

1 GUSTAFSON GLUEK PLLC  
2 DENNIS STEWART, SBN: 99152  
3 600 W. Broadway, Suite 3300  
4 San Diego, CA 92101  
5 Telephone: (619) 595-3299  
6 Facsimile: (612) 339-6622

7 COLEMAN & HOROWITT, LLP  
8 DARRYL J. HOROWITT, SBN: 100898  
9 SHERRIE M. FLYNN, SBN: 240215  
10 499 West Shaw, Suite 116  
11 Fresno, CA 93704  
12 Telephone: (559) 248-4820  
13 Facsimile: (559) 248-4830

14 Attorneys for Plaintiffs  
15 [Additional Counsel on Signature Page]

16 **IN THE SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
17 **IN AND FOR THE COUNTY OF FRESNO**

18 MANMOHAN DHILLON, dba RANCHOS  
19 VALERO, SATNAM PABLA, dba GMG  
20 FOOD STORE 101 and MADERA AVE.  
21 MARKET, SERGE HAITAYAN, dba 7-11  
22 NUMBER 17906b, DALJIT SINGH, dba  
23 LIQUOR MAX, and PAR VENTURES, LLC,  
24 dba, QUICK PICK, on Their Own Behalves  
25 and on Behalf of All Others Similarly Situated  
26 and on Behalf of the General Public,

27 Plaintiffs,

28 v.

29 ANHEUSER-BUSCH, LLC, DONAGHY  
30 SALES, LLC, a California Corporation;  
31 ANHEUSER-BUSCH DOES 1-5 and DOES  
32 6 through 50, inclusive,

33 Defendants.

CASE NO. 14CECG03039 JMS

**CLASS ACTION SETTLEMENT  
AGREEMENT AND STIPULATION**

JUDGE: Honorable Jonathan M. Skiles  
DEPT: 403

1 THIS SETTLEMENT AGREEMENT (“Settlement Agreement”) is made and entered into  
2 as of the \_\_ day of September, 2023 (“Execution Date”) by and between the Representative  
3 Plaintiffs,<sup>1</sup> through Representative Plaintiffs’ Counsel (as hereinafter defined) for the proposed  
4 Settlement Class (as hereinafter defined), and Anheuser-Busch, LLC, Donaghy Sales, LLC,<sup>2</sup> and  
5 all of their predecessors, successors, assigns, Affiliates (as hereinafter defined), and any and all  
6 past, present, and future parents, owners, subsidiaries, divisions, and departments (collectively  
7 referred to as “Defendants”) in the above-captioned action (the “Action”). Representative  
8 Plaintiffs, on behalf of the Settlement Class, and Defendants are referred to herein collectively as  
9 the “Parties” or individually as a “Party.”

10 WHEREAS, Representative Plaintiffs on behalf of themselves and as representatives of a  
11 putative class of similarly situated persons or entities allege in the Action, among other things, that  
12 Defendants favored certain retailers in the pricing of Anheuser-Busch products and/or the  
13 dissemination of coupons related to those products as more particularly described in the Action;

14 WHEREAS, the Parties wish to resolve all claims asserted and all claims that could have  
15 been asserted against Defendants in any way arising out of or relating in any way to the Action;

16 WHEREAS, counsel for the Parties have engaged in arm’s-length negotiations on the terms  
17 of this Settlement Agreement, including mediation, and this Settlement Agreement embodies all  
18 of the terms and conditions of the settlement;

19 WHEREAS, Representative Plaintiffs have concluded, after investigation of the facts and  
20 after considering the circumstances and the applicable law, that it is in the best interests of  
21 Representative Plaintiffs to enter into this Settlement Agreement with Defendants to avoid the  
22 uncertainties of further complex litigation, and to obtain the benefits described herein for the  
23 Settlement Class (as hereinafter defined), and, further, that this Settlement Agreement is fair,  
24 reasonable, adequate, and in the best interests of Representative Plaintiffs and the Settlement Class;

25 \_\_\_\_\_  
26 <sup>1</sup> As used herein, “Representative Plaintiffs” means Manmohan Dhillon, dba Ranchos Valero,  
27 Satnam Pabla, dba GMG Food Store 101 and Madera Ave. Market, Serge Haitayan, dba 7-11  
Number 17906b, Daljit Singh, dba Liquor Max, and Par Ventures, LLC, dba Quick Pick.

28 <sup>2</sup> Donaghy Sales, LLC is California limited liability company incorrectly named as Donaghy  
Sales, a California corporation.

1 WHEREAS, Representative Plaintiffs and Representative Plaintiffs' Counsel believe that  
2 the Settlement Fund (as hereinafter defined) reflects fair, reasonable and adequate compensation  
3 for the Settlement Class (as hereinafter defined) to release, settle and discharge their claims that  
4 they were overcharged by the alleged conduct of which Defendants are accused;

5 WHEREAS, Defendants, notwithstanding their belief that they did nothing wrong or  
6 illegal, that they have legitimate defenses to any claims that could be asserted by Representative  
7 Plaintiffs against them, and that they would prevail at trial, enter into this Settlement Agreement  
8 to avoid the costs, expenses, and uncertainties of this complex litigation, and thereby put to rest  
9 this controversy;

10 WHEREAS, Representative Plaintiffs, notwithstanding their belief that they would  
11 ultimately prevail at trial and establish liability by Defendants for the claims they have alleged,  
12 enter into this Settlement Agreement to avoid the costs, expenses, and uncertainties of this complex  
13 litigation; and

14 WHEREAS, both Parties wish to preserve all arguments, defenses and responses to all  
15 claims in the Action, including all arguments, defenses and responses to any proposed litigation  
16 class proposed by Representative Plaintiffs, in the event this settlement does not obtain Final  
17 Approval.

