

CONFIDENTIAL SETTLEMENT AGREEMENT AND GENERAL RELEASE

THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE OF CLAIMS (“Agreement”) is made and entered into by and between JAX Assets, Inc., a California corporation, and Broc Robert Kelly (collectively “Defendants”), and Skylar Rhoads, Stephen Howard, and Samuel Chester (collectively “Plaintiffs”).

RECITALS

A. On July 5, 2022, Plaintiffs filed a class-action complaint, Case No. 37-2022-00026388-CU-OE-CTL (the “Action”) against Defendants asserting nineteen causes of action. Plaintiffs brought the Action on behalf of themselves, putative class members, and aggrieved employees for waiting time penalties, failure to furnish compliant wage statements, failure to provide meal and rest breaks, failure to pay overtime, failure to pay minimum wages, failure to reimburse business expenses, failure to provide payroll and personnel records, unfair competition, and claims under the Private Attorneys General Act (“PAGA”).

B. Defendants deny all allegations of wrongdoing arising out of or in connection with the Action.

C. Subject to the terms set forth herein, the parties intend to fully resolve and settle all claims arising out of or in connection with the Action, and to provide a for a general release of any and all such other claims that may have arisen between the parties.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants, and subject to the terms and conditions, as set forth in this Agreement, and other valuable consideration, the receipt of which is hereby acknowledged, Plaintiffs and Defendants agree as follows:

1. Settlement Payment. Defendants shall pay the sum total of \$45,000, as full settlement, compromise and release of all claims arising out of or in connection with the Action (the “Settlement Payment”). The Settlement Payment shall be made payable to “Harris & Ruble Client Trust Account” whose taxpayer identification number is: 36-3692728.

- a. Tax Liability. Defendants shall furnish to Plaintiffs’ counsel the appropriate tax reporting documentation in the form of a 1099-Misc for the stipulated value of the Settlement Payment. Plaintiffs acknowledge and agree that the Defendants and their attorneys, officers, directors, employees, agents and representatives have not made any representations regarding the tax consequences of any amounts paid in accordance with this Agreement. Plaintiffs agree to pay, and to be solely responsible for, any and all state, local and federal taxes, if any, which are required by applicable law to be paid with respect to the Settlement Payment and/or this Agreement. Plaintiffs shall indemnify, defend and hold Defendants harmless from any claims, demands, penalties, interest, deficiencies, levies, assessments, executions, judgments or recoveries under any federal, state or local tax laws, and any costs, attorney’s fees, expenses, damages, or other amounts incurred therewith.

2. Dismissal of the Action. Defendants' obligation to pay the Settlement Payment is expressly conditioned upon the San Diego Superior Court's approval of the request for dismissal of the Action, the individual claims being dismissed with prejudice, and the class action claims without prejudice. Plaintiffs represent that Plaintiffs have not filed with any court or administrative agency any action or claim against Defendants other than the Action and currently knows of no existing act or omission by Defendants that may constitute a claim or liability excluded from the release in Section 3 below.

3. Release of All Claims Except ADEA Claims.

a. Release. In consideration of the promises made herein, on behalf of themselves and their representatives, agents, estate, successors and assigns, Plaintiffs agree to release and forever discharge the Defendants and its officials, officers, employees, attorneys and/or agents, and all other individuals and/or entities both individually and in their official capacities, from any and all actions or causes of action, suits, claims, complaints, contracts, liabilities, agreements, promises, demands, debts, and damages, whether in law and/or in equity, related directly or indirectly, or in any way connected with any transactions, affairs, occurrences between the parties as of the Effective Date of this Agreement, including but not limited to Plaintiffs' employment with Defendants and/or the separation from said employment.

