Code
18 violations against Defendant (“LWDA Notice Letter”), including violations of Labor Code sections
19 201, 202, 203, 1174, 226, 226.3, 226.7, 256, 510, 1194, 1197.1, 226.7, Sections 3, and 11 of Wage
20 Order No. 4-2001, and Sections 4 and 12 of Wage Order No. 5-2001.

21 3. On October 21, 2020, Plaintiff filed a Complaint For Damages (“Complaint”) in the
22 above captioned action against Defendant in Placer County Superior Court (“Lawsuit” or “Action”).

23 4. Plaintiff’s Complaint alleges facts relating to the following violations of the Labor
24 Code: (1) Failure to Pay Minimum Wage for All Hours Worked; (2) Failure to Provide Accurate
25 Wage Statements; (3) Failure to Provide Meal and Rest Periods; (4) Waiting Time Penalties; (5)
26 Failure to Pay Overtime Wages; and (6) Civil Penalties under PAGA. Plaintiff’s Complaint seeks to
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1 recover damages, including, but not limited to, Labor Code penalties, liquidated damages, PAGA
2 civil penalties, pre- and post-judgment interest, injunctive relief, and attorneys' fees and costs.

3 5. Defendant denies all material claims and allegations and asserts numerous affirmative
4 defenses, including, but not limited to, failure to state a claim, failure to exhaust administrative
5 remedies, statute of limitations, preemption, laches, unclean hands, failure to mitigate, LWDA
6 notice, standing, and unmanageable representative action, de minimus, offset and releases.

7 6. Through arms-length, adversarial, serious negotiations conducted with a qualified
8 neutral third-party employment law mediator, Hon. Jeffrey Winikow, a retired Judge from the Los
9 Angeles County Superior Court, the Parties have reached a settlement of all claims brought in the
10 Lawsuit ("Settlement"). The Parties conducted an all-day mediation session with Judge Winikow in
11 order to reach a final resolution. The Parties have reached a separate confidential individual
12 settlement agreement with respect to causes of action one through five in the operative Complaint.
13 The Parties now enter into this detailed, formalized settlement agreement with respect to the
14 remaining PAGA cause of action, subject to the Court's approval of the Settlement.

15 7. For purposes of this Settlement, the "Settlement Group" and/or "PAGA Members"
16 shall consist of approximately nine-hundred-seventy-seven (977) alleged aggrieved non-exempt
17 employees who worked for Defendant in the state of California from July 13, 2019 to the date the
18 settlement is approved.

19 8. Defendant denies any liability or wrongdoing of any kind whatsoever associated with
20 the claims and allegations alleged in Plaintiff's Complaint and LWDA Notice Letter. As to
21 Plaintiff's representative PAGA claims, Defendant further denies that, for any purpose other than
22 settling this Lawsuit, these claims are appropriate for PAGA representative treatment, and contends,
23 among other things, that it has complied with all applicable state, federal and local laws regarding
24 the payment of wages, accurate wage statements, and meal and rest period provisions.

25 9. It is the desire of the Parties to fully, finally and forever settle, compromise and
26 discharge all disputes and claims that were alleged in Plaintiff's Complaint and LWDA Notice Letter
27 in this case and that could have been alleged. To achieve a full and complete release of Defendant,
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1 Plaintiff, PAGA Counsel, and each PAGA Member acknowledges that this Stipulation of Settlement
2 is intended to include in its effect all claims alleged, and that could have been alleged, in the LWDA
3 Notice Letter and the Action, and all Released Claims against all Released Parties (as defined herein)
4 as of the date of the Court's approval of this Settlement.

5 10. It is the intention of the Parties that this Stipulation of Settlement shall constitute a
6 full and complete settlement and release of all PAGA claims alleged in or that could have been
7 alleged in, and arising from or related to the allegations of, the Complaint and the LWDA Notice
8 Letter brought against Defendant, which release includes in its effect Sugar Bowl Corporation and
9 all its present and former parents, affiliated or related companies, principals, partners, shareholders,
10 members, officers, directors, employees, agents, attorneys, insurers, re-insurers, predecessors,
11 successors, assigns, insurance companies, heirs, executors, administrators, investors, owners,
12 contractors, and all other persons, firms, corporations, associations, partnerships, subsidiaries or
13 entities having any legal relationship to Defendant, and any individual or entity which could be
14 jointly liable with Defendant.