18 NOW THEREFORE, in consideration of the foregoing, the terms and conditions set forth  
19 below, and other good and valuable consideration, it is agreed by and among the Parties that the  
20 claims of the Representative Plaintiffs be settled, compromised, and dismissed on the merits with  
21 prejudice as to Defendants subject to Court approval and that Defendants be forever fully  
22 discharged and released from any and all claims covered by this Settlement Agreement:

23 1. General Definitions. The terms below and elsewhere in this Settlement Agreement  
24 with initial capital letters shall have the meanings ascribed to them for purposes of this Settlement  
25 Agreement.

- 26 a. "Defendant Released Parties" means Defendants (as defined above)  
27 together with any and all of Defendants' past, current, and future, direct and  
28 indirect corporate parents (including holding companies), subsidiaries,

1 related entities, affiliates, associates, divisions, joint ventures, predecessors,  
2 successors and each of their respective past, present, and future, direct or  
3 indirect, officers, directors, employees, trustees, partners, managing  
4 directors, shareholders, managers, members, attorneys, equity holders,  
5 agents, beneficiaries, executors, insurers, advisors, assigns, heirs, legal or  
6 other representatives.

7 b. “Defendant Releasing Party” or “Defendant Releasing Parties” shall refer  
8 individually and collectively to Defendants, together with any and all of  
9 their respective past, current, and future, direct and indirect corporate  
10 parents (including holding companies), subsidiaries, related entities,  
11 affiliates, associates, divisions, joint ventures, predecessors, successors and  
12 each of their respective past, present, and future, direct or indirect, officers,  
13 directors, employees, trustees, partners, managing directors, shareholders,  
14 managers, members, attorneys, equity holders, agents, beneficiaries,  
15 executors, insurers, advisors, assigns, heirs, legal or other representatives.

16 c. “Action” means the putative class action filed by Representative Plaintiffs  
17 in the above-captioned proceeding.

18 d. “Affiliate” means with respect to any person, entity or company, any  
19 person, entity, or company that, directly or indirectly, controls, is controlled  
20 by or is under common control with such person, entity or company.

21 e. “Complaint” means the Representative Plaintiffs’ Second Amended Class  
22 Action Complaint filed May 18, 2015, in this matter.

23 f. “Court” means the Superior Court of the State of California in and for the  
24 County of Fresno and the Honorable Jonathan M. Skiles or his successor,  
25 or any other court in which the Action is proceeding.

26 g. “Escrow Account” means the escrow account established with the escrow  
27 agent to receive and maintain funds contributed by Defendants for the  
28 benefit of the Settlement Class.

- 1 h. “Escrow Agreement” means that certain agreement between the escrow  
2 agent that holds the Settlement Fund and Representative Plaintiffs (by and  
3 through Representative Plaintiff Counsel) pursuant to which the Escrow  
4 Account is established and funded for the benefit of the Settlement Class,  
5 as set forth in Paragraphs 8 and 9 below.
- 6 i. “Fairness Hearing” means a hearing by the Court to determine whether the  
7 Settlement Agreement is fair, reasonable, and adequate, and whether it  
8 should be finally approved by the Court.
- 9 j. “Final Approval” means an order and judgment by the Court which finally  
10 approves this Settlement Agreement, including all of its material terms and  
11 conditions without modification, and the settlement and dismisses  
12 Defendants with prejudice from the Action.
- 13 k. “Final Judgment” means the first date upon which both of the following  
14 conditions shall have been satisfied: (a) Final Approval; and (b) either (1)  
15 no appeal or petition to seek permission to appeal the Court’s approval of  
16 the Final Judgment has been made within the time for filing or noticing any  
17 appeal; or (2) if any timely appeals from the Final Approval or notices of  
18 appeal from the Final Approval are filed, (i) the date of final dismissal of  
19 all such appeals or the final dismissal of any proceeding on certiorari or  
20 otherwise or (ii) the date the Final Judgment is finally affirmed on appeal  
21 and affirmance is no longer subject to further appeal or review.
- 22 l. “Representative Plaintiffs’ Counsel” means Gustafson Gluek PLLC,  
23 Coleman & Horowitz, LLP, Freedman Boyd Hollander & Goldberg PA,  
24 and Hulett Harper Stewart.
- 25 m. “Plaintiff Released Parties” means Representative Plaintiffs, the Settlement  
26 Class, and all members of the Settlement Class, together with any and all of  
27 their respective past, current, and future, direct and indirect corporate  
28 parents (including holding companies), subsidiaries, related entities,

1 Affiliates, associates, divisions, joint ventures, predecessors, successors and  
2 each of their respective past, present, and future, direct or indirect, officers,  
3 directors, employees, trustees, partners, managing directors, shareholders,  
4 managers, members, attorneys, equity holders, agents, beneficiaries,  
5 executors, insurers, advisors, assigns, heirs, legal or other representatives.