This is a complete general release, which shall forever bar Plaintiffs from pursuing any claims against the Defendants relating to their employment or the separation thereof. Plaintiffs understand and agree that they are waiving any rights they may have had, now has, or in the future may have, to pursue any and all remedies available to them under any cause of action arising directly or indirectly from their employment with the Defendants. This Agreement specifically applies to, but is not limited by, any and all wage claims; claims for unpaid expenses; claims of wrongful discharge, retaliation, and/or constructive termination; tort claims including but not limited to emotional distress, privacy and/or defamation; breach of contract; breach of covenant of good faith and fair dealing; waivable violations of the provisions of the California Labor Code; and claims under Title VII of the 1964 Civil Rights Act, the Civil Rights Act of 1991, the California Fair Employment and Housing Act, the Americans with Disabilities Act and comparable state statutes and regulations, the Family Medical Leave Act, the California Family Rights Act, and comparable state statutes and regulations; the Fair Labor Standards Act, the Equal Pay Act of 1963, any and all state and federal whistle-blower statutes and/or freedom of speech causes of action; the California and United States Constitutions; the Civil Rights Act of 1866; and any other laws and regulations relating to employment and/or discrimination, except the federal statute specifically excluded hereafter. This release specifically excludes any and all loss, liability, claims, demands, and causes of action or suits of any type under the Age Discrimination in Employment Act of 1967 ("ADEA") and related federal statutory, regulatory, and case law authority. Plaintiff Stephen Howard's ("Plaintiff Howard") release of ADEA claims shall be addressed separately in Section 4 of this Agreement.

b. California Civil Code Section 1542 Waiver. Plaintiffs expressly acknowledge and agree that all rights under Section 1542 of the California Civil Code are expressly waived. That statute reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Plaintiffs certify that they have read all of this Agreement, including the release provisions contained herein and the cited and quoted Civil Code section, and that they fully understand and accept all of the same. Plaintiffs expressly agree that this Agreement shall extend and apply to all unknown, unsuspected, and unanticipated injuries and damages, as well as those that are now disclosed.

c. No Further Action. Plaintiffs expressly, absolutely, and irrevocably agree that they will not prosecute nor allow to be prosecuted on their behalf, in any administrative agency, whether federal or state, or in any court, whether federal or state, any claim or demand of any type related to the matters released above, whether in their individual capacity or as collective/class representatives, it being the intention of the parties that with the execution of this release, Defendants, its officers, employees, agents, attorneys, insurers, divisions, successors and assigns, and any related holding, parent, sister or subsidiary entities will be absolutely, unconditionally, and forever discharged of and from all obligations to or on behalf of Plaintiffs related in any way to the matters discharged herein.

d. No Class or Collective Claims. Plaintiffs expressly, absolutely, and irrevocably agree not to act as representative in, or in any way participate in or recover from, any class or collective action including, but not limited to a PAGA action, in which Defendants, its officers, employees, agents, attorneys, insurers, divisions, successors and assigns, and any related holding, parent, sister or subsidiary are a party.

4. Release of All ADEA Claims.

a. ADEA Claims. This section of the Agreement exclusively addresses Plaintiff Howard's release of claims arising under federal law involving discrimination on the basis of age in employment. This section is provided separately, in compliance with federal law, including but not limited to the Age Discrimination in Employment Act of 1967 ("ADEA"), the Older Workers' Benefit Protection Act of 1990 ("OWBPA") and related federal statutory, regulatory, and case law authority to ensure that Plaintiffs clearly understands her rights so that any release of age discrimination claims under federal law is knowing and voluntary on the part of Plaintiff Howard.

b. Review Period. Plaintiff Howard represents, acknowledges, and agrees that Defendants have advised him, in writing, to discuss this Agreement with an attorney, and to the extent, if any, that Plaintiff Howard has desired, he has done so; that Defendants have given Plaintiff Howard twenty-one (21) days from receipt of this Agreement to review and consider this Agreement before signing it and he understands and acknowledges that he may use as much of this twenty-one (21) day period as he desires prior to signing the Agreement; and that no promise, representation, warranty, or agreement not contained herein has been made by or with anyone to cause him to sign this Agreement; that he has read this Agreement in its entirety, and fully understands and is aware of its meaning, intent, content, and legal effect; and that he is executing

this release voluntarily and free of any duress or coercion.

