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Sent Via Certified U.S. Mail

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RE: Darbin Samayoa Garcia and William Alejandro Chinchilla Corado v. TSB AG, INC., and TSB affiliated business

To Whom It May Concern:

This letter is the written notice required by the California Labor Code Private Attorneys General Act of 2004 ("PAGA"), California Labor Code Section 2698 *et seq.*, including without limitation California Labor Code Sections 2699.3 (a)(1), 2699.3(b)(1), and/or 2699.3(c)(1) of the California Labor Code, and any other applicable provision of statute, rule, or law. This letter is being sent simultaneously via online filing to the California Labor and Workforce Development Agency. This letter is an important formal legal notice which may lead to immediate action against you and your company in a court of law and in administrative proceedings, or both and the imposition of substantial penalties and other orders and remedies against you and your company.

This office represents Darbin Samayoa Garcia and William Alejandro Chinchilla Corado, who are former employees of TSB AG, Inc. in the State of California. Mr. Darbin Samayoa Garcia and Mr. William Alejandro Chinchilla worked at TSB AG, INC., located at 25652-25898 Ave 11 Madera, CA 93637. We are investigating a potential class and representative action on behalf of current and former employees, who worked for TSB AG, INC. as TSB affiliated business entities: TSB ALMONDS and TSB AG SERVICES. Under California Labor Code § 1194.2 and IWC Wage Order 14 (2001) 4(a)

As a former employee of TSB AG, INC. and an aggrieved employee of the same, Mr. Darbin Samayoa Garcia and Mr. William Alejandro Chinchilla Corado allege all of the foregoing business entities operate as a single integrated joint enterprise, sharing management and human resources. Mr. Darbin Samayoa Garcia and Mr. William Alejandro Chinchilla Corado allege that all of these business entities operate using a single set of uniform employment policies that are applied to all non-exempt employees of these business entities. Furthermore, Mr. Darbin Samayoa Garcia and Mr. William Alejandro Chinchilla Corado allege that each of these business entities is the alter ego of the other entities.

FACTS AND THEORIES UPON WHICH THE ACTION WILL BE BASED:

A. *Failure to Pay Overtime*

IWC Order 14-2001 Violations:

Pursuant to IWC Wage order 14-2001 (prior to January 1, 2023), The following are applicable overtime provisions for employers of more than 25 employees:

- (a) Effective January 1, 2019, an employee shall not be employed more than nine and one-half (9 ½) hours per workday and or fifty-five (55) hours per week unless the employee receives one and one-half (1½) times such employee's regular rate of pay for all hours worked over nine and one-half (9½) hours in any one workday or more than fifty-five (55) hours in a workweek.
- (b) Effective January 1, 2020, an employee shall not be employed more than nine (9) hours per workday and or fifty (50) hours per week unless the employee receives. receives one and one-half (1½) times such employee's regular rate of pay for all hours worked over nine and one-half 9 hours in any one workday or more than fifty (50) hours in a workweek.
- (c) Effective January 1, 2021, an employee shall not be employed more than eight and one-half (8 ½) hours per workday and or forty-five (45) hours per week unless the employee receives. receives one and one-half (1½) times such

employee's regular rate of pay for all hours worked over nine and one-half 8½ hours in any one workday or more than forty-five hours in a workweek.

- (d) Effective January 1, 2022, an employee shall not be employed more than eight (8) hours per workday and work in excess of forty (40) hours per week unless the employee receives. receives one and one-half (1½) times such employee's regular rate of pay for all hours worked over nine and one-half 8½ hours in any one workday or more than forty (40) hours in any one workweek and pay double the employee's regular rate of pay for all hours worked over twelve (12) hours in one workday.