6 Plaintiff Released Parties does not include any Person who timely and  
7 validly seeks exclusion from the Class.

8 n. “Preliminary Approval” means an order by the Court to preliminarily  
9 approve this Settlement Agreement pursuant to Rule 3.769(c) of the  
10 California Rules of Court (2023).

11 o. “Plaintiff Released Claims” shall have the meaning set forth in Paragraph  
12 13 of this Agreement.

13 p. “Defendant Released Claims” shall have the meaning set forth in Paragraph  
14 13 of this Agreement.

15 q. “Plaintiff Releasing Party” or “Plaintiff Releasing Parties” shall refer  
16 individually and collectively, to Representative Plaintiffs, the Settlement  
17 Class, and all members of the Settlement Class, including the  
18 Representative Plaintiffs, together with any and all of their respective past,  
19 current, and future, direct and indirect corporate parents (including holding  
20 companies), subsidiaries, related entities, Affiliates, associates, divisions,  
21 joint ventures, predecessors, successors and each of their respective past,  
22 present, and future, direct or indirect, officers, directors, employees,  
23 trustees, partners, managing directors, shareholders, managers, members,  
24 attorneys, equity holders, agents, beneficiaries, executors, insurers,  
25 advisors, assigns, heirs, legal or other representatives.

26 r. “Settlement Administrator” means the firm retained to disseminate the  
27 Settlement Class Notice and to administer the payment of Settlement Funds  
28 to the Settlement Class, subject to approval of the Court.

- 1 s. "Settlement Class" means the class defined in Paragraph 5 below excluding  
2 all persons who file a valid request for exclusion from the Settlement Class.
- 3 t. "Settlement Class Notice" means any notice sent to the Settlement Class  
4 pursuant to Preliminary Approval or otherwise approved by the Court.
- 5 u. "Settlement Class Period" means October 10, 2010, through December 31,  
6 2014.
- 7 v. "Settlement Fund" means \$2,500,000.00 (two million, five hundred  
8 thousand U.S. dollars), the amount Defendants shall pay or cause to be paid  
9 into an interest-bearing Escrow Account maintained by an escrow agent on  
10 behalf of the Settlement Class, pursuant to Paragraphs 8 and 9 below, as  
11 well as any interest accruing within such interest-bearing Escrow Account.

12 2. The Parties' Efforts to Effectuate this Settlement Agreement. The Parties will  
13 cooperate in good faith and use their reasonable best efforts to seek the Court's Preliminary  
14 Approval and Final Approval of the Settlement Agreement.

15 3. Litigation Standstill. The Parties shall cease all litigation activities related to the  
16 pursuit of or defense against all claims or defenses in the Action.

17 4. Motion for Preliminary Approval. No later than thirty (30) days after the Execution  
18 Date, Representative Plaintiffs will move the Court for Preliminary Approval of this Settlement.  
19 Within a reasonable time in advance of submission to the Court, the papers in support of the motion  
20 for Preliminary Approval shall be provided by Representative Plaintiff Counsel to Defendants for  
21 their review. To the extent that Defendants object to any aspect of the motion, they shall  
22 communicate such objection to Representative Plaintiff Counsel and the Parties shall meet and  
23 confer to resolve any such objection. The Parties shall take all reasonable actions as may be  
24 necessary to obtain Preliminary Approval and certification of the Settlement Class for settlement  
25 purposes.

26 5. Certification of a Settlement Class. As part of the motion for Preliminary Approval  
27 of this Settlement, Representative Plaintiffs shall seek, and Defendants shall take no position with  
28 respect to, appointment of Representative Plaintiffs' Counsel as Settlement Class Counsel for

1 purposes of this Settlement and certification in the Action of the following Settlement Class for  
2 settlement purposes only:

3 All persons who owned retail business establishments in Fresno and  
4 Madera Counties classified in the Donaghy sales database within  
5 one of the following channel descriptions and channel id numbers  
6 (“Cid#”): a) Convenience/Cid# 190; b) Oil and Service/Cid# 195; c)  
7 Grocery/Cid# 265; d) Gas and Convenience/Cid# 294; e) Package  
8 Liquor/Cid# 200; f) Mom and Pop/Cid# 175; g) Deli/Cid# 180; h)  
9 Bodega/Cid# 185; and i) Package Liquor/Cid# 290, and which  
10 purchased from Donaghy beer manufactured and/or sold by  
11 Anheuser-Busch during the period from October 10, 2010 through  
12 December 31, 2014 excluding Vikram and Vinay Vohra and  
13 Hardeep Singh and all entities owned, controlled by or affiliated  
14 with any of them.