15 11. Counsel for the PAGA Members has conducted a thorough investigation into the facts
16 of this representative case, including an extensive review of relevant documents and data, and has
17 diligently investigated PAGA Members' claims against Defendant. Based on their own independent
18 investigation and evaluation, PAGA Counsel are of the opinion that the Settlement with Defendant
19 for the consideration and on the terms set forth in this Stipulation of Settlement is fair, reasonable
20 and adequate and is in the best interest of Plaintiff and PAGA Members in light of all known facts
21 and circumstances, including the risk of complete loss, risk of significant delay, the numerous
22 defenses asserted by Defendant, and various potential appellate issues.

23 12. The Parties agree to cooperate and take all steps necessary and appropriate to
24 consummate this Settlement and to effectuate a judgment. In the event that: (i) the Court does not
25 approve the Settlement as provided herein; or (ii) the Effective Date does not occur for any other
26 reason apart from the Court's refusal to approve, then this Settlement Agreement—and any
27 documents generated to bring it into effect—will be null and void, and any related negotiations or
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1 proceedings shall not be of any force or effect, and the Parties shall stand in the same position,
2 without prejudice, as if the Settlement Agreement never existed, and as if the Settlement had never
3 been presented to the Court for approval. Furthermore, Defendant shall have no obligation to make
4 any payments to Plaintiff or Counsel for the PAGA Members. In such an instance, the Agreement
5 and all negotiations, statements, proceedings and data relating thereto shall be deemed confidential
6 mediation settlement communications and not subject to disclosure for any purpose in any
7 proceeding.

8 13. This Settlement provides for mailing of an explanatory notice (as set forth in **Exhibit**
9 **A** below) and payment of Settlement Awards to all PAGA Members according to a specified
10 formula as provided herein. The gross total payment under this PAGA Settlement, including all
11 attorneys' fees and costs, settlement administration costs, interest, penalties, and any other payments
12 provided by this PAGA Settlement is One-Hundred-Forty-Two-Thousand-Five-Hundred Dollars
13 (\$142,500.00). It is understood and agreed that Defendant's gross total liability under this PAGA
14 Settlement shall not exceed \$142,500.00. It is further understood and agreed that Defendant shall
15 have no obligation to pay any person, entity or organization more than its gross total liability under
16 this Settlement as set forth above, which includes the total amount of: (1) the Settlement Awards to
17 the Settlement Group; (2) the attorneys' fees and costs approved by the Court; (3) the actual fees and
18 expenses of the Settlement Administrator; and (4) payment to the State of California pursuant to
19 PAGA.

20 TERMS OF SETTLEMENT

21 14. NOW THEREFORE, in consideration of the mutual covenants, promises and
22 agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

23 a. It is agreed by and among Plaintiff and Defendant that any PAGA claims,
24 damages or causes of action arising out of the disputes which are the subject of the LWDA Notice
25 Letter and the PAGA Cause of Action or that could have been included in the LWDA Notice Letter
26 or PAGA Cause of Action, be settled and compromised as between the Plaintiff, Settlement Group
27 (including Plaintiff) and Defendant, subject to the terms and conditions set forth in this Stipulation of
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1 Settlement and approval by the Court.

2 b. Effective Date: The Settlement embodied in this Stipulation of Settlement
3 shall become effective when all of the following events have occurred: (i) this Stipulation of
4 Settlement has been executed by all Parties and by counsel for the Settlement Group; (ii) the
5 Plaintiff/PAGA Representative has signed a separate confidential individual settlement agreement;
6 and (iii) the Court has approved the PAGA Settlement. Once the Settlement is final and effective,
7 Plaintiff agrees to dismiss the Lawsuit with prejudice within ten (10) days of all payments provided
8 by this Settlement.

9 c. Gross Settlement Amount, and Net Settlement Amount: to implement the
10 terms of this Settlement, Defendant agrees to pay a gross settlement amount of One-Hundred-Forty-
11 Two Thousand-Five Hundred Dollars (\$142,500.00) ("Gross Settlement Amount").

12 i. At no time shall Defendant have the obligation to segregate the funds
13 comprising the Gross Settlement Amount, and Defendant shall retain exclusive authority over and
14 responsibility for those funds subject to disbursement of funds necessary for the payment of the
15 Settlement Awards, the approved attorneys' fees and costs, the actual settlement administration fees
16 and expenses, and any other payments provided by this Settlement. All Settlement Awards for the
17 PAGA Members, all attorneys' fees, costs, fees and expenses of the Settlement Administrator, and
18 other payments provided by this Settlement are part of, and included within the Gross Settlement
19 Amount, and shall be paid out of the Gross Settlement Amount. It is further understood and agreed
20 that Defendant shall have no obligation to pay any person, entity or organization more than the
21 Gross Settlement Amount pursuant to this Stipulation of Settlement.