Darbin Samayoa Garcia was employed by TSB AG, INC. from approximately December 2023 to May 2024. William Alejandro Chinchilla Corado was employed by TSB AG, INC. from approximately March 2023 to May 2024. During their employment, both Mr. Garcia and Mr. Corado typically worked eight (8 ½) hours to twelve (10) hours per day, and five (5) to six (6) days per week. However, TSB AG, INC. willfully failed to pay all overtime wages owed to Mr. Garcia and Mr. Corado and other aggrieved employees. TSB AG, INC. failed to pay all overtime wages required based upon the number of individuals you employ. Therefore, Mr. Garcia and Mr. Corado alleges you failed to pay the overtime amongst at the lawful rate for all employees similarly situated.

The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, thus resulting in paying straight time for all hours worked. During the almond harvest season, employees were expected to work (12) hours per day 5-6 days a week. Which lasted three months from August to the end of October. TSB AG, INC. willfully failed to pay all overtime wages owed to Mr. Garcia and Mr. Corado, and other aggrieved employees. During the relevant time period, Mr. Garcia and Mr. Corado, and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were recorded as regular time and not as overtime.

Furthemore, TSB AG, INC. required Mr. Garcia and Mr. Corado and other aggrieved employees to work off-the-clock before and after their scheduled shift times in order to complete their assigned duties, but you prevented them from accounting for and recording this time in the timesheet record system. For example, five times a week, Mr. Garcia and Mr. Corado were required to arrive to work fifteen minutes off-the-

clock prior to the start of his shift to prepare their equipment by putting diesel in his tractor before starting work.

Additionally, after finishing their work on the field, TSB AG, INC. required both Mr. Garcia and Mr. Corado to return their tools and equipment back to the shop. They worked off-the-clock after their work shift for 20-30 minutes each workday. TSB AG, INC. failed to record all hours Mr. Garcia and Mr. Corado, and other aggrieved employees spent working before clocking in and/or after clocking out. Therefore, Mr. Garcia and Mr. Corado, and other aggrieved employees were not compensated for all hours they worked.

B. *Failure to Provide Compliant Meal Periods and Rest Breaks*

IWC Wage Order 14-2001(11) and (12), as well Labor Code Section 512, require employers to provide a ten-minute, paid rest break, for every four-hour work period or major fraction thereof, as well as a thirty-minute unpaid meal period which must begin by the end of every fifth hour of a shift.

Labor Code 226.7 requires premium payments for each shift in which an employee is not provided with a meal period or rest break compliant with the Wage Order and Labor Code.

During the relevant time period, both Mr. Garcia and Mr. Corado and other employees were instructed to work past the fifth hour without receiving a meal period. TSB AG, INC. facility locations are understaffed, preventing employees from receiving all of their meal periods and rest breaks to which they are entitled in a compliant manner. In addition, TSB AG, INC. did not allow its employees to take their second duty-free thirty-minute meal break, after the tenth hour of work. Although employees' second meal period may be waived by the mutual consent of the employee and employer, TSB AG, INC. failed to provide a mutual consent waiver to its employees. Thus, Mr. Garcia and Mr. Corado and other employees reserved their right to receive both meal periods. TSB AG, INC. violated California Labor Code Section 512 and IWC Wage Order 14-2001(11)(D), which states that a waiver must be documented in a written agreement that is voluntarily signed by both the employee and the employer should an employee decide to voluntarily waive their right to one of their two meal periods.

Furthermore, as set forth above, employers are required to make premium payments to employees who are denied compliant meal periods and rest breaks. However, TSB AG, INC. routinely failed to make required premium payments.

C. *Failure to Maintain Employee Time Records*

IWC Wage Order 14-2001(7)(A) provides:

“Every employer shall keep accurate information with respect to each employee including the following: (1) Full name, home address, occupation and social security number. (2) Birth date, if under 18 years, and designation as a minor. (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.”

TSB AG, INC. failed to accurately record employee work period start and end times, meal period start time and stop times as a matter of policy and practice throughout their employment. Mr. Garcia and Mr. Corado alleges that TSB AG, INC. did not have a policy or system in place for employees to record meal periods. Thus, employees were not able to record meal breaks, late meal breaks, short and/or missed meal breaks.

Mr. Garcia and Mr. Corado allege that as a result of the above alleged conduct, TSB AG, INC. provided their employees with inaccurate wages.