15 6. Settlement Class Notices. After Preliminary Approval, and subject to approval by  
16 the Court of the means for dissemination:

- 17 a. Individual notice of this settlement shall be mailed, emailed, or otherwise  
18 disseminated by the Settlement Administrator, at the direction of  
19 Representative Plaintiffs’ Counsel, to potential members of the Settlement  
20 Class, in conformance with a notice plan to be approved by the Court. In  
21 addition, the Settlement Administrator shall engage in publication notice as  
22 directed by the Court.
- 23 b. Neither the Settlement Class, Representative Plaintiffs’ Counsel, nor  
24 Defendants shall have any responsibility, financial obligation, or liability  
25 for any fees, costs, or expenses related to providing notice to the Settlement  
26 Class or obtaining approval of the settlement or administering the  
27 settlement. Such fees, costs, or expenses shall be reimbursed solely from  
28 the Settlement Fund, subject to any necessary Court approval.
- 29 c. Representative Plaintiffs’ Counsel shall use best efforts to send out notice  
30 to the Settlement Class within 21 days of Preliminary Approval by the Court  
31 of the Settlement Agreement.



1 d. The Settlement Class Notice shall provide a protocol for members of the  
2 proposed Settlement Class to opt out of the Settlement Class should they  
3 choose to do so and will fully comply with due process.

4 7. Motion for Final Approval and Entry of Final Judgment. If the Court grants  
5 Preliminary Approval and preliminarily certifies the Settlement Class, then Representative  
6 Plaintiffs, through Representative Plaintiffs' Counsel — in accordance with the schedule set forth  
7 in the Court's Preliminary Approval Order — shall submit to the Court a separate motion for Final  
8 Approval of this Settlement Agreement by the Court. Within a reasonable time in advance of  
9 submission to the Court, the papers in support of the motion for Final Approval shall be provided  
10 by Representative Plaintiffs' Counsel to Defendants for their review. To the extent that Defendants  
11 object to any aspect of the motion, they shall communicate such objection to Representative  
12 Plaintiff Counsel and the parties shall meet and confer to resolve any such objection. The motion  
13 for Final Approval shall seek entry of an order and Final Judgment:

- 14 a. Finally approving the Settlement Agreement as being a fair, reasonable, and  
15 adequate settlement for the Settlement Class, and directing the  
16 implementation, performance, and consummation of the Settlement  
17 Agreement and its material terms and conditions, without material  
18 modification of those terms and conditions;
- 19 b. Determining that the Settlement Class Notice constituted the best notice  
20 practicable under the circumstances of this Settlement Agreement and the  
21 Fairness Hearing, and constituted due and sufficient notice for all other  
22 purposes to all Persons entitled to receive notice;
- 23 c. Dismissing the Action with prejudice as to Defendants in all class action  
24 complaints asserted by Representative Plaintiffs without further costs or  
25 fees;
- 26 d. Discharging and releasing Defendant Released Parties from all Plaintiff  
27 Released Claims;
- 28

- 1 e. Discharging and releasing Plaintiff Released Parties from all Defendant  
2 Released Claims;
- 3 f. Enjoining Representative Plaintiffs and members of the Settlement Class  
4 from suing any of the Defendant Released Parties for any of the Plaintiff  
5 Released Claims;
- 6 g. Confirming that Defendants have provided the appropriate notice, if any,  
7 pursuant to governing law;
- 8 h. Reserving continuing and exclusive jurisdiction over the Settlement  
9 Agreement for all purposes; and
- 10 i. Determining that there is no just reason for delay and directing that the  
11 judgment of dismissal as to Defendants shall be final and appealable and  
12 entered forthwith.

13 The parties shall take all reasonable actions as may be necessary to obtain Final Approval  
14 of the Settlement Agreement without modification to any of its material terms and conditions.

15 8. Escrow Account. The Escrow Account shall be administered by Representative  
16 Plaintiff Counsel for the Representative Plaintiffs and Settlement Class under the Court's  
17 continuing supervision and control pursuant to the Escrow Agreement.

18 9. Settlement Consideration. In consideration for the release of Plaintiff Released  
19 Claims, the dismissal of the Action, and the other material terms and conditions herein, within  
20 seven (7) business days of the Court's grant of Preliminary Approval or after Representative  
21 Plaintiffs' Counsel have provided wire instructions and a W-9 form to Defendants, whichever  
22 occurs later, each of the Defendants shall pay or cause to be paid \$37,500 (thirty-seven thousand,  
23 five hundred U.S. dollars) into the Escrow Account, for a combined total of \$75,000 (seventy-five  
24 thousand U.S. dollars) into the Escrow Account, which may be used to pay the costs for Settlement  
25 Class Notice. In addition, within seven (7) business days of the Court's grant of Final Approval  
26 or after Representative Plaintiffs' Counsel have provided wire instructions and a W-9 form to  
27 Defendants, whichever occurs later, each of the Defendants shall pay or cause to be paid  
28 \$1,212,500 (one million, two hundred twelve thousand, five hundred U.S. dollars) into the Escrow

1 Account, for a combined total of \$2,425,000 (two million, four hundred twenty-five thousand U.S.  
2 dollars) into the Escrow Account.