22 The Net Settlement Amount shall be calculated by deducting from the Gross
23 Settlement Amount all attorneys' fees and costs, the actual fees and expenses of the Settlement
24 Administrator, and the payment to the State of California Labor Workforce Development Agency
25 (the "LWDA") pursuant to PAGA, ("Net Settlement Amount"). Any amount of the Gross
26 Settlement Amount not required to pay administration costs, attorneys' fees and costs, and any other
27 payments provided by this Settlement, shall be paid as Settlement Awards to the PAGA Members, as
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1 set forth below, and is inclusive of all applicable penalties. The Settlement Awards will be
2 calculated by the Settlement Administrator based on Defendant's records, and paid out of the Net
3 Settlement Amount as detailed in subsection (d) below. The Gross Settlement Amount shall be paid
4 within 30 days after the Settlement becomes final and effective under Paragraph 14(b).

5 d. Settlement Awards: Settlement Awards to the PAGA Members shall be paid
6 from the Net Settlement Amount. The Settlement Administrator shall first determine for each
7 PAGA Member the pay periods he or she actively worked during the PAGA Period. The Settlement
8 Administrator shall divide the amount of the Net Settlement Amount by the sum of all PAGA
9 Members' pay periods worked to calculate an "Estimated Amount Per Pay Period." For each PAGA
10 Member, the Settlement Administrator shall then multiply the Estimated Amount Per Pay Period by
11 the PAGA Member's pay periods worked in the Settlement Period to determine each individual
12 Settlement Award. The Settlement Award process is discussed further below.

13 e. California Private Attorneys' General Act Allocation: The entire sum of
14 \$142,500.00 (the Gross Settlement Amount) is allocated to Plaintiff's claims under the California
15 Private Attorneys General Act. Further, 75% of the monies left of the Gross Settlement (after
16 attorney's fees and costs and costs of administration) will be paid out to the State of California
17 LWDA, and the remaining 25% will be paid out to the allegedly aggrieved employees pursuant to
18 Cal. Labor Code 2698 *et seq.*

19 f. Allocation and Taxability of Settlement Awards: IRS Forms 1099 MISC will
20 issue to PAGA Members. Each PAGA Member shall be individually responsible for the employee's
21 share of taxes attributable to receipt of any payments under this Settlement. The PAGA
22 Representative and PAGA Members agree to pay all taxes as required by the IRS. Defendant
23 reserves the right to seek indemnity from Plaintiff or any PAGA Member for any claims arising out
24 of their non-payment of the taxes due on the Settlement Amounts paid to them.

25 g. Settlement Awards Do Not Trigger Additional Benefits: All Settlement
26 Awards to PAGA Members shall be deemed to be income to such PAGA Members solely in the year
27 in which such awards actually are received by the PAGA Members. The Settlement Awards to
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1 PAGA Members paid under this Agreement do not represent a modification of any previously
2 credited hours of service under any employee benefit plan, policy or bonus program sponsored by
3 Defendant. It is expressly understood and agreed that the receipt of such Settlement Awards will not
4 entitle any PAGA Member to additional contributions, compensation, benefits, or any other
5 monetary entitlement under any company bonus, contest or other compensation or benefit plan (self-
6 insured or not) or agreement in place during the period covered by the Settlement, nor will it entitle
7 any PAGA Member to any increased retirement, 401(k) benefits or matching benefits, or deferred
8 compensation benefits. No deductions or contributions for 401(k) shall be made from the Settlement
9 Awards. Any payments made under the terms of this Agreement shall not be applied retroactively,
10 currently or on a going forward basis as salary, earnings, wages, or any other form of compensation
11 for the purposes of any company bonus, contest or other compensation or benefit plan. It is the
12 intent of this Settlement that the Settlement Awards provided for in this Agreement are the sole
13 payments to be made by Defendant to PAGA Members in connection with this Settlement, and that
14 the PAGA Members are not entitled to any new or additional compensation or benefits as a result of
15 having received the Settlement Awards (notwithstanding any contrary language or agreement in any
16 benefit or compensation plan document that might have been in effect during the period covered by
17 this Settlement). Defendant retains the right to modify the language of its benefit plans, policies and
18 bonus programs to effect this intent and to make clear that any amounts paid pursuant to this
19 Agreement are not for "hours worked," "hours paid," "hours of service," or any similar measuring
20 term as defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting,
21 benefit accrual or any other purpose, and that additional contributions or benefits are not required by
22 this Agreement.