c. Effective Date of Agreement. The parties acknowledge that for a period of seven (7) days following the execution of this Agreement, Plaintiff Howard may revoke the Agreement, and the Agreement shall not become effective or enforceable until the revocation period has expired. This Agreement shall become effective eight (8) days after Plaintiff Howard, and Defendants have signed it, and in the event the parties do not sign on the same date, then this Agreement shall become effective eight (8) days after the date it is signed by Plaintiff Howard.

d. Release. In consideration of the promises made herein, Plaintiff Howard does hereby unconditionally, irrevocably, and absolutely release and discharge Defendants, its officers, employees, agents, attorneys, insurers, divisions, successors and assigns, and any related holding, parent, sister or subsidiary entities from any and all loss, liability, claims, demands, causes of action or suits of any type, whether in law and/or in equity, arising under the ADEA, the Older Workers Benefit Protection Act, and related laws and regulations, and related directly or indirectly to his employment with Defendants and the separation of said employment as of the Effective Date of this Agreement.

e. California Civil Code Section 1542 Waiver. Plaintiff Howard expressly acknowledges and agrees that all rights under Section 1542 of the California Civil Code are expressly waived. That statute reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Plaintiff Howard certifies that he has read all of this Agreement, including the release provisions contained herein and cited and quoted Civil Code section, and that he fully understands all of the same. Plaintiff Howard hereby expressly agrees that this Agreement shall extend and apply to all unknown, unsuspected, and unanticipated ADEA injuries and damages, as well as those ADEA injuries and damages that are now disclosed.

5. Defendants' Release and Waiver. Except for those obligations created by or arising out of this Agreement, Defendants hereby acknowledges full and complete satisfaction of and releases and discharges, and covenants not to sue, Plaintiffs, their heirs, legal representatives, successors, and assigns from and with respect to any and all claims, agreements, obligations, losses, damages, injuries, demands and causes of action, known or unknown, suspected or unsuspected, arising out of or in any way connected with Plaintiffs' employment by Defendants, or any of the occurrences, acts, omissions or claims whatsoever, known or unknown, suspected or unsuspected, past, present or future, which the Defendants now owns or holds or has at any time heretofore owned or held against the Plaintiffs; provided, however, that such release shall not extend to any claims, known or unknown, suspected or unsuspected, against the Plaintiffs which arise out of facts which are finally adjudged by a court of competent jurisdiction to be a willful breach of fiduciary duty or a

crime under any federal, state or local statute, law, ordinance or regulations, or which are based upon facts which give rise to a recovery by the Defendants under any applicable policies of insurance solely as a result of acts or omissions by Plaintiffs and as to which the insurer has a right to subrogation against him.

6. Plaintiffs' Representations and Warranties. Plaintiffs represent, warrant and confirm that Plaintiffs have received all wages and compensation owed to them including but not limited to all wages, salary, bonuses, commissions, vacation, overtime, business expense reimbursement, premiums, and any other payment due to Plaintiffs because of their employment with any of the Defendants. Plaintiffs further represent, warrant and confirm that have not experienced a job-related illness or injury for which they have not already filed a claim.

7. Confidentiality.

a. Confidentiality of Agreement. Plaintiffs represent, warrant, and confirm that Plaintiffs have not disclosed or discussed, orally or in writing, the negotiations and discussions leading to this Agreement, the existence of this Agreement, or any of its terms or conditions with any person, organization, or entity other than Plaintiffs' spouses, attorneys, or tax advisors. Plaintiffs agree to maintain confidentiality, except as required by law, regarding Plaintiffs' allegations in the Action, all matters concerning Plaintiffs' employment with Defendants that were at issue in the Action, the negotiations and discussions leading to this Agreement, and the existence and substance of this Agreement, including the amount paid under this Agreement, except that Plaintiffs may disclose this Agreement to Plaintiffs' spouses, attorneys, and tax advisors.

b. Acknowledgment. Plaintiffs further understand and agree that any prior agreement that Plaintiffs signed during or in connection with Plaintiffs' employment by Defendants regarding the protection of confidential, proprietary, and/or trade secret information, continues to remain in full force and effect on and after the Effective Date. Plaintiffs shall not disclose, either directly or indirectly, to any person, company, or entity, any trade secret, proprietary information, or any confidential information of or about Defendants learned during Plaintiffs' employment with Defendants, including, but not limited to, information about its business, technology, assets, financial condition, customer information, and methods of doing business, except to the extent disclosure of such information may be required by law or may be expressly requested in writing by an authorized officer of Defendants.

c. Permitted Disclosures. Nothing in this Agreement shall be construed to prevent disclosure of confidential information as may be required by applicable law or regulation, or pursuant to the valid order of a court of competent jurisdiction or an authorized government agency, provided that the disclosure does not exceed the extent of disclosure required by such law, regulation, or order.

