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State Bar of California
Central District of California
Central District of California –
Bankruptcy ECF
Eastern District of California
Northern District of California
Southern District of California

ABRAHAM TANG

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October 28, 2021

Attn. PAGA Administrator
Re: PAGA Notice
1515 Clay Street, Ste. 801
Oakland, CA 94612

California Labor & Workforce Development Agency
800 Capitol Mall, Suite 5000, MIC-55
Sacramento, CA 95814

Re: Labor Code Section 2698 et al. PAGA CLAIM NOTICE

To Whom It May Concern:

This letter is written on behalf of Mr. Martin Campos ("Mr. Campos") and other aggrieved employees ("aggrieved employees") employed or formerly employed by New Legend, Inc. ("Employer"). New Legend, Inc. is based out of the following two California locations:

New Legend, Inc.
1235 Oswald Road
Yuba City, California 95991

New Legend, Inc.
8639 Etiwanda Ave.
Rancho Cucamonga, CA 91739

Mr. Campos was employed as After Hours Manager based in Rancho Cucamonga location in or around July 2021. Said employer through various persons, currently understood to be named Bavelijit Singh Samara, CEO, and Guruveer Arya, Terminal Manager, and Does 1-50, who were acting on behalf of said employer, violated, caused to be violated, is continuing to violate and/or is continuing to cause to be violated, various sections of the Labor Code regulating hours and days of work relating to orders of the Industrial Welfare Commission based on the following facts and theories:

1. Mr. Campos and all aggrieved employees were required to sign non-competition/non-solicitation agreements as conditions of their employments with Employer. Such agreements constitute unlawful restraints of trade in violation of Business & Professions Code section 16600 et seq. ("Every contract by which anyone is restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void.") Such agreements were or should have been known by Employer and its management, including but not limited to, Mr. Samara and Ms. Arya, and Does 1-50, to be flagrantly illegal contracts. Their requirement on behalf of Employer to have aggrieved employees, including Mr. Campos, sign these contracts constitute a violation of Labor Code section 432.5, which states, "**No**

employer, or agent, manager, superintendent, or officer thereof, shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law."

2. Violations of Section 432.5 are subject to the PAGA, Section 2699.5.
3. Here, Employer, Mr. Samara and Ms. Arya, and Does 1-50, knew or should have known that they required Mr. Campos and aggrieved employees to enter into contract which it knew or should have known were prohibited by law. These include, but are not limited to, those provisions set forth in paragraphs 5 and 6 of the Non-Disclosure and Confidentiality Agreement.
4. Paragraph 5 specifically required that "Employees..covenants and agrees that, for so long as Employee is employed by the Company and for a period of (one) 1 year thereafter, Employee shall not engage in or perform, anywhere within twenty-five (25) miles of the location of the Company (the "territory"), any activities which in any way compete with the Business of the Company or its subsidiaries. This provision violates California law which prohibits non-competition agreements that constitute an unlawful restraint of trade in violation of Business & Professions Code section 16600. (*Edwards v. Arthur Andersen LLP*, 44 Cal.4th 937 (2008).)
5. Paragraph 6, in addition, requires that "Employee agrees that during the term of this Agreement and for a period of one (1) year immediately following the date of termination of Employee's employment hereunder ("Non-Solicitation Period"), Employee shall not, directly or indirectly, on Employee's own behalf of any person, firm, partnership, association, corporation or business organization, entity or enterprise, solicit, contact, call upon, communicate with or attempt to communicate with any customer or prospect of the Company, or any representative of any customer or prospect of the Company, with a view to selling or providing any deliverables or service competitive or potentially competitive with any deliverables or service sold or provided or under development by the Company, during the time of one (1) year immediately preceding cessation of Employee's employment with the Company, provided that the restrictions set forth in this paragraph shall apply only to customers or prospects of the Company, or representatives of customers or prospects of the Company, with which Employee had contract. In regard to customer non-solicitation agreements, as set forth above, the California Supreme Court in *Edwards v. Arthur Andersen* ruled that a prohibition on a former employee's solicitation of clients was an invalid restraint on the employee's ability to pursue his trade or business. Similarly, in 2009, a California appellate court in *Dowell v. Biosense Webster, Inc.* held that a broadly worded non-solicitation clause that prohibited an employee for a period of 18 months postemployment from soliciting any business from, selling to, or rendering any service

directly or indirectly to any of the accounts, customers or clients with whom they had contact during their last 12 months of employment was void under section 16600.