23 h. Attorneys' Fees and Attorneys' Costs: Subject to Court approval, Attorneys'
24 fees and costs shall be paid to Plaintiff's Counsel from the Gross Settlement Amount, as set forth
25 below. The Court-approved attorneys' fees and costs will be paid out of the Escrow Account to
26 PAGA Counsel within 30 days after the Settlement becomes final and effective under Paragraph
27 14(b). Attorneys' fees and costs are discussed further below.
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i. Settlement Administrator: The fees of the Settlement Administrator for work done shall be paid from the Gross Settlement Amount. If the Settlement is ineffective for any reason under Paragraph 14(b) above, the Parties shall evenly split the settlement administration costs regardless of the outcome of the Settlement. Rust Consulting has capped the settlement administration fees at \$5,200. If there are any additional costs, such costs will be paid out of the gross settlement amount. The Court-approved Settlement Administrator's expenses will be paid within 30 days after the Settlement becomes final and effective under Paragraph 14(b). The Settlement Administrator is discussed further below.

SETTLEMENT ADMINISTRATION

15. The Parties will agree to the appointment of Rust Consulting as the Settlement Administrator; however, the Parties shall have the right to select or substitute a different Settlement Administrator by mutual agreement at any time. The Settlement Administrator will send an agreed upon explanatory notice of the Settlement, attached hereto as **Exhibit A**, along with the Settlement Award to all PAGA Members as discussed herein. The Settlement Administrator will calculate the Settlement Award amounts due to PAGA Members in accordance with this Stipulation of Settlement. The Settlement Administrator shall report, in summary or narrative form, the substance of its findings. Upon receipt of funds from Defendant and as provided by the terms of the Settlement, the Settlement Administrator will issue and send out the Settlement Awards to PAGA Members. Tax treatment of the Settlement Awards will be as set forth herein, and in accordance with state and federal tax laws. All disputes relating to the Settlement Administrator's performance of duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Stipulation of Settlement until all payments and obligations contemplated by this Stipulation of Settlement have been fully carried out.

ATTORNEYS' FEES AND COSTS

16. In consideration for settling this matter and in exchange for the release of claims by the Settlement Group, and subject to approval or modification by the Court, PAGA Counsel's attorneys' fees and out-of-pocket expenses are part of, and included within the Gross Settlement

1 Amount, and shall be subtracted from the Gross Settlement Amount as approved by the Court.
2 Subject to Court approval, PAGA Counsel's attorney's fees shall be an amount not to exceed Forty
3 Percent (40%) of the Gross Settlement Amount, that is Fifty-Seven-Thousand Dollars (\$57,000.00).
4 In addition, and also subject to Court approval, PAGA Counsel shall be reimbursed for their out-of-
5 pocket expenses, in the amount of Eight Thousand One Hundred Thirty-One Dollars and 82 Cents
6 (\$8,131.82). Subject to the maximum application amount of these above stated amounts, attorneys'
7 fees and costs approved by the Court will cover all work performed and all fees and costs incurred to
8 date, and all work to be performed and all fees and costs to be incurred in connection with the
9 approval by the Court of this Stipulation of Settlement, the administration of the Settlement, and
10 final judgment in this case. Any amount awarded to Plaintiff's Counsel by the Court shall be in full
11 payment of their attorney fees and expenses, and neither the PAGA Representative nor Counsel for
12 the PAGA Members shall be entitled to any further award of attorney fees or expenses from
13 Defendant. The attorneys' fees and costs and out-of-pocket expenses approved by the Court shall be
14 paid out of the Settlement Administrator's Escrow Account to PAGA Counsel within 30 days after
15 the Settlement becomes final and effective under Paragraph 14(b) above.

16 SETTLEMENT AWARD ADMINISTRATION

17 17. No more than forty-five (45) calendar days after the Parties have executed this
18 Stipulation of Settlement, Defendant shall provide to the Settlement Administrator a list of PAGA
19 Members containing the PAGA Member's name, last-known address, last-known telephone number,
20 social security number, and the number of applicable pay periods worked during the PAGA Period.
21 The social security numbers will be used only by the Settlement Administrator for the sole purpose
22 of effectuating the Settlement. These records will be presumptively determinative in any dispute,
23 including disputes over entitlement to payment or over PAGA membership status. The names,
24 addresses, telephone numbers, Social Security Numbers, numbers of eligible wage statements of
25 PAGA Members, and their estimated and actual settlement payments shall be kept strictly
26 confidential by the Settlement Administrator, who will not release such information to the PAGA
27 Representative or the PAGA Counsel, and will provide such information to the Court only under seal
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1 and only if so ordered by the Court. PAGA Counsel agrees that any information or documents they
2 receive or have received in connection with this Settlement may be used for this Litigation only, and,
3 may not be used for any purpose or in any other action or proceeding. Within 45 calendar days after
4 the Effective Date, the Settlement Administrator will mail the Notice accompanying the Settlement
5 Award to all PAGA Members.

