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11 Attorneys for Plaintiffs
NICHOLAS SELBE, DANIEL GHYCZY,
12 MAKAE LA O'CONNELL, and ANNIYA LOUIS,
on behalf of themselves and all others similarly
13 situated

14 *Counsel Continued on Next Page*

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

17 NICHOLAS SELBE, DANIEL
18 GHYCZY, MAKAE LA
O'CONNELL, and ANNIYA LOUIS
19 on behalf of themselves and others
similarly situated,

20 Plaintiffs,

21 v.

22 PEAK CAMPUS MANAGEMENT,
23 LLC,

24 Defendant.

Case No. 3:14-cv-3238-MMC

**ORDER REGARDING MOTION FOR
PRELIMINARY APPROVAL OF
CLASS AND COLLECTIVE ACTION
SETTLEMENT**

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Attorneys for Defendant
PEAK CAMPUS MANAGEMENT, LLC

ORDER

Plaintiff's unopposed Motion for Preliminary Approval of Class and Collective Action Settlement ("Motion") came on regularly for hearing on December 18, 2015, at 9:00 a.m., in the United States District Court for the Northern District of California, the Honorable Maxine M. Chesney presiding. All parties were represented by counsel.

Having considered the memoranda and declarations, oral arguments of counsel, and the relevant statutory and case law, the Court GRANTS Plaintiff's Motion and orders and finds as follows:

1. The Parties' proposed Stipulated Settlement Agreement of Class Action Claims (the "Settlement") is preliminarily approved, and the Class Settlement Notice with Work Period Dispute Form for FLSA Class Members and the Class Settlement Notice with Claim Form for California Non-FLSA Class Members attached hereto as **Exhibit 1** and **Exhibit 2** are approved.

2. The following Class and Collective Action is certified for settlement purposes only pursuant to Federal Rules of Civil Procedure 23 and 29 U.S.C. § 216(b):

All persons who have submitted a "Consent to Join Collective Action" in the instant Lawsuit prior to June 1, 2015 ("Opt-In Class Members") and all individuals employed in the State of California between January 1, 2011 and August 1, 2014 who were employed in any of the following "Covered Positions": All Star; Community Advisor; Community Assistant; Leasing All-Star; Work for Rent Leasing All-Star; or any combination thereof ("California Class Members") (collectively, "Class Members").

3. Plaintiffs' attorneys, Joshua M. David of David, Kamp & Frank, L.L.C. and Eric B. Kingsley of Kingsley & Kingsley, APC are appointed Class Counsel, and Nicholas Selbe, Daniel Ghyczy, Makaela O'Connell, and Anniya Louis are appointed as the Class Representatives.

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4. Simpluris is appointed as the Settlement Administrator.

5. No later than January 12, 2016, Defendant, with the input from Class Counsel contemplated in the Settlement, will provide the Class List to the Settlement Administrator.

6. On January 26, 2016, the Settlement Administrator shall send to the Class Members via United States First Class Mail and, where available, electronic mail, the Court-approved Class Settlement Notices, in the form that is attached hereto as **Exhibit 1** and **Exhibit 2**.

7. No later than February 9, 2016, Class Counsel shall file, serve, and submit for posting on the Settlement Administrator's website their motion for attorneys' fees, litigation costs, and Enhancement Awards.

8. March 25, 2016 is the deadline for Class Members to postmark and send to the Court written objections to the Settlement.

9. March 25, 2016 is also the deadline for California Non-FLSA Class Members (as defined in the Settlement) to postmark and send, as applicable, written requests for exclusion and Claim Forms to the Settlement Administrator.

10. No later than April 8, 2016 Class Counsel shall file and serve their motion for Final Approval of Class and Collective Action Settlement and the parties shall file responses to any objections.

11. The final approval hearing is set for April 29, 2016 at 9:00 a.m.

12. The settlement is deemed filed as of the date of preliminary approval for purposes of providing notice to the appropriate officials pursuant to 28 U.S.C. § 1715.

IT IS SO ORDERED.

Dated: December 30, 2015


MAXINE M. CHESNEY
United States District Judge

1 TO: All persons who have submitted a “Consent to Join Collective Action” in the
2 Lawsuit named *Nicholas Selbe v. Peak Campus Management, LLC* prior to
3 June 1, 2015 who were employed in any of the following positions: All-Star;
Community Advisor; Community Assistant; Leasing All-Star; Work for Rent
Leasing All-Star; or any combination thereof.

4 **PLEASE READ THIS NOTICE CAREFULLY.**

5 Pursuant to the settlement of the parties and order of the United States District Court
6 of the Northern District of California, entered December 30, 2015, YOU ARE
7 HEREBY NOTIFIED AS FOLLOWS: A settlement has been reached between the
8 parties in the lawsuit pending in the United States District Court for the Northern
District of California on behalf of the following class, which has been provisionally
certified:

9 The settlement proposes the following class:

10 All persons who have submitted a “Consent to Join
11 Collective Action” in the instant Lawsuit prior to June 1,
12 2015 (“Opt-In Class Members”) and all individuals
13 employed in the State of California between January 1,
2011 and August 1, 2014 who were employed in any of
the following positions: All-Star; Community Advisor;
Community Assistant; Leasing All-Star; Work for Rent
Leasing All-Star; or any combination thereof
14 (“California Class Members”).

15 The class set forth above shall be referred to as the “Class Members.” All Class
Members entitled to participate in the settlement shall be referred to herein as
“Settlement Class Members.”

16 You have received this notice because records indicate that you worked within the
17 time period identified for Peak Campus Management, LLC and that you are an Opt-In
18 Class Member. This notice is designed to advise you of this settlement and your
rights in connection with it.

19 **I. BACKGROUND OF THE CASE**

20 Plaintiffs Nicholas Selbe, Daniel Ghyczy, Makaela O’Connell, and Anniya Louis
21 (“Plaintiffs”) filed a Complaint against Peak Campus Management, LLC
22 (“Defendant”) in the Northern District of California on July 17, 2014 on behalf of
23 persons working in non-exempt positions under a “work for rent” arrangement at all
of Defendant’s locations in the country. Plaintiffs filed an Amended Complaint on
February 10, 2015. Plaintiffs allege on behalf of themselves and all non-exempt
24 employees in the position of All-Star; Community Advisor; Community Assistant;
Leasing All-Star; Work for Rent Leasing All-Star; or any combination thereof, claims
25 under the Fair Labor Standards Act, the California Labor Code, the California
Business and Professions Code and California Wage Orders for failure to pay
26 minimum wage, failure to pay wages due at the time of termination and failure to
provide accurate wage statements and maintain required records, violation of the
Private Attorneys General Act (“PAGA”), as well as unlawful business practices.