6. In addition to being required by Employer and its officers/management to enter into illegal non-compete and non-solicitation agreements, Employer and its officers and managers, including Mr. Samara and Ms. Aryan, and Does 1-50, further engaged in unlawful employment practices that specifically denied aggrieved, non-exempt, hourly employees from being able to take duty-free meal and rest periods. Essentially, Employer altered or inputted driver logs or related documentation to appear that drivers delivered loads timely to create the false appearance that drivers worked a regular set of scheduled times, and which also served as false records to demonstrate that drivers were being provided all meal and rest periods to which they would have been entitled when Employer knew such records were false, and knew that drivers were not being provided all meal or rest periods to which they were entitled. Employer and its officers and managers, including Mr. Samara and Ms. Aryan, and Does 1-50, knew they worked longer shifts than what was stated on logs, and also knew or required that drivers were required to assert that they took all meal or rest period to which they were entitled, when Employer knew drivers were unable to take all meal and rest periods to which they were entitled. Such conduct by Employer caused such drivers of Employer to be aggrieved employees to which Campos is seeking civil penalties on behalf of them pursuant to Labor Code section 1198 et seq. As such practices violate the applicable the I.W.C. wage orders, as well as Labor Code sections 226.7 and 512, aggrieved employees are entitled to civil penalties in accordance with Labor Code section 2699 et seq. in accordance with proof.
7. Furthermore, by the above-described practice of falsifying log books and meal and rest period records, Employer and its officers and managers, including Mr. Samara and Ms. Aryan, and Does 1-50, issued wage statements that it knew were knowingly and intentionally inaccurate in violation of Labor Code section 226 in terms of misstating the total hours actually worked and the total amount of what should have been paid to Campos and aggrieved employees. Mr. Campos is also informed and believe that New Legend, Inc. listed an Arizona address on wage statements that appear to be in violation of Labor Code section 226 requiring disclosure on wage statements of the name and address of the legal entity of Campos' and aggrieved employees' employer, which appears to be Yuba City, California per Secretary of State filings and not the Arizona address provided. The foregoing violates Labor Code section 226 to which Campos is entitled to pursue and recover civil penalties authorized by Labor Code section 2698 et seq.

In summary, Employer violated the various aforementioned laws against Mr. Campos and all similarly situated employees (some of whom are now former employees). Mr. Campos is personally aware of said policies, patterns and/or practices. Because of said violations, Employer is liable for civil penalties under, among other sections, Labor Code Sections 200 et seq., 558, 1198 et seq., and 2698 et seq. in accordance with proof.

Please advise within the required time period whether or not the Labor and Workforce Development Agency intends to investigate these alleged violations. If no such notice is received within the statutorily required number of days of the postmark of this letter, Mr. Dufour will proceed with amending his civil

action for penalties pursuant to Labor Code Sections 2699 et seq. Thank you for your prompt attention to this matter.

Very truly yours,

LAW OFFICE OF ABRAHAM TANG

A handwritten signature in blue ink that reads "Abraham H. Tang". The signature is fluid and cursive, with the first and last names being more prominent.

Abraham H. Tang

Cc:

Bavelijit Singh Samara, CEO
Employer: New Legend, Inc.
1235 Oswald Road
Yuba City, California 95991

Guruveer Arya, Terminal Manager
Employer: New Legend, Inc.
8639 Etiwanda Ave.
Rancho Cucamonga, CA 91739