6 SETTLEMENT AWARD PROCESS

7 18. Within 30 days after the Effective Date, the Settlement Award checks, paid from the
8 Escrow Account, will be mailed to PAGA Members along with the Notice. Settlement Award
9 checks shall remain valid and negotiable for 90 calendar days from the date of issuance and will be
10 cancelled by the Settlement Administrator if not cashed within that time. The checks provided to
11 PAGA Members shall prominently state the checks will expire in 90 calendar days, or alternatively,
12 such a statement may be made in the explanatory notice accompanying the check. PAGA Members
13 shall be bound by the Settlement whether or not they cash a Settlement Award Check.

14 19. Any unclaimed funds in the Settlement Administrator's account as a result of a failure
15 to timely cash a settlement check shall be handled by the Settlement Administrator and be issued to
16 the California Labor and Workforce Development Agency.

17 RELEASED CLAIMS

18 a. Release As to All PAGA Members

19 20. It is the desire of the Parties to fully, finally, and forever settle, compromise, and
20 discharge any and all claims under PAGA that were alleged in Plaintiff's Complaint and LWDA
21 Notice Letter in this case and that could have been alleged, whether known or unknown, liquidated
22 or unliquidated. Upon approval by the Court of this Stipulation of Settlement, the PAGA Members,
23 including each PAGA Member thereof, and the PAGA Representative, and the State of California
24 each fully releases and discharges Defendant Sugar Bowl Corporation, its present and former parent
25 companies, affiliates and related entities, principals, partners, shareholders, members, officers,
26 directors, employees, agents, attorneys, insurers, re-insurers, predecessors, successors, assigns, ,
27 heirs, owners, trustees, beneficiaries, executors, administrators, investors, and all other persons,
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1 firms, corporations, associations, partnerships, subsidiaries or entities having any legal relationship
2 to Defendant, and any individual or entity which could be jointly liable with Defendant ("PAGA
3 Released Parties"), from any and all claims, debts, liabilities, demands, obligations, guarantees,
4 costs, expenses, attorneys' fees, damages, interest, penalties, action, causes of action, charges and
5 grievances, of any kind or nature, whether known or unknown, suspected or unsuspected, under
6 state, federal or local law arising out of the facts alleged in the Complaint and the LWDA Notice
7 Letter relating to the PAGA cause of action, and any other PAGA claims that were raised or could
8 have been raised or relate to those that were raised in the LWDA Notice Letter and Lawsuit
9 including without limitation all PAGA claims for unpaid wages, unpaid overtime, representative
10 claims, restitution, conversion, injunctive relief, declaratory relief and other equitable relief,
11 liquidated damages, meal and rest break violations, waiting-time, inaccurate wage statements, other
12 penalties under PAGA, severance pay, commissions, invalid commission agreements, relocation
13 expenses, bonuses, sick leave, holiday pay, vacation pay, reporting time, unfair competition,
14 unlawful business practices, unfair business practices, fraudulent business practices, OSHA or
15 Cal/OSHA violations, other compensation or benefits including 401(k) benefits or matching
16 benefits, retirement or deferred compensation benefits claimed on account of alleged unpaid wages,
17 and any other related claims and/or penalties under state or federal law ("PAGA Released Claims").
18 Additionally, the PAGA Released Claims include all claims for any and all penalties under PAGA
19 derivative of the claims described herein, whether known or unknown, at law or in equity, which
20 PAGA Members may now have or may have as of the Effective Date under Section 17200, the
21 California Labor Code, the wage orders of the California Industrial Welfare Commission, or other
22 federal, state, or local law. The derivative claims include, but are not limited to, claims under PAGA
23 for failing to promptly pay all wages due and owing at the time of an employee's termination in
24 violation of Cal. Labor Code § 203; engaging in unlawful/unfair/fraudulent business practices in
25 violation of California Business and Professions Code Section 17200, *et seq.*; failing to provide
26 accurate itemized wage statements in violation of Cal. Labor Code § 226; any and all penalties
27 pursuant to the Private Attorney General Act of 2004, liquidated damages, interest, attorneys' fees,
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1 or litigation costs allegedly due and owing by virtue of any of the foregoing All rights under Cal.
2 Civil Code Section 1542 in respect of the PAGA Released Claims are likewise released upon the
3 Court's approval of this Stipulation. The PAGA Released Claims extend from July 13, 2019
4 through the date the Court grants preliminary approval of the Stipulated Settlement.