3 10. Qualified Settlement Fund. The Parties agree to treat the Settlement Fund as being  
4 at all times, a Qualified Settlement Fund within the meaning of Treas. Reg. § 1.468B-1, and to that  
5 end, the Parties shall cooperate with each other and shall not take a position in any filing or before  
6 any tax authority that is inconsistent with such treatment. In addition, Representative Plaintiff  
7 Counsel shall timely make such elections as necessary or advisable to carry out the provisions of  
8 this Paragraph, including the relation-back election (as defined in Treas. Reg. § 1.468B-1(j)) back  
9 to the earliest permitted date. Such elections shall be made in compliance with the procedures and  
10 requirements contained in such regulations. It shall be the responsibility of Representative Plaintiff  
11 Counsel to timely and properly prepare and deliver the necessary documentation for signature by  
12 all necessary parties, and thereafter to cause the appropriate filing to occur. All provisions of this  
13 Settlement Agreement shall be interpreted in a manner that is consistent with the Settlement Funds  
14 being a “Qualified Settlement Fund” within the meaning of Treas. Reg. § 1.4688-1. Representative  
15 Plaintiff Counsel shall timely and properly file all information and other tax returns necessary or  
16 advisable with respect to the Settlement Fund (including without limitation the returns described  
17 in Treas. Reg. § 1.468B-2(k), (1)). Such returns shall reflect that all taxes (including any estimated  
18 taxes, interest, or penalties) on the income earned by the Settlement Fund shall be paid out of the  
19 Settlement Fund. Defendants shall not be responsible for the filing or payment of any taxes or  
20 expenses connected to the Qualified Settlement Fund.

21 11. Distribution of Settlement Fund to Settlement Class. Representative Plaintiffs,  
22 members of the Settlement Class, and their counsel shall be entitled to look solely to the Settlement  
23 Fund for settlement and satisfaction of the Agreement or in connection with any of the Released  
24 Claims against the Defendant Released Parties, and shall not be entitled to any other payment or  
25 relief from the Defendant Released Parties. Except as provided by order of the Court, no member  
26 of the Settlement Class shall have any interest in the Settlement Fund or any portion thereof.  
27 Representative Plaintiffs, members of the Settlement Class, and their counsel will be reimbursed  
28 solely out of the Settlement Fund for all expenses including, but not limited to, attorneys’ fees and

1 expenses and the costs of notice of the Settlement Agreement to potential members of the  
2 Settlement Class. Defendants and the other Defendant Released Parties shall not be liable for any  
3 costs, fees, or expenses of any of Representative Plaintiffs' and Representative Plaintiffs'  
4 Counsel's attorneys, experts, advisors, or representatives, but all such costs and expenses as  
5 approved by the Court shall be paid out of the Settlement Fund.

6 12. Fee Awards, Costs and Expenses, and Service Payments to Representative  
7 Plaintiffs. Subject to Representative Plaintiffs' Counsels' sole discretion as to timing,  
8 Representative Plaintiffs' Counsel will apply to the Court for a fee award, plus reimbursement of  
9 expenses, and costs incurred, and service payments to the Representative Plaintiffs to be paid from  
10 the proceeds of the Settlement Fund. Defendants shall have no responsibility, financial obligation,  
11 or liability for any such fees, costs, payments, or expenses beyond the Settlement Fund.

12 13. Mutual Release.

13 a. Upon Final Judgment, the Plaintiff Releasing Parties shall be deemed to  
14 have, and by operation of law and of the judgment shall have, fully, finally  
15 and forever completely compromised, settled, released, acquitted, resolved,  
16 relinquished, waived, and discharged the Defendant Released Parties from  
17 any and all claims, demands, actions, suits, and causes of action, whether  
18 class, individual, or otherwise in nature (whether or not any member of the  
19 Settlement Class has objected to the Settlement Agreement or makes a claim  
20 upon or participates in the Settlement Fund, whether directly,  
21 representatively, derivatively or in any other capacity) that the Plaintiff  
22 Releasing Parties ever had, now have, or hereafter can, shall, or may ever  
23 have, on account of, or in any way arising out of, any and all known and  
24 unknown, foreseen and unforeseen, suspected or unsuspected, actual or  
25 contingent, liquidated or unliquidated claims, demands, actions, suits,  
26 causes of action, injuries, losses, or damages arising from or in connection  
27 with any act or omission through the date of Preliminary Approval relating  
28 to or referred to in the Action or arising from the factual predicate of the

1 Action (the “Plaintiff Released Claims”). For the avoidance of doubt,  
2 “Plaintiff Released Claims” includes all claims that have been asserted, or  
3 could have been asserted, in the Action against the Defendant Released  
4 Parties. Notwithstanding the above, however, “Plaintiff Released Claims”  
5 does not include any claims wholly unrelated to the allegations in the Action  
6 that are based on breach of contract, negligence, personal injury, bailment,  
7 failure to deliver lost goods, damaged or delayed goods, product defect,  
8 securities claim, breach of warranty, or product defect. This reservation of  
9 claims set forth in this paragraph does not impair or diminish the right of  
10 the Defendant Released Parties to assert any and all arguments and defenses  
11 to such claims, and the Parties agree that all such arguments and defenses  
12 are preserved. During the period after the expiration of the deadline for  
13 submitting an opt-out notice, as determined by the Court, and prior to Final  
14 Judgment, all Plaintiff Releasing Parties who have not submitted a valid  
15 request to be excluded from the Settlement Class shall be preliminarily  
16 enjoined and barred from asserting any and all Plaintiff Released Claims  
17 against any and all of the Defendant Released Parties. The release of the  
18 Plaintiff Released Claims will become effective as to all Plaintiff Releasing  
19 Parties upon Final Judgment.