27 Through this action, the named Plaintiffs, on behalf of themselves and all others
28 similarly situated, seek damages, restitution, pre- and post-judgment interest,

1 declaratory relief, penalties, costs, attorneys' fees and any further relief deemed
2 appropriate by the Court against Defendant.

3 Defendant contends that Plaintiffs and the putative class members were properly paid
4 all wages and compensation owed and deny all alleged wrongdoing associated with
5 these and all other claims. Defendant further contends that since the putative class
6 members were properly compensated, the remainder of the claims are also without
7 merit. Defendant, therefore, disputes all claims for damages and other relief made by
8 Plaintiffs and also disputes that the lawsuit is appropriate for class action treatment.
9 Further, the Court has not stated or determined that Defendant did anything wrong.

10 This Settlement will act as the full and final resolution of this Lawsuit, Selbe, et al. v.
11 Peak Campus Management, LLC Case No. 3:14-cv-3238-MMC as well as all claims
12 asserted therein. This case will be referred to as the "Settlement Case" or the
13 "Lawsuit."

14 The Class Representatives will be Plaintiffs Nicholas Selbe, Daniel Ghyczy, Makaela
15 O'Connell, and Anniya Louis. Law Firms David, Kamp & Frank, L.L.C. and
16 Kingsley & Kingsley, APC, have been approved by the Court as "Class Counsel."
17 Class counsel can be contacted as follows to answer questions:

18 Joshua M. David
19 jdavid@davidkampfrank.com
20 Nicholas A. Nunes
21 nanunes@davidkampfrank.com
22 DAVID, KAMP & FRANK, L.L.C.
23 739 Thimble Shoals Blvd., Suite 105
24 Newport News, VA 23606
25 (757) 595-4500 (phone)
26 (757) 595-6723 (facsimile)

27 Defendant is represented in this action by Elizabeth Staggs Wilson, Shannon Boyce,
28 and Fatemeh Mashouf of Littler Mendelson, P.C., 633 West Fifth Street, 63rd Floor,
Los Angeles, California 90071.

Class Counsel believes that further proceedings in this case, including a trial and
probable appeals, would be very expensive and protracted. No one can confidently
predict how the various legal questions at issue, including the amount of damages,
would ultimately be resolved. Therefore, upon careful consideration of all of the facts
and circumstances of this case, Class Counsel believes that the proposed settlement is
fair, reasonable and adequate.

22 **II. SUMMARY OF THE PROPOSED SETTLEMENT**

23 The Class Representatives and Class Counsel support this settlement. Among the
24 reasons given for support includes the inherent risk of trial on the merits and the
25 delays associated with litigation.

26 The settlement provides for the following:

27 **A. Settlement Formula**

28 Defendant agrees to pay eight hundred thousand dollars (\$800,000.00) (the
"Settlement Amount") to resolve the claims of the Settlement Class Members. The
Settlement Amount will include all payments to be made to Settlement Class

1 Members, Attorneys' Fees and Costs approved by the Court, employees' share of
2 payroll taxes that Defendant is required to withhold as a matter of law, the
Enhancement Award to the Class Representatives and the PAGA payment.

3 The Settlement Amount minus Class Counsel's Attorneys' Fees and Costs approved
4 by the Court, the actual Enhancement Award to the Class Representatives, and the
5 PAGA Payment shall constitute the "Net Settlement Amount." Defendant agrees to
6 distribute one-hundred percent (100%) of the Net Settlement Amount less any taxes
and withholding required by law to all Class Members who do not opt-out on a pro
rata basis based upon the number of weeks worked under the "Work for Rent"
arrangement.

7 In allocating the Net Settlement Amount, the settlement takes into account the higher
8 hourly rates, minimum wage, penalties and limits on rent credits for California Class
9 Members. For weeks in which a Settlement Class Member worked in California
under the "Work for Rent" arrangement, the Settlement Class Member shall be
allocated the equivalent of one and one tenth weeks for every such week worked.

10 Settlement Class Members shall receive a minimum of \$100.

11 **B. Calculations**

12 Defendant's records will be determinative with respect to the number of weeks
13 you worked in each position unless you dispute those records by completing the
attached Work Period Dispute Form.

14 **C. Release**

15 As described in detail below, this settlement releases Defendant and all related
16 or affiliated entities from any and all claims that were brought, or could have been
brought, relating to or arising out of the claims asserted in the Settlement Case as
17 follows: (a) Any statutory claims for unpaid wages (including but not limited to
overtime pay, minimum wage, and regular wages), and claims for interest, penalties,
18 or premiums in connection therewith, as well as any claims under the California Labor
Code, California Wage Orders, or the Fair Labor Standards Act alleged or which
19 could have been alleged under the facts pleaded in the complaints filed as part of the
Settlement Case; (b) Any claims for injunctive relief, declaratory relief, restitution,
20 fraudulent business practices or punitive damages alleged or which could have been
alleged under the facts pleaded in the complaints filed as part of the Settlement Case;
21 (c) Any claims under the California Private General Attorney Act ("PAGA") arising
out of the wage, hour and payroll practices alleged or which could have been alleged
22 under the facts pleaded in the complaints filed as part of the Lawsuit; and (d) Any and
all other claims under California common law, the California Labor Code, California
23 Wage Orders, the California Business and Professions Code, and the Fair Labor
Standards Act asserted in or that could have been asserted under the facts pleaded in
the complaints filed as part of the Settlement Case.