5 21. It is understood and agreed that the Stipulation will not release any person, party or
6 entity from claims, if any, by PAGA Members for workers compensation, unemployment, or
7 disability benefits of any nature, substantive Labor Code claims which may be possessed
8 individually by PAGA Members except insofar as such claims are asserted as a basis for a PAGA
9 cause of action.

10 PARTIES' DUTIES TO OBTAIN COURT APPROVAL OF THE PAGA SETTLEMENT

11 22. As soon as practicable after execution of this Stipulation of Settlement, PAGA
12 Counsel with the assistance and cooperation of Defendant and its counsel, shall promptly submit this
13 Stipulation of Settlement to the Court after all signatures are obtained. This Settlement shall remain
14 confidential until filed with the Court. Promptly upon execution of this Stipulation of Settlement,
15 Plaintiff shall apply to the Court for entry of an order approving the PAGA Settlement consistent
16 with the terms provided herein.

17 23. This Agreement is contingent upon approval by the Court of this Stipulation for
18 Settlement. Plaintiff and Defendant agree to take all steps as may be reasonably necessary to secure
19 the Court's approval of the PAGA Settlement, to the extent not inconsistent with the terms of this
20 Agreement, and will not take any action adverse to each other in obtaining court approval, and, if
21 necessary, appellate approval, of the Agreement in all respects. Plaintiff and Defendant expressly
22 agree that they will not file any objection to the terms of this Stipulation of Settlement or assist or
23 encourage any person or entity to file any such objection.

24 NULLIFICATION OF THIS STIPULATION

25 a. Non-Approval or Termination of the Stipulation

26 24. If (a) the Court should for any reason decline to approve this Stipulation in the form
27 agreed to by the Parties, (b) the Court should for any reason fail to enter a judgment, (c) the
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1 judgment is reversed, modified or declared or rendered void, or (d) the Settlement Agreement is
2 otherwise terminated, then the Settlement shall be considered null and void, and neither the
3 Settlement, nor any of the related negotiations or proceedings, shall be of any force or effect, and all
4 parties to the Settlement shall stand in the same position, without prejudice, as if the Settlement had
5 been neither entered into nor filed with the Court. Furthermore, Defendant shall have no obligation
6 to make any payments to the PAGA Members, Plaintiff, or Plaintiff's Counsel, and any preliminary
7 or final approval order or judgment shall be vacated. In such an instance, the Settlement Agreement
8 and all negotiations, statements, proceedings and data relating thereto shall be deemed confidential
9 mediation settlement communications and not subject to disclosure for any purpose in any
10 proceeding. Notwithstanding the foregoing, the Parties may attempt in good faith to cure any
11 perceived defects in the Settlement Agreement to facilitate approval.

12 b. Invalidation

13 25. Invalidation of any material portion of the Settlement shall invalidate the Settlement
14 in its entirety, unless the Parties shall subsequently agree in writing that the remaining provisions of
15 the Settlement are to remain in full force and effect. The parties will be equally responsible for all
16 charges incurred by the Settlement Administrator as of the time the Settlement is invalidated.

17 PARTIES' AUTHORITY

18 26. The signatories hereto hereby represent that they are fully authorized to enter into this
19 Stipulation of Settlement and bind the Parties hereto to the terms and conditions thereof.

20 MUTUAL FULL COOPERATION

21 27. The Parties agree to fully cooperate with each other to accomplish the terms of this
22 Stipulation of Settlement, including but not limited to, execution of such documents and taking such
23 other action as reasonably may be necessary to implement the terms of this Stipulation of Settlement.
24 Once the Settlement is final and effective, Plaintiff agrees to request dismissal of the Lawsuit with
25 prejudice within ten (10) days of all payments provided by this Settlement. The Parties to this
26 Stipulation of Settlement shall use their best efforts, including all efforts contemplated by this
27 Stipulation of Settlement and any other efforts that may become necessary by order of the Court, or
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1 otherwise, to effectuate this Stipulation of Settlement and the terms set forth herein. As soon as
2 practicable after execution of this Stipulation of Settlement, PAGA Counsel shall, with the
3 assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the
4 Court's final approval of this Stipulation of Settlement.

5 NO PRIOR ASSIGNMENTS

6 28. The Parties and their counsel represent, covenant and warrant that they have not
7 directly or indirectly assigned, transferred, encumbered or purported to assign, transfer or encumber
8 to any person or entity any portion of any liability, claim, demand, action, cause of action or right
9 herein released and discharged except as set forth herein.