- 20 b. Upon Final Judgment, the Defendant Releasing Parties shall be deemed to  
21 have, and by operation of law and of the judgment shall have, fully, finally  
22 and forever completely compromised, settled, released, acquitted, resolved,  
23 relinquished, waived, and discharged the Plaintiff Released Parties from  
24 any and all claims, demands, actions, suits, and causes of action, whether  
25 class, individual, or otherwise in nature (whether or not any member of the  
26 Settlement Class has objected to the Settlement Agreement or makes a claim  
27 upon or participates in the Settlement Fund, whether directly,  
28 representatively, derivatively or in any other capacity) that the Defendant

1 Releasing Parties ever had, now have, or hereafter can, shall, or may ever  
2 have, on account of, or in any way arising out of, any and all known and  
3 unknown, foreseen and unforeseen, suspected or unsuspected, actual or  
4 contingent, liquidated or unliquidated claims, demands, actions, suits,  
5 causes of action, injuries, losses, or damages arising from or in connection  
6 with any act or omission through the date of Preliminary Approval relating  
7 to or referred to in the Action or arising from the factual predicate of the  
8 Action (the “Defendant Released Claims”). For the avoidance of doubt,  
9 “Defendant Released Claims” includes all claims that have been asserted,  
10 or could have been asserted, in the Action against the Plaintiff Released  
11 Parties. Notwithstanding the above, however, “Defendant Released  
12 Claims” does not include any claims wholly unrelated to the allegations in  
13 the Action that are based on breach of contract, negligence, personal injury,  
14 bailment, failure to deliver lost goods, damaged or delayed goods, product  
15 defect, securities claim, breach of warranty, or product defect. This  
16 reservation of claims set forth in this paragraph does not impair or diminish  
17 the right of the Plaintiff Released Parties to assert any and all arguments and  
18 defenses to such claims, and the Parties agree that all such arguments and  
19 defenses are preserved. During the period after the expiration of the  
20 deadline for submitting an opt-out notice, as determined by the Court, and  
21 prior to Final Judgment, all Defendant Releasing Parties shall be  
22 preliminarily enjoined and barred from asserting any and all Defendant  
23 Released Claims against any and all of the Plaintiff Released Parties. The  
24 release of the Defendant Released Claims will become effective as to all  
25 Defendant Releasing Parties upon Final Judgment. For the avoidance of  
26 doubt, Defendants are not releasing any claims as to any person or entity  
27 who timely and validly seeks exclusion from the Settlement Class.  
28

1           14.    Further Release. In addition to the provisions of Paragraph 13, the Plaintiff and  
2 Defendant Releasing Parties hereby expressly waive and release, solely with respect to the  
3 Released Claims, upon Final Judgment, any and all provisions, rights, and benefits conferred by  
4 Section 1542 of the California Civil Code, which states:

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

10 Each Releasing Party may hereafter discover facts other than or different from those that he, she,  
11 or it knows or believes to be true with respect to the claims that are released pursuant to the  
12 provisions of Paragraph 13, but each Releasing Party hereby expressly waives and fully, finally,  
13 and forever settles and releases, upon Final Judgment, any known or unknown, suspected or  
14 unsuspected, contingent or non-contingent claim that the Releasing Parties have agreed to release  
15 pursuant to Paragraph 13, whether or not concealed or hidden, without regard to the subsequent  
16 discovery or existence of such different or additional facts. The foregoing release of unknown,  
17 unanticipated, unsuspected, unforeseen, and unaccrued losses or claims is contractual, and not a  
18 mere recital.

19           15.    Full Release. The Released Claims and the provisions of Paragraphs 13-14 shall be  
20 interpreted as broadly as possible and to the fullest extent permitted by law and constitute a full  
21 and final release by the Releasing Parties of the Defendant and Plaintiff Released Parties for the  
22 Released Claims.

23           16.    Covenant Not to Sue.

24                   a. Representative Plaintiffs and each Settlement Class Member covenant not  
25                   to sue any of the Defendant Released Parties for any transaction, event,  
26                   circumstance, action, failure to act, or occurrence of any sort or type arising  
27                   out of or relating to the Plaintiff Released Claims, including, without  
28                   limitation, seeking to recover damages relating to any of the Plaintiff

1 Released Claims. Representative Plaintiffs' Counsel covenants not to  
2 solicit any person or entity to opt out of the Settlement and further covenants  
3 not to represent any person or entity who chooses to opt out of the  
4 Settlement (should there be any) in connection with any matter relating to  
5 or referred to in the Action or arising from the factual predicate of the  
6 Action. This Paragraph shall not apply to any action to enforce this  
7 Settlement Agreement.

8 b. Defendants covenant not to sue any of the Plaintiff Released Parties for any  
9 transaction, event, circumstance, action, failure to act, or occurrence of any  
10 sort or type arising out of or relating to the Defendant Released Claims,  
11 including, without limitation, seeking to recover damages relating to any of  
12 the Defendant Released Claims. Defendants' counsel covenant not to  
13 solicit any person or entity to opt out of the Settlement. This Paragraph  
14 shall not apply to any action to enforce this Settlement Agreement.