8. Non-Disparagement. Plaintiffs agree and covenant that Plaintiffs shall not at any time make, publish, or communicate to any person or entity or in any public forum any defamatory or disparaging remarks, comments, or statements concerning Defendants or its businesses, or any of its employees, officers, or directors, and its existing and prospective customers, suppliers, investors, and other associated third parties, now or in the future.

9. No Undue Influence and Capacity. Plaintiffs represent and acknowledge that in approving this Agreement they have not received nor relied upon any representation or statement not set forth herein made or given by the Defendants, or any of its officers, employees, attorneys or agents, with regard to the subject matter, basis, or effect of this Agreement, and that Plaintiffs are entering into agreement of their own free will and choosing, and without any duress, threat or undue influence of any kind whatsoever, and that they have the legal capacity to enter into this Agreement.

10. Knowing and Voluntary Agreement. Plaintiffs acknowledge that they have carefully read and fully understand all the provisions and effects of this Agreement. Plaintiffs further acknowledge that they have been given the opportunity to consult with their own independent legal counsel, at their expense, with respect to matters referenced in this Agreement. Plaintiffs acknowledge that they have fully discussed this Agreement with their attorney or has voluntarily chosen to sign this Agreement without consulting an attorney, fully understanding the consequences of this Agreement. Plaintiffs further acknowledge that they are entering into this Agreement without coercion or duress from Defendants and that neither Defendants nor any of its agents or attorneys has made any representations or promises concerning the terms or effects of this Agreement other than those set forth in this Agreement.

11. Integration. This Agreement sets forth the entire Agreement between the parties hereto and fully supersedes any and all prior agreements or understandings, whether expressed or implied, in writing or orally stated, pertaining to the subject matter hereof, including specifically any previous employment agreement or written memorandum of understanding between Plaintiffs and Defendants. Any and all such previous agreements are hereby rescinded.

12. Governing Law, Venue. This Agreement is made and executed between the parties in the City of San Diego, State of California, and shall in all respects be interpreted and enforced, and be governed by, the laws of the State of California. In the event any legal action is brought by either party against the other for any reason, said legal action shall be filed in the court of competent jurisdiction located nearest San Diego, California.

13. Counterparts. This Agreement may be executed by the parties in counterpart form. When approved and executed by both parties, all counterpart forms of this Agreement together shall constitute one and the same Agreement.

14. Complete Defense. This Agreement may be pleaded as a full and complete defense against any action, suit, or proceeding, which may be prosecuted, instituted, or attempted by either party in breach thereof.

15. Severability. If any word, phrase, sentence, paragraph, section or portion of this Agreement shall be held by a court of competent jurisdiction to be invalid, null or void for any reason, the parties hereto declare their intent and agreement that the part determined to be invalid, null or void provision shall be severed from the remaining Agreement and that all remaining portions of this Agreement not determined to be invalid, null or void shall remain in full force and effect, and the Agreement shall be effective without such invalid, null or void portion within it, as if originally drawn and executed in such manner.

16. No Admission of Liability. It is understood that this Agreement is not an admission of any liability by either party but is in compromise of any and all claims.

17. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, and assigns.

IN WITNESS WHEREOF, the undersigned assert they have authority to enter in this Agreement and have executed this Agreement on the dates shown below.

PLAINTIFFS:

DATE: _____

Stephen Howard

DATE: _____

Samuel Chester

DATE: _____

Skylar Rhoads

DEFENDANTS:

DATE: _____

Broc Robert Kelly, in his individual capacity
and as the representative of JAX Assets, Inc.