10 NO ADMISSION

11 29. Nothing herein shall constitute any admission by Defendant of wrongdoing or
12 liability, or of the truth of any factual allegations in the Lawsuit. Nothing herein shall constitute an
13 admission by Defendant that the Lawsuit was properly brought as a representative action other than
14 for settlement purposes. To the contrary, Defendant has denied and continues to deny each and
15 every material factual allegation and alleged claim asserted in the Lawsuit. To this end, the
16 settlement of the Lawsuit, the negotiation and execution of this Stipulation of Settlement, and all acts
17 performed or documents executed pursuant to or in furtherance of this Stipulation of Settlement or
18 the settlement are not, shall not be deemed to be, and may not be used as, an admission or evidence
19 of any wrongdoing or liability on the part of Defendant or of the truth of any of the factual
20 allegations in the Lawsuit; and are not, shall not be deemed to be, and may not be used as, an
21 admission or evidence of any fault or omission on the part of Defendant in any civil, criminal or
22 administrative proceeding any court, administrative agency or other tribunal. None of the
23 documents produced or created in connection with the Lawsuit or resolution of the Lawsuit
24 constitute, and they are not intended to constitute, an admission by Defendant of any violation of any
25 federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or
26 duty at law or in equity.

27 CONSTRUCTION

1 30. The Parties hereto agree that the terms and conditions of this Stipulation of
2 Settlement are the result of lengthy, intensive arms-length negotiations between the Parties and
3 through a third-party mediator, and this Stipulation of Settlement shall not be construed in favor of
4 or against any party by reason of the extent to which any party or his, her or its counsel participated
5 in the drafting of this Stipulation of Settlement. All Parties have contributed to the preparation and
6 drafting of this Settlement Agreement.

7 31. Except for Plaintiff's individual settlement agreement, this Agreement constitutes the
8 entire agreement between Plaintiff and Defendant. Except as expressly provided herein, this
9 Agreement has not been executed in reliance upon any other written or oral representations or terms,
10 and no such extrinsic oral or written representations or terms shall modify, vary or contradict its
11 terms. In entering into this Agreement, the Parties agree that this Agreement is to be construed
12 according to its terms and may not be varied or contradicted by extrinsic evidence. Plaintiff, on his
13 own behalf and on behalf of the PAGA Members, and Defendant participated in the negotiation and
14 drafting of this Agreement and had available to them the advice and assistance of independent
15 counsel. As such, neither Plaintiff nor Defendant may claim that any ambiguity in this Agreement
16 should be construed against the other.

17 32. The terms and conditions of this Agreement constitute the exclusive and final
18 understanding and expression of all agreements between Plaintiff and Defendant with respect to the
19 resolution of the Litigation, other than Plaintiff's individual settlement agreement. The Agreement
20 may be modified only by a writing signed by the original signatories and approved by the Court.

21 CAPTIONS AND INTERPRETATIONS

22 33. Paragraph titles or captions contained herein are inserted as a matter of convenience
23 and for reference, and in no way define, limit, extend or describe the scope of this Stipulation of
24 Settlement or any provision of it. Each term of this Stipulation of Settlement is contractual and not
25 merely a recital.

26 MODIFICATION

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34. This Stipulation of Settlement may not be changed, altered or modified, except in writing and signed by the Parties hereto and approved by the Court. This Stipulation of Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

INTEGRATION CLAUSE

35. Except for Plaintiff's individual settlement agreement, this Stipulation of Settlement contains the entire agreement between the Parties relating to the settlement transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

BINDING ON ASSIGNS

36. This Stipulation of Settlement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors and assigns.

PAGA MEMBER SIGNATORIES

37. It is agreed that because the PAGA Members are so numerous, it is impossible or impractical to have each PAGA Member execute this Stipulation of Settlement. Further it is not legally required for each PAGA Member to sign in order for the Settlement to be binding upon the State of California and PAGA Members.

COUNTERPARTS

38. This Stipulation of Settlement may be executed in counterparts and by facsimile signatures, and when each party has signed and delivered at least one such counterpart, each counterpart, including email and PDF versions, shall be deemed an original and, when taken together with other signed counterparts, shall constitute one Stipulation of Settlement binding upon and effective as to all Parties.