15 17. Non-Disparagement. The Parties agree they will not disparage one another or their  
16 respective claims or defenses, such as by making extrajudicial public statements that disparage  
17 either of the Parties or their conduct in connection with the Action, and instead will confine their  
18 public comments to essentially the following: "The parties have agreed to resolve this matter. Both  
19 sides believe they would have prevailed at trial. Defendants deny the allegations in Representative  
20 Plaintiffs' Complaint, and further denies that it did anything wrong or illegal. The parties agreed  
21 to settle this case because of the extraordinary cost of litigation and the risk and uncertainty of  
22 trial." For the avoidance of doubt, the Parties agree that statements made in the Action in court  
23 filings, arguments, hearings, and trial are not subject to this provision.

24 18. This Settlement Agreement shall not be construed as an admission of liability, or  
25 used as evidence of liability, for any purpose in any legal proceeding, claim, regulatory proceeding,  
26 or government investigation.

27 19. This Settlement Agreement constitutes a binding, enforceable agreement as to the  
28 terms contained herein when executed.



1           20. Defendants will have the sole discretion, but not the obligation, to rescind this  
2 Settlement Agreement on such terms as will be stated in a separate agreement. .

3  
4           21. Effect of Disapproval. If the Court does not certify the Settlement Class as defined  
5 in this Settlement Agreement, or if the Court does not approve this Settlement Agreement in all  
6 material respects, or if the Court does not enter Final Approval as provided for in Paragraph 7  
7 herein, or if any judgment approving this Settlement Agreement is materially modified or set aside  
8 on appeal, or if all of the conditions for Final Judgment do not occur as set forth in Paragraph 7 of  
9 this Settlement Agreement, then this Agreement may be rescinded, cancelled or terminated by  
10 Defendants or Representative Plaintiffs on behalf of the Settlement Class. If rescinded, cancelled  
11 or terminated, this Settlement Agreement shall become null and void, and in the event the  
12 Settlement Agreement is rescinded, cancelled or terminated or the settlement is not finally  
13 approved by the Court, half of all funds spent on Settlement Class Notice, together with any funds  
14 remaining in the Escrow Account, shall be returned to Defendants and the Parties' position shall  
15 be returned to the status quo ante. In no way shall Representative Plaintiffs have the right to  
16 rescind, cancel or terminate this Settlement Agreement if the Court fails or refuses to grant any  
17 requested attorney's fees, any costs, or any awards to Representative Plaintiffs.

18           22. Choice of Law and Dispute Resolution. Any disputes relating to this Settlement  
19 Agreement shall be governed by California law without regard to conflicts of law provisions, and  
20 any and all disputes regarding this Settlement Agreement will be mediated in good faith before  
21 any suit, action, proceeding or dispute may be filed in the Court pursuant to Paragraph 23 below.

22           23. Consent to Jurisdiction. The Parties and Releasing Parties hereby irrevocably  
23 submit to the exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising  
24 out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement.  
25 Without limiting the generality of the foregoing, it is hereby agreed that any dispute concerning  
26 the provisions of Paragraphs 13-16, including but not limited to, any suit, action, or proceeding in  
27 which the provisions of Paragraphs 13-16 are asserted as a defense in whole or in part to any claim  
28 or cause of action or otherwise raised as an objection, constitutes a suit, action, or proceeding

1 arising out of or relating to this Settlement Agreement. In the event that the provisions of  
2 Paragraphs 13-16 are asserted by any Released Party as a defense in whole or in part to any claim  
3 or cause of action or otherwise raised as an objection in any suit, action or proceeding, it is hereby  
4 agreed that such Released Party shall be entitled to a stay of that suit, action, or proceeding until  
5 the mediation required by Paragraph 22 is complete and, if the matter is not resolved by mediation,  
6 the Court has entered a final judgment no longer subject to any appeal or review determining any  
7 issues relating to the defense or objection based on such provisions. Solely for purposes of such  
8 suit, action, or proceeding, to the fullest extent that they may effectively do so under applicable  
9 law, the Parties and any Releasing Parties irrevocably waive and agree not to assert, by way of  
10 motion, as a defense or otherwise, any claim or objection that they are not subject to the in  
11 personam jurisdiction of the Court. Nothing shall be construed as a submission to jurisdiction for  
12 any purpose other than enforcement of this Settlement Agreement.

13 24. Costs Relating to Administration. The Defendant Released Parties shall have no  
14 responsibility or liability relating to the administration, investment, or distribution of the  
15 Settlement Funds.

16 25. Binding Effect. This Settlement Agreement constitutes a binding, enforceable  
17 agreement as to the terms contained herein. This Agreement shall be binding upon, and inure to  
18 the benefit of, the successors, assigns, and heirs of the Parties, Settlement Class Members, the  
19 Releasing Parties, and the Defendant Released Parties. Without limiting the generality of the  
20 foregoing, upon certification of the Settlement Class and Final Approval, each and every covenant  
21 and agreement herein by the Representative Plaintiffs shall be binding upon all members and  
22 potential members of the Settlement Class and Releasing Parties who have not validly excluded  
23 themselves from the Settlement Class.