24 **D. Class Representatives**

25 The Class Representatives shall be Nicholas Selbe, Daniel Ghyczy, Makaela
26 O'Connell, and Anniya Louis. The Class Representatives shall apply to the Court for
enhancement payments in such amount as the Court determines to be fair and
27 reasonable, at the time of the Final Approval Hearing. The parties' preliminary
agreement proposed a payment of \$4,000.00-\$8,000.00 for each Class Representative
28 with all enhancement payments totaling \$24,000.00. This amount is considered by the

1 parties to be fair, reasonable and adequate given the time expended by the Class
2 Representatives, the risks associated with being Class Representatives, the fear of
3 retaliation suffered by the Class Representatives, and the Class Representatives'
4 agreement to waive all claims against Defendant.

5 **E. Attorneys' Fees**

6 Class Counsel will petition the Court for attorneys' fees not to exceed 30% of
7 the Settlement Amount (equating to \$240,000.00), plus reasonable costs (estimated at
8 approximately \$30,000.00), all subject to approval by the Court.

9 **F. PAGA Payment**

10 Defendant agrees to pay \$5,000 of the Settlement Amount to the State of
11 California Labor & Workforce Development Agency for payments required under
12 PAGA.

13 **G. Cost of Claims Administration**

14 Simpluris has been retained to serve as Claims Administrator. The Parties
15 agree that the administration costs will be paid out by Defendant. You may access a
16 link to the Notice, motions for approval, motions for attorneys' fees, and any other
17 important documents in the case at the following website through the Claims
18 Administrator: <http://selbevpeak.simpluris.com/>.

19 **III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER?**

20 Your interests as a Settlement Class Member are represented by the Class
21 Representatives and Class Counsel. You are a part of the Settlement Class and you
22 will be bound by the terms of the settlement and any final judgment that may be
23 entered by the Court, and will be deemed to have released certain claims against
24 Defendant as described below. As a member of the Class you will not be responsible
25 for the payment of attorneys' fees or reimbursement of litigation expenses unless you
26 retain your own counsel, in which event you will be responsible for your own
27 attorneys' fees and costs.

28 **A. Object to Settlement**

You can object to the settlement before final approval. However, if the Court rejects
your objection you will still be bound by the terms of the settlement. To object, you
must file a written objection in person or by mail with the Clerk of the United States
District Court Northern District of California, 450 Golden Gate Avenue, Box 36060,
San Francisco, CA 94102-3489 by March 25, 2016.

Any written objection must contain your full name, current address, and include all
objections and the reasons therefore, and include any and all supporting papers
(including, without limitation, all briefs, written evidence, and declarations) you wish
to have considered. If you fail to comply with the objection procedure set forth herein
you will be deemed to have not objected. To be valid and effective, any objection to
approval of the settlement must be filed with the Clerk of the United States District
Court Northern District of California by March 25, 2016.

You can ask the Court to deny approval by filing an objection. The Court can only
approve or deny the settlement, not change the terms of the settlement. If the Court

1 denies approval, no settlement payments will be sent out and the lawsuit will continue.
 2 If that is what you want to happen, you must object.

3 If you wish to appear at the Final Approval Hearing and present your objection to the
 4 Court orally, your written statement must include a statement of intent to appear at the
 5 Final Approval Hearing. Failure to do so will bar you from appearing at the Final
 6 Approval Hearing and presenting your objections to the court. If you fail to timely file
 7 written objections you will not be permitted to present your objections at the Final
 8 Approval Hearing. If you choose to file an objection to the terms of this settlement,
 9 you may enter an appearance *in propria persona* (meaning you choose to represent
 10 yourself) or through your own attorney. The Final Approval Hearing at which the
 11 Court will adjudicate any Objections, and be asked to approve the settlement will be
 12 held at the United States District Court Northern District of California, 450 Golden
 13 Gate Avenue, San Francisco, CA 94102-3489, on April 29, 2016 at 9:00 a.m. in
 14 Courtroom 7 or such other, later date as the Court may authorize. The date is subject
 15 to change without further notice to the Class and Class Members may check the
 16 settlement website or the court docket via the PACER to confirm that the date has not
 17 changed.

18 If you file an objection you remain eligible receive monetary compensation from the
 19 settlement.

20 **B. Do Nothing**

21 You are not required to take any action by reason of receipt of this Notice. If you do
 22 nothing, you will receive your portion of the settlement and will be bound by the
 23 terms of the settlement and have released your claims as described in section IV.

24 **IV. EFFECT OF THE SETTLEMENT**

25 **A. Released Rights and Claims**

26 The settlement is intended to settle and fully release and discharge any
 27 and all claims against Defendant, its present and former parent companies, present
 28 owners, former owners, subsidiaries, related or affiliated companies (including, but
 not limited to Blue Vista Capital Management, LLC and Peak Campus Development,
 LLC), shareholders, officers, directors, employees, agents, attorneys, insurers,
 successors, and assigns, and any individual or entity which could be jointly liable with
 Defendant, or any of them (the "Releasees"), for any and all claims that were or
 otherwise could have been brought under the facts pleaded in Settlement Case arising
 out of or relating to work performed during the Class Period as follows:

- 29 a. Any statutory claims for unpaid wages (including but not limited to overtime
 pay, minimum wage, and regular wages), and claims for interest, penalties,
 30 or premiums in connection therewith, as well as any claims under the
 31 California Labor Code, California Wage Orders, or the Fair Labor Standards
 Act;
- 32 b. Any claims for injunctive relief, declaratory relief, restitution, fraudulent
 33 business practices or punitive damages alleged or which could have been
 34 alleged under the facts pleaded in the Lawsuit;
- 35 c. Any claims under PAGA arising out of the wage, hour and payroll practices
 36 alleged or could have been alleged based upon the facts alleged in the
 37 Lawsuit; and
 38

- 1
- 2 d. Any and all other claims under California common law, the California Labor
- 3 Code, California Wage Orders, the California Business and Professions
- 4 Code, and the Fair Labor Standards Act asserted in or that could have been
- 5 asserted based upon the facts alleged in the Lawsuit.
- 6
- 7 e. In addition, as to the claims of Nicholas Selbe, Daniel Ghyczy, Makaela
- 8 O'Connell, and Anniya Louis, the Released Claims further include, without
- 9 limitation, any and all claims whatsoever regarding the Plaintiffs'
- 10 employment and/or the termination of their employment with Defendant
- 11 and/or any of the Released Parties including, but not limited to, any claims
- 12 for wages, bonuses, severance pay, employment benefits, stock options,
- 13 violation of any personnel policy, any claims based on discrimination,
- 14 harassment, unlawful retaliation, violation of public policy, or damages of
- 15 any kind whatsoever, arising out of any common law torts, contracts,
- 16 express or implied, any covenant of good faith and fair dealing, any theory
- 17 of wrongful discharge, any theory of negligence, any theory of retaliation,
- 18 any legal restriction on Defendant's right to terminate the employment
- 19 relationship, or any federal, state, or other governmental statute, executive
- 20 order, regulation or ordinance, or common law, or any other basis
- 21 whatsoever, to the fullest extent provided by law.