D. *Failure to Provide Accurate Wage Statements*

California Labor Code § 226 (a) provides:

“(a) An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked

for each temporary services assignment. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. For purposes of this subdivision, "copy" includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this subdivision."

In California, California Labor Code § 226 (a) and IWC Wage Order 14-2001(7)(B) grant employees the opportunity to review their wage statements, verify correct wages, and maintain personal records of wage statements. Mr. Garcia and Mr. Corado allege TSB AG, INC. failed to furnish its employees compliant wage statements. During their employment, TSB AG, INC. failed to provide Mr. Garcia and Mr. Corado and other aggrieved employees with a detachable, draft, voucher, or itemized statement in writing, compliant with California Labor Code § 226 (a) and applicable wage orders.

In their 2006 opinion letter addressed to Boise Cascade LLC, the Division of Labor Standards Enforcement (DLSE) outlines the necessary circumstances for electronic wage statements to qualify as 'itemized statements in writing', compliant with California Labor Code § 226 and applicable Wage Orders. The DLSE states the use of electronic wage statements, in place of physical wage statements, are considered lawful provided that a) employees are able to elect to receive paper wage statements at any time, b) wage statements must be accurate and contain the information listed in Labor Code § 226, c) employee wage statements will remain confidential on a website that is accessible at all times, d) employees may access their records via personal computers outside of work and using the required computer terminals at work, e) employees may access and print their records outside of work, as well as have access to printing at work in close proximity to the required computer(s) for employees to print copies of electronic wage records, at no charge to the employee, and f) employers will preserve electronic employee wage statements for at least three years and will provide continued access to its employees during that time period, in addition to providing former employees with physical wage statements upon request.

California Labor Code Section 226 requires employers to provide accurate itemized wage statements to their employees. TSB AG, INC. failed to make, maintain, and provide accurate and compliant employment records which includes, but is not limited to, employee meal period time records and accurate work period start and end times. In failing to record and report accurate meal period start and end times, as well as potential meal premiums owed, TSB AG, INC. denied their employees the

opportunity to verify that they were compensated correctly and fully on their wage statements. On account of the violations set forth above, TSB AG, INC. owed their employee's wages which were neither paid nor listed on employee wage statements. Mr. Garcia and Mr. Corado allege that the foregoing unlawful practices were accomplished pursuant to company policies and practices that were uniform throughout all sites operated and serviced by TSB AG, INC. This failure constitutes a violation of Section 226.

E. *Failure to Pay All Wages Due to Terminated Employees*

Pursuant to California Labor Code Sections 201, 202, and 203 employees who are terminated or quit must be paid all wages due upon termination, or within 72 hours of giving notice. Based upon TSB AG, INC. statutory and Wage Order violations set forth above, employees who were terminated or quit were not paid all wages due within the time periods specified by Sections 201, 202, and 203. During the relevant time period, TSB AG, Inc. failed to pay Mr. Garcia and Mr. Corado, and other aggrieved employees all wages due to them, including, but not limited to, overtime wages; minimum wages; and/or meal, rest, and recovery period premiums, within the time period specified by California Labor Code section 204.

This notice is hereby given to and is made against TSB AG, INC., and all related and/or alter ego companies, corporations, partnerships, and/or business entities, as well as against any and all officers, owners, directors, managers, managing agents, or entities who are or may be liable under law for any of these alleged violations as to any locations or employees who worked at any time in the State of California.

This notice is made on behalf of all persons who are, were, or will be employees of TSB AG, INC. or any related or alter ego company, corporation, partnership, and/or business entity, at any time on or after a date four years prior to the date of this letter at any location within the State of California.

This notice shall apply without limitation to any past, present, future, or continuing violation of the California Labor Code or regulations thereunder which might be discovered because of reasonable and diligent investigation made pursuant to this notice.

William Cowin, Registered Agent
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Very truly yours,

Rastegar Law Group, APC

A handwritten signature in blue ink, appearing to read 'Farzad Rastegar', with a stylized flourish at the end.

Farzad Rastegar, Esq.