NO PUBLICITY MEDIA AND PRESS COMMUNICATIONS

39. The PAGA Representative and PAGA Counsel agree that they will not publicize this litigation or this Settlement in any manner. The PAGA Representative and PAGA Counsel agree

1 that they will not issue any press releases, initiate any contact with the press, respond to any press
2 inquiry, or have any communication with the press about this case. If contacted by the press or
3 media, Plaintiff and PAGA Counsel may only state that the case has been resolved. The PAGA
4 Representative and PAGA Counsel will not post any information regarding this Settlement on their
5 respective websites or otherwise publicize the Settlement or information about the Lawsuit. The
6 PAGA Counsel will only make any public disclosure of the Settlement as necessary in conjunction
7 with the parties' Joint Stipulation of Settlement and Release. The PAGA Representative will not
8 discuss the terms or the fact of this Settlement with third parties other than: (1) his spouse; and (2)
9 his accountants or lawyers as necessary for tax purposes. If he is asked by any person or entity about
10 the matter, he may only state that the case has been resolved.

11 SEVERABILITY

12 40. In the event that any one or more of the provisions contained in this Agreement shall
13 for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
14 unenforceability shall in no way effect any other provision if Defense Counsel and PAGA Counsel,
15 on behalf of the Parties and the PAGA Members, mutually elect in writing to proceed as if such
16 invalid, illegal, or unenforceable provision had never been included in this Agreement.

17 FURTHER COOPERATION

18 41. Plaintiff and Defendant and their respective attorneys shall proceed diligently to
19 prepare and execute all documents, to seek the necessary approvals from the Court, and to do all
20 things reasonably necessary or convenient to consummate the Agreement as expeditiously as
21 possible.

22 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
23 Stipulation of Settlement and Release between Plaintiff and Defendant as of the date(s) set forth
24 below:
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PLAINTIFF AND PAGA REPRESENTATIVE

Dated: Aug 17, 2021

PLAINTIFF KENNETH TRONE

By Kenneth Trone
Kenneth Trone (Aug 17, 2021 15:28 CDT)
KENNETH TRONE

PAGA COUNSEL

Dated: 08/17/2021

CASTLE LAW: CALIFORNIA
EMPLOYMENT COUNSEL, PC

By Timothy B. Del Castillo
TIMOTHY B. DEL CASTILLO
Attorneys for Plaintiff and PAGA Counsel

DEFENDANT

Dated: 8/19/2021

DEFENDANT SUGAR BOWL
CORPORATION

By Gregory Dallas
Gregory Dallas
Chief Executive Officer

DEFENSE COUNSEL

Dated: 8/23/21

BARTKO ZANKEL BUNZEL MILLER

By Ben Schnayer
BEN SCHNAYERSON

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EXHIBIT A

Notice of PAGA Settlement and Release of Claims
Kenneth Trone, as an aggrieved employee pursuant to the Private Attorneys General Act (PAGA)
vs. Sugar Bowl Corporation, et al. Case No. S-CV-0045755

This is to notify you that you have been designated to receive a settlement award in connection with a lawsuit filed pursuant to the California Private Attorneys General Act ("PAGA"), California Labor Code Section 2698 et seq., in connection with your employment with Sugar Bowl Corporation.

Sugar Bowl maintains that it was in compliance with the California Labor Code at all times and enters into this Settlement with no admission of liability and solely for the purposes of settling and compromising the action to avoid the cost and operational burden of continued litigation.

The settlement has been approved by the Placer County Superior Court (the "Court") on behalf of the plaintiff and all other affected employees. The Court has not made a determination about Plaintiff's allegation. This Notice is not to be understood as an expression of any opinion by the Court as to the merits of the claim.

You are receiving this Notice because you are in the group of employees referred to as "Aggrieved Employees" which is defined as all current and former non-exempt employees of Sugar Bowl in California who received a wage statement from July 13, 2019 through _____. ("PAGA Period")

There is no action required of you in this matter. Your payment is enclosed herewith. Each individual payment was calculated on a pro rata basis. The settlement amount for all Aggrieved Employees was divided by the sum of all Aggrieved Employees' pay periods worked to calculate an "Estimated Amount Per Pay Period." For each Aggrieved Employee, the Estimated Amount Per Pay Period was then multiplied by the number of pay periods worked by the Aggrieved Employee during the PAGA Period to determine each individual payment.

By operation of the Settlement's terms, all Aggrieved Employees will release Sugar Bowl Corporation and its former, present and future owners, parents and subsidiaries, and all of their current, former and future officers, directors, managers, employees, consultants, shareholders, principals, investors, attorneys, insurers, agents, successors and assigns from any and all claims under PAGA that arose during the PAGA Period which 1) were asserted and/or 2) reasonably could have been asserted in the Action..

You may call the Settlement Administrator at _____ with any questions about your payment. **PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.**