22 Judgment in this matter subject to the terms and conditions set forth therein constitutes

23 a binding judgment under principles of *res judicata*.

24 If the settlement is approved by the Court and becomes final, the settlement will be

25 consummated. If the settlement is not approved by the Court or does not become final

26 for some other reason, the litigation will continue.

27

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B. Payment to Claimants

Your distribution of the Net Settlement Amount will be paid in one single payment.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing at the United States District Court Northern District of California, 450 Golden Gate Ave, San Francisco, CA 94102, April 29, 2016 at 9:00 a.m. in Courtroom 7 or such other, later date as the Court may authorize, to determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and reimbursement of costs and expenses and the enhancement awards for the Class Representatives. Class Counsel's application for attorneys' fees and reimbursement of costs will be on file with the Court and available on the Claims Administrator's website no later than February 9, 2016, and will be available for review after that date.

The hearing may be continued without further notice to the settlement class. It is not necessary for you to appear at this hearing unless you have timely filed an objection that you wish to present in person to the Court. The date is subject to change without further notice to the Class and Class Members may check the settlement website or the Court's PACER site to confirm that the date has not changed.

1 ADDITIONAL INFORMATION

2 The above is a summary of the basic terms of the settlement. For the precise terms
3 and conditions of the settlement, you are referred to the detailed Stipulated Settlement
4 Agreement (“Stipulation”) and Order thereon, which will be on file with the Clerk of
5 the Court and available on the Claims Administrator’s website. The pleadings, date of
6 hearing, and other records in this litigation including the Stipulation may be examined
7 at any time during regular business hours (9:00 a.m. and 4:00 p.m.) at United States
8 District Court, Northern District of California, Office of the Clerk, 450 Golden Gate
9 Ave, San Francisco, CA 94102. Class Members may access in person or through the
10 case docket via PACER at <https://www.cand.uscourts.gov/cm-ecf>.

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**PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF
THE CLERK FOR INFORMATION REGARDING THIS
SETTLEMENT OR THE CLAIM PROCESS.**

BY ORDER OF THE UNITED STATES DISTRICT COURT

WORK PERIOD DISPUTE FORM –FLSA CLASS MEMBERS

Nicholas Selbe, et al. v. Peak Campus Management LLC
United States District Court, Northern District of California, Case No. 3:14-cv-3238-MMC

TO DISPUTE YOUR PERIOD OF EMPLOYMENT AS SET FORTH IN DEFENDANT’S RECORDS, YOU MUST RETURN THIS FORM BY MAIL POSTMARKED NO LATER THAN MARCH 25, 2016.

I. CLAIMANT IDENTIFICATION:

0123456

Name/Address Changes (if any)

[ID]

[NAME]

[ADDR1]

[ADDR2]

[CITY] [STATE] [ZIP]

If your name or address is different from information shown above, print corrections on the lines to the right.

Residence Telephone Number: [123-456-7890]

Telephone Number (if different): (_____) _____ - _____

Last 4 digits of Social Security Number: _____

II. EMPLOYMENT INFORMATION:

Defendant’s personnel records state that the exact dates of your employment for Defendant in California during the Class Period as an All-Star, Community Advisor, Community Assistant, Leasing All-Star, Work for Rent Leasing All-Star were [## / ## / ##### through ## / ## / #####]. Defendant’s records reflect that during your employment you worked _____ weeks as an All-Star in California. Based on the stated information your estimated settlement share is \$[_____].

If you disagree with the information stated above, please so indicate below and sign and date where indicated on the reverse, and return this Form postmarked on or before March 25, 2016. If you agree, you do not need to complete or submit this Form.

I disagree with the information stated above. I believe that my actual dates of employment during the Class Period were ____ / ____ / _____ to ____ / ____ / _____. I have attached payroll, tax and/or other documentation that supports this belief. I believe I worked _____ weeks during the Class Period as an All-Star.

1 **III. MAILING INSTRUCTIONS.**

2 **If you have indicated your disagreement with your dates of employment as stated in**
3 **Defendant’s personnel records, please mail this completed Form to the Claims Administrator at the**
4 **address listed below. Your completed Form must be postmarked on or before March 25, 2016 or else**
5 **you will forfeit your right to dispute your dates of employment.**

6 The address of the Claims Administrator is:

7 PEAK CAMPUS SETTLEMENT CLAIMS ADMINISTRATOR
8 c/o SIMPLURIS Inc.
9 P.O. Box 26170
10 Santa Ana, CA 92799

11 I declare, under penalty of perjury under the laws of the United States of America that all of
12 the information contained in this Form is true and correct, and that I signed this Form

13 on _____, at _____.
14 Date City and State

15 _____
16 Signature Print Name

1 TO: With respect to the Lawsuit named *Nicholas Selbe v. Peak Campus*
2 *Management, LLC*, all persons employed by Peak Campus Management, LLC
3 in the State of California between January 1, 2011 and August 1, 2014 who
4 were employed in any of the following positions: All-Star; Community
5 Advisor; Community Assistant; Leasing All-Star; Work for Rent Leasing All-
6 Star; or any combination thereof.

7 **PLEASE READ THIS NOTICE CAREFULLY. TO RECEIVE YOUR SHARE**
8 **OF THE SETTLEMENT PROCEEDS YOU NEED TO RETURN THE**
9 **ENCLOSED CLAIM FORM BY MAIL BY MARCH 25, 2016.**

10 Pursuant to the settlement of the parties and order of the United States District Court
11 of the Northern District of California, entered December 30, 2015, YOU ARE
12 HEREBY NOTIFIED AS FOLLOWS: A settlement has been reached between the
13 parties in the lawsuit pending in the United States District Court for the Northern
14 District of California on behalf of the following class, which has been provisionally
15 certified:

16 The settlement proposes the following class:

17 All persons who have submitted a “Consent to Join
18 Collective Action” in the instant Lawsuit prior to June 1,
19 2015 (“Opt-In Class Members”) and all individuals
20 employed in the State of California between January 1,
21 2011 and August 1, 2014 who were employed in any of
22 the following positions: All-Star; Community Advisor;
23 Community Assistant; Leasing All-Star; Work for Rent
24 Leasing All-Star; or any combination thereof
25 (“California Class Members”).

26 The class set forth above shall be referred to as the “Class Members.” California
27 Class Members who are not also Opt-In Class Members are referred to as “California
28 Non-FLSA Class Members.” California Non-FLSA Class Members who do not
properly opt out and Opt-In Class Members shall be referred to herein as “Settlement
Class Members.”

You have received this notice because records indicate that you worked within the
time period identified for Peak Campus Management, LLC and that you are a
California Non-FLSA Class Member. This notice is designed to advise you of this
settlement and your rights in connection with it.

I. BACKGROUND OF THE CASE

Plaintiffs Nicholas Selbe, Daniel Ghyczy, Makaela O’Connell, and Anniya Louis
 (“Plaintiffs”) filed a Complaint against Peak Campus Management, LLC
 (“Defendant”) in the Northern District of California on July 17, 2014 on behalf of
 persons working in non-exempt positions under a “work for rent” arrangement at all
 of Defendant’s locations in the country. Plaintiffs filed an Amended Complaint on
 February 10, 2015. Plaintiffs allege on behalf of themselves and all non-exempt
 employees in the position of All-Star; Community Advisor; Community Assistant;
 Leasing All-Star; Work for Rent Leasing All-Star; or any combination thereof, claims
 under the Fair Labor Standards Act, the California Labor Code, the California
 Business and Professions Code and California Wage Orders for failure to pay
 minimum wage, failure to pay wages due at the time of termination and failure to

1 provide accurate wage statements and maintain required records, violation of the
Private Attorneys General Act (“PAGA”), as well as unlawful business practices.

2 Through this action, the named Plaintiffs, on behalf of themselves and all others
3 similarly situated, seek damages, restitution, pre- and post-judgment interest,
4 declaratory relief, penalties, costs, attorneys’ fees and any further relief deemed
appropriate by the Court against Defendant.

5 Defendant contends that Plaintiffs and the putative class members were properly paid
6 all wages and compensation owed and deny all alleged wrongdoing associated with
7 these and all other claims. Defendant further contends that since the putative class
members were properly compensated, the remainder of the claims are also without
8 merit. Defendant, therefore, disputes all claims for damages and other relief made by
Plaintiffs and also disputes that the lawsuit is appropriate for class action treatment.
Further, the Court has not stated or determined that Defendant did anything wrong.

9 This Settlement will act as the full and final resolution of this Lawsuit, Selbe, et al. v.
10 Peak Campus Management, LLC Case No. 3:14-cv-3238-MMC as well as all claims
asserted therein. This case will be referred to as the “Settlement Case” or the
11 “Lawsuit.”

12 The Class Representatives will be Plaintiffs Nicholas Selbe, Daniel Ghyczy,
Makaela O’Connell, and Anniya Louis. Law Firms David, Kamp & Frank, L.L.C. and
13 Kingsley & Kingsley, APC, have been approved by the Court as “Class Counsel.”
Class counsel can be contacted as follows to answer questions:

14 Joshua M. David
jdavid@davidkampfrank.com
15 Nicholas A. Nunes
nanunes@davidkampfrank.com
16 DAVID, KAMP & FRANK, L.L.C.
739 Thimble Shoals Blvd., Suite 105
17 Newport News, VA 23606
(757) 595-4500 (phone)
18 (757) 595-6723 (facsimile)

19 Defendant is represented in this action by Elizabeth Staggs Wilson, Shannon Boyce,
20 and Fatemeh Mashouf of Littler Mendelson, P.C., 633 West Fifth Street, 63rd Floor,
Los Angeles, California 90071.

21 Class Counsel believes that further proceedings in this case, including a trial and
22 probable appeals, would be very expensive and protracted. No one can confidently
23 predict how the various legal questions at issue, including the amount of damages,
would ultimately be resolved. Therefore, upon careful consideration of all of the facts
24 and circumstances of this case, Class Counsel believes that the proposed settlement is
fair, reasonable and adequate.

25 **II. SUMMARY OF THE PROPOSED SETTLEMENT**

26 The Class Representatives and Class Counsel support this settlement. Among the
27 reasons given for support includes the inherent risk of trial on the merits and the
delays associated with litigation.

28 The settlement provides for the following:

1 **A. Settlement Formula**

2 Defendant agrees to pay eight hundred thousand dollars (\$800,000.00) (the
3 “Settlement Amount”) to resolve the claims of the Settlement Class Members. The
4 Settlement Amount will include all payments to be made to Settlement Class
5 Members, Attorneys’ Fees and Costs approved by the Court, employees’ share of
6 payroll taxes that Defendant is required to withhold as a matter of law, the
7 Enhancement Award to the Class Representatives and the PAGA payment.

8 The Settlement Amount minus Class Counsel’s Attorneys’ Fees and Costs approved
9 by the Court, the actual Enhancement Award to the Class Representatives, and the
10 PAGA Payment shall constitute the “Net Settlement Amount.” Defendant agrees to
11 distribute one-hundred percent (100%) of the Net Settlement Amount less any taxes
12 and withholding required by law to all Class Members who do not opt-out on a pro
13 rata basis based upon the number of weeks worked under the “Work for Rent”
14 arrangement.

15 In allocating the Net Settlement Amount, the settlement takes into account the higher
16 hourly rates, minimum wage, penalties and limits on rent credits for California Class
17 Members. For weeks in which a Settlement Class Member worked in California
18 under the “Work for Rent” arrangement, the Settlement Class Member shall be
19 allocated the equivalent of one and one tenth weeks for every such week worked.

20 Settlement Class Members shall receive a minimum of \$100.

21 **B. Calculations**

22 Defendant’s records will be determinative with respect to the number of weeks
23 you worked in each position unless you dispute those records in the attached Claim
24 Form.

25 **C. Release**

26 The claim form will contain a release (described in more detail below), which
27 releases Defendant and all related or affiliated entities from any and all claims that
28 were brought, or could have been brought, relating to or arising out of the claims
asserted in the Settlement Case as follows: (a) Any statutory claims for unpaid wages
(including but not limited to overtime pay, minimum wage, and regular wages), and
claims for interest, penalties, or premiums in connection therewith, as well as any
claims under the California Labor Code, California Wage Orders, or the Fair Labor
Standards Act, alleged or which could have been alleged under the facts pleaded in the
complaints filed as part of the Settlement Case; (b) Any claims for injunctive relief,
declaratory relief, restitution, fraudulent business practices or punitive damages
alleged or which could have been alleged under the facts pleaded in the complaints
filed as part of the Settlement Case; (c) Any claims under the California Private
General Attorney Act (“PAGA”) arising out of the wage, hour and payroll practices
alleged or which could have been alleged under the facts pleaded in the complaints
filed as part of the Lawsuit; and (d) Any and all other claims under California
common law, the California Labor Code, California Wage Orders, the California
Business and Professions Code, and the Fair Labor Standards Act asserted in or that
could have been asserted under the facts pleaded in the complaints filed as part of the
Settlement Case.

1 **D. Class Representatives**

2 The Class Representatives shall be Nicholas Selbe, Daniel Ghyczy, Makaela
3 O'Connell, and Anniya Louis. The Class Representatives shall apply to the Court for
4 enhancement payments in such amount as the Court determines to be fair and
5 reasonable, at the time of the Final Approval Hearing. The parties' preliminary
6 agreement proposed a payment of \$4,000.00-\$8,000.00 for each Class Representative,
7 with all enhancement payments totaling \$24,000.00. This amount is considered by the
8 parties to be fair, reasonable and adequate given the time expended by the Class
9 Representatives, the risks associated with being Class Representatives, the fear of
10 retaliation suffered by the Class Representatives, and the Class Representatives'
11 agreement to waive all claims against Defendant.

12 **E. Attorneys' Fees**

13 Class Counsel will petition the Court for attorneys' fees not to exceed 30% of
14 the Settlement Amount (equating to \$240,000.00), plus reasonable costs (estimated at
15 approximately \$30,000.00), all subject to approval by the Court.

16 **F. PAGA Payment**

17 Defendant agrees to pay \$5,000 of the Settlement Amount to the State of
18 California Labor & Workforce Development Agency for payments required under
19 PAGA.

20 **G. Cost of Claims Administration**

21 Simpluris has been retained to serve as Claims Administrator. The Parties
22 agree that the administration costs will be paid out by Defendant. You may access a
23 link to the Notice, motions for approval, motions for attorneys' fees, and any other
24 important documents in the case at the following website through the Claims
25 Administrator: <http://selbevpeak.simpluris.com/>.

26 **IV. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER?**

27 Your interests as a Settlement Class Member are represented by the Class
28 Representatives and Class Counsel. Unless you opt out of the Class, you are a part of
the Settlement Class and you will be bound by the terms of the settlement and any
final judgment that may be entered by the Court, and will be deemed to have released
certain claims against Defendant as described below. As a member of the Class you
will not be responsible for the payment of attorneys' fees or reimbursement of
litigation expenses unless you retain your own counsel, in which event you will be
responsible for your own attorneys' fees and costs.

**A. Submit a Claim to Receive Your Share or to Dispute the Amount of
Your Share**

**In order to receive your share of the settlement or to dispute the amount of your
share of the settlement, you must complete and sign the Claim Form and return
it, no later than March 25, 2016 to the Claims Administrator at the following
address:**

1 PEAK CAMPUS SETTLEMENT CLAIMS ADMINISTRATOR
2 c/o SIMPLURIS Inc.
3 P.O. Box 26170
4 Santa Ana, CA 92799

5 The Claim Form must be postmarked no later than March 25, 2016. If the Claim
6 Form is sent from within the United States it must be sent through the United States
7 Postal Service via regular mail. If you lost, misplaced, or need another Claim Form,
8 in addition to contacting Class Counsel at the addresses identified in Section I of this
9 Notice, you may also contact the Claims Administrator toll-free at 1-888-369-3780.

10 **B. Object to Settlement**

11 You can object to the settlement before final approval. However, if the Court rejects
12 your objection you will still be bound by the terms of the settlement. To object, you
13 must file a written objection in person or by mail with the Clerk of the United States
14 District Court Northern District of California, 450 Golden Gate Avenue, Box 36060,
15 San Francisco, CA 94102-3489 by March 25, 2016.

16 Any written objection must contain your full name, current address, and include all
17 objections and the reasons therefore, and include any and all supporting papers
18 (including, without limitation, all briefs, written evidence, and declarations) you wish
19 to have considered. If you fail to comply with the objection procedure set forth herein
20 you will be deemed to have not objected. To be valid and effective, any objection to
21 approval of the settlement must be filed with the Clerk of the United States District
22 Court Northern District of California by March 25, 2016.

23 You can ask the Court to deny approval by filing an objection. The Court can only
24 approve or deny the settlement, not change the terms of the settlement. If the Court
25 denies approval, no settlement payments will be sent out and the lawsuit will continue.
26 If that is what you want to happen, you must object.

27 If you wish to appear at the Final Approval Hearing and present your objection to the
28 Court orally, your written statement must include a statement of intent to appear at the
Final Approval Hearing. Failure to do so will bar you from appearing at the Final
Approval Hearing and presenting your objections to the court. If you fail to timely file
written objections you will not be permitted to present your objections at the Final
Approval Hearing. If you choose to file an objection to the terms of this settlement,
you may enter an appearance *in propria persona* (meaning you choose to represent
yourself) or through your own attorney. The Final Approval Hearing at which the
Court will adjudicate any Objections, and be asked to approve the settlement will be
held at the United States District Court Northern District of California, 450 Golden
Gate Avenue, San Francisco, CA 94102-3489, on April 29, 2016 at 9:00 a.m. in
Courtroom 7 or such other, later date as the Court may authorize. The date is subject
to change without further notice to the Class and Class Members may check the
settlement website or the court docket via the PACER to confirm that the date has not
changed.

If you file an objection you remain eligible to submit a Claim Form and receive
monetary compensation from the settlement.

**IF YOU INTEND TO OBJECT TO THE SETTLEMENT, BUT WISH
TO RECEIVE YOUR SHARE OF APPROVED SETTLEMENT
FUNDS, YOU MUST TIMELY FILE YOUR CLAIM AS STATED
ABOVE. IF THE COURT APPROVES THE SETTLEMENT**

1 DESPITE ANY OBJECTIONS, AND YOU DO NOT HAVE A
2 CLAIM ON FILE, YOU WILL NOT RECEIVE ANY SETTLEMENT
FUNDS.

3 **C. Exclude Yourself from the Settlement**

4 In order for you to validly and effectively request exclusion from, and opt out of, this
5 Settlement, you must submit a written, signed, and dated request to the Claims
6 Administrator. The Exclusion request must include the last four digits of your social
7 security number to be valid or applicable work permit number if you have no social
security number. The request for exclusion must be postmarked, or physically
delivered to the Claims Administrator, no later than March 25, 2016.

8 If you desire to be excluded from, and opt out of, this Settlement but fail to comply
9 with the Exclusion procedure set forth herein, you shall be deemed to have not been
10 excluded or opted out and you will be bound by the Release as explained in Paragraph
11 IV. Any person who files a complete and timely request for Exclusion shall, upon
12 receipt, no longer be a member of the Settlement Class, shall be barred from
participating in any portion of the settlement, may not object to the settlement, and
shall receive no benefits from the settlement. Any such person will not release any
claims he/she may have against Defendant. You may choose to proceed against the
Defendant at your expense and cost.

13 If you first request exclusion from, and opt out of, the settlement and then object, the
14 objections will not be considered valid. If you object and then request exclusion from,
15 and opt out of the settlement, you will be deemed to have waived your objection. If
16 you submit both a Claim Form and a request for exclusion, you will be excluded and
will not be included in the settlement.

17 **D. Do Nothing**

18 You are not required to take any action by reason of receipt of this Notice. As a
19 California Non-FLSA Class Member, if you do nothing, then, you will not receive any
20 portion of the settlement, but will remain a member of the Settlement Class and will
be bound by the terms of the settlement and have released your claims as described
below.

21 **IV. EFFECT OF THE SETTLEMENT**

22 **A. Released Rights and Claims**

23 The settlement is intended to settle and fully release and discharge any
24 and all claims against Defendant, its present and former parent companies, present
25 owners, former owners, subsidiaries, related or affiliated companies (including, but
26 not limited to Blue Vista Capital Management, LLC and Peak Campus Development,
LLC), shareholders, officers, directors, employees, agents, attorneys, insurers,
successors, and assigns, and any individual or entity which could be jointly liable with
Defendant, or any of them (the "Releasees"), for any and all claims that were or
otherwise could have been brought under the facts pleaded in Settlement Case arising
out of or relating to work performed during the Class Period, as follows:

- 27 a. Any statutory claims for unpaid wages (including but not limited to overtime
28 pay, minimum wage, and regular wages), and claims for interest, penalties,
or premiums in connection therewith, as well as any claims under the

1 California Labor Code, California Wage Orders, or the Fair Labor Standards
2 Act;

- 3 b. Any claims for injunctive relief, declaratory relief, restitution, fraudulent
4 business practices or punitive damages alleged or which could have been
5 alleged under the facts pleaded in the Lawsuit;
- 6 c. Any claims under PAGA arising out of the wage, hour and payroll practices
7 alleged or could have been alleged based upon the facts alleged in the
8 Lawsuit; and
- 9 d. Any and all other claims under California common law, the California Labor
10 Code, California Wage Orders, the California Business and Professions
11 Code, and the Fair Labor Standards Act asserted in or that could have been
12 asserted based upon the facts alleged in the Lawsuit.
- 13 e. In addition, as to the claims of Nicholas Selbe, Daniel Ghyczy, Makaela
14 O'Connell, and Anniya Louis, the Released Claims further include, without
15 limitation, any and all claims whatsoever regarding the Plaintiffs'
16 employment and/or the termination of their employment with Defendant
17 and/or any of the Released Parties including, but not limited to, any claims
18 for wages, bonuses, severance pay, employment benefits, stock options,
19 violation of any personnel policy, any claims based on discrimination,
20 harassment, unlawful retaliation, violation of public policy, or damages of
21 any kind whatsoever, arising out of any common law torts, contracts,
22 express or implied, any covenant of good faith and fair dealing, any theory
23 of wrongful discharge, any theory of negligence, any theory of retaliation,
24 any legal restriction on Defendant's right to terminate the employment
25 relationship, or any federal, state, or other governmental statute, executive
26 order, regulation or ordinance, or common law, or any other basis
27 whatsoever, to the fullest extent provided by law.

17 Judgment in this matter subject to the terms and conditions set forth therein constitutes
18 a binding judgment under principles of *res judicata*.

19 If you do not elect to exclude yourself from the Settlement Class as set forth in III.C,
20 you will be deemed to have entered into this release and to have released the above-
21 described claims. If the settlement is approved by the Court and becomes final, the
22 settlement will be consummated. If the settlement is not approved by the Court or
23 does not become final for some other reason, the litigation will continue.

22 **B. Payment to Claimants**

23 Your distribution of the Net Settlement Amount will be paid in one single payment.

24 **V. FINAL SETTLEMENT APPROVAL HEARING**

25 The Court will hold a hearing at the United States District Court Northern District of
26 California, 450 Golden Gate Ave, San Francisco, CA 94102, on April 29, 2016 at
27 9:00 a.m. in Courtroom 7 or such other, later date as the Court may authorize, to
28 determine whether the settlement should be finally approved as fair, reasonable, and
adequate. The Court will also be asked to approve Class Counsel's request for
attorneys' fees and reimbursement of costs and expenses and the enhancement awards
for the Class Representatives. Class Counsel's application for attorneys' fees and

1 reimbursement of costs will be on file with the Court and available on the Claims
2 Administrator's website no later than February 9, 2016, and will be available for
review after that date.

3 The hearing may be continued without further notice to the settlement class. It is not
4 necessary for you to appear at this hearing unless you have timely filed an objection
5 that you wish to present in person to the Court. The date is subject to change without
further notice to the Class and Class Members may check the settlement website or the
Court's PACER site to confirm that the date has not changed.

6 ADDITIONAL INFORMATION

7 The above is a summary of the basic terms of the settlement. For the precise terms
8 and conditions of the settlement, you are referred to the detailed Stipulated Settlement
9 Agreement ("Stipulation") and Order thereon, which will be on file with the Clerk of
10 the Court and available on the Claims Administrator's website. The pleadings, date of
11 hearing, and other records in this litigation including the Stipulation may be examined
at any time during regular business hours (9:00 a.m. and 4:00 p.m.) at United States
District Court, Northern District of California, Office of the Clerk, 450 Golden Gate
Ave, San Francisco, CA 94102. Class Members may access in person or through the
case docket via PACER at <https://www.cand.uscourts.gov/cm-ecf>.

12
13 **PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF**
14 **THE CLERK FOR INFORMATION REGARDING THIS**
SETTLEMENT OR THE CLAIM PROCESS.

15 BY ORDER OF THE UNITED STATES DISTRICT COURT

CLAIM FORM – CALIFORNIA NON-FLSA CLASS MEMBERS

Nicholas Selbe, et al. v. Peak Campus Management LLC
United States District Court, Northern District of California, Case No. 3:14-cv-3238-MMC

TO RECEIVE YOUR SHARE OF THE SETTLEMENT PROCEEDS YOU MUST RETURN THIS CLAIM FORM BY MAIL POSTMARKED NO LATER THAN MARCH 25, 2016.

I. CLAIMANT IDENTIFICATION:

0123456

Name/Address Changes (if any)

[ID]

[NAME]

[ADDR1]

[ADDR2]

[CITY] [STATE] [ZIP]

If your name or address is different from information shown above, print the corrections on the lines to the right.

Residence Telephone Number: [123-456-7890]

Telephone Number (if different): (_____) _____ - _____

Last 4 digits of Social Security Number: _____

II. EMPLOYMENT INFORMATION:

Defendant's personnel records state that the exact dates of your employment for Defendant in California during the Class Period as an All-Star, Community Advisor, Community Assistant, Leasing All-Star, Work for Rent Leasing All-Star were [## / ## / ##### through ## / ## / #####]. Defendant's records reflect that during your employment you worked _____ weeks as an All-Star in California. Based on the stated information your estimated settlement share is \$[_____].

If you agree with the information stated above, please sign and date where indicated on the reverse, and return this Claim Form postmarked on or before March 25, 2016, to receive your monetary recovery.

If you disagree with the information stated above, please so indicate below and sign and date where indicated on the reverse, and return this Form postmarked on or before March 25, 2016.

I disagree with the information stated above. I believe that my actual dates of employment during the Class Period were ____ / ____ / _____ to ____ / ____ / _____. I have attached payroll, tax and/or other documentation that supports this belief. I believe I worked _____ weeks during the Class Period as an All-Star in California.

III. FAILURE TO RESPOND

Failure to complete this Claim Form does not preclude you from being bound to the Settlement Agreement and the terms and conditions of the Agreement, including the Release, as described in section IV. If you wish

1 to be excluded from the Settlement Agreement and not be bound by the Release described in section IV, you
2 must opt-out of the Settlement as described in the Notice.

3 **IV. ACKNOWLEDGMENT OF RELEASE OF CERTAIN CLAIMS.**

4 By completing this Claim Form and accepting the benefits under this settlement, I hereby agree that: I, and all
5 persons purporting to act on my behalf or purporting to assert a claim under or through me, including, but not
6 limited to, my dependents, heirs and assigns, beneficiaries, devisees, legatees, executors, administrators,
7 trustees, conservators, guardians, personal representatives, and successors-in-interest, whether individual,
8 class, representative, legal, equitable, direct or indirect, or any other type or in any other capacity hereby
9 forever completely and irrevocably release and discharge Peak Campus Management, LLC (“Defendant”), its
10 present and former parent companies, present owners, former owners, subsidiaries, related or affiliated
11 companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors, and assigns,
12 and any individual or entity which could be jointly liable with Defendant, or any of them (collectively, with
13 Defendant, the “Released Parties”), for any and all claims that were or otherwise could have been brought
14 under the facts pleaded in the civil action styled *Nicholas Selbe, et al. v. Peak Campus Management LLC*,
15 United States District Court, Northern District of California, Case No. 3:14-cv-3238-MMC, arising out of or
16 relating to work performed during the Class Period, as follows:

- 17 a. Any statutory claims for unpaid wages (including but not limited to overtime pay, minimum
18 wage, and regular wages), and claims for interest, penalties, or premiums in connection therewith,
19 as well as any claims under the California Labor Code, California Wage Orders, or the Fair Labor
20 Standards Act;
- 21 b. Any claims for injunctive relief, declaratory relief, restitution, fraudulent business practices or
22 punitive damages alleged or which could have been alleged under the facts pleaded in the
23 Lawsuit;
- 24 c. Any claims under PAGA arising out of the wage, hour and payroll practices alleged or could have
25 been alleged based upon the facts alleged in the Lawsuit; and
- 26 d. Any and all other claims under California common law, the California Labor Code, California
27 Wage Orders, the California Business and Professions Code, and the Fair Labor Standards Act
28 asserted in or that could have been asserted based upon the facts alleged in the Lawsuit.

17 Judgment in this matter subject to the terms and conditions set forth therein constitutes a binding judgment
18 under principles of *res judicata*.

19 **V. MAILING INSTRUCTIONS.**

20 **Please mail this completed Claim Form to the Claims Administrator at the address listed below.**
21 **Your completed Claim Form must be postmarked on or before March 25, 2016 or else you will forfeit**
22 **your benefits under this Settlement.**

23 The address of the Claims Administrator is:

24 PEAK CAMPUS SETTLEMENT CLAIMS ADMINISTRATOR
25 c/o SIMPLURIS Inc.
26 P.O. Box 26170
27 Santa Ana, CA 92799

28 I declare, under penalty of perjury under the laws of the United States of America and the
State of California that all of the information contained in this Claim Form is true and correct, and that I
signed this Claim Form

on _____, at _____.

Date City and State

Signature Print Name