24 26. Sole Remedy. This Settlement Agreement shall provide the sole and exclusive  
25 remedy for any and all Released Claims against any Defendant Released Party, and upon entry of  
26 Final Judgment, the Releasing Parties shall be forever barred from initiating, asserting,  
27 maintaining, or prosecuting any and all Released Claims against any Released Party.

1            27. Counsel's Express Authority. Each counsel signing this Settlement Agreement on  
2 behalf of a Party or Parties has full and express authority to enter into all of the terms reflected  
3 herein on behalf of each and every one of the clients for which counsel is signing.

4            28. It is agreed that this Settlement Agreement shall be admissible in any proceeding  
5 for establishing the terms of the Parties' agreement or for any other purpose with respect to  
6 implementing or enforcing this Settlement Agreement.

7            29. Notices. All notices under this Settlement Agreement shall be in writing. Each such  
8 notice shall be given either by: (a) hand delivery; (b) registered or certified mail, return receipt  
9 requested, postage pre-paid; or (c) Federal Express or similar overnight courier, and, in the case of  
10 either (a), (b) or (c) shall be addressed:

11            If directed to Representative Plaintiffs, the Settlement Class, or any member of the  
12 Settlement Class, to:

13            Dennis Stewart  
14            GUSTAFSON GLUEK PLLC  
15            600 W. Broadway, Ste. 3300  
16            San Diego, CA 92101

17            or

18            Joseph Goldberg  
19            FREEDMAN BOYD HOLLANDER & GOLDBERG PA  
20            20 First Plaza, Ste. 700  
21            Albuquerque, NM 87102

22            If directed to Defendants, to:

23            Brian D. Wallach  
24            CADWALADER, WICKERSHAM & TAFT LLP  
25            700 Sixth Street NW  
26            Washington, DC 20001

27            and

28            Patrick D. Toole  
              WANGER JONES HELSLEY PC  
              265 East River Park Circle, Suite 310  
              Fresno, CA 93720

              and

              Mark E. Chielpegian  
              CHIELPEGIAN • COBB

1 5200 North Palm Avenue, Suite 201  
2 Fresno, CA 93704

3 or such other address as the Parties may designate, from time to time, by giving notice to all parties  
4 hereto in the manner described in this Paragraph. The Parties shall also provide courtesy copies of  
5 all notices by electronic mail.

6 30. No Admission. Whether or not Preliminary Approval is granted, Final Judgment is  
7 entered or this Settlement Agreement is terminated, the Parties expressly agree that this Settlement  
8 Agreement and its contents, and any and all statements, negotiations, documents, and discussions  
9 associated with it, are not and shall not be deemed or construed to be an admission of liability by  
10 any Party or Defendant Released Party.

11 31. No Unstated Third-Party Beneficiaries. No provision of this Agreement shall  
12 provide any rights to, or be enforceable by, any person or entity that is not a Defendant Released  
13 Party, Representative Plaintiffs, member of the Settlement Class, or Representative Plaintiff  
14 Counsel.

15 32. No Party is the Drafter. None of the Parties hereto shall be considered to be the  
16 drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case  
17 law, or rule of interpretation or construction that would or might cause any provision to be  
18 construed against the drafter hereof.

19 33. Amendment and Waiver. This Settlement Agreement shall not be modified in any  
20 respect except by a writing executed by the Parties, and the waiver of any rights conferred  
21 hereunder shall be effective only if made by written instrument of the waiving Party. The waiver  
22 by any Party of any particular breach of this Agreement shall not be deemed or construed as a  
23 waiver of any other breach, whether prior, subsequent or contemporaneous, of this Agreement.  
24 This Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach  
25 of this Agreement. Any breach of this Agreement may result in irreparable damage to a Party for  
26 which such Party will not have an adequate remedy at law. Accordingly, in addition to any other  
27 remedies and damages available, the Parties acknowledge and agree that the Parties may  
28 immediately seek enforcement of this Settlement Agreement by means of specific performance or  
injunction, without the requirement of posting a bond or other security.



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COLEMAN & HOROWITT, LLP  
DARRYL J. HOROWITT (100898)  
SHERRIE M. FLYNN (240215)  
499 West Shaw, Suite 116  
Fresno, CA 93704  
Telephone: (559) 248-4820  
Facsimile: (559) 248-4830

FREEDMAN BOYD HOLLANDER &  
GOLDBERG PA  
JOSEPH GOLDBERG (admitted *pro hac*)  
20 First Plaza, Suite 700  
Albuquerque, NM 87102  
Telephone: (505) 842-9960  
Facsimile: (505) 842-0761

GUSTAFSON GLUEK PLLC  
DANIEL C. HEDLUND (admitted *pro hac*)  
MICHELLE J. LOOBY  
JOSHUA J. RISSMAN  
Canadian Pacific Plaza  
120 South 6th Street, Suite 2600  
Minneapolis, MN 55402  
Telephone: (612) 333-8844  
Facsimile: (612) 339-6622

*Attorneys for Plaintiffs*

CADWALADER, WICKERSHAM & TAFT LLP

DATED: September \_\_, 2023

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BRIAN D. WALLACH (*pro hac vice*)  
GREGORY W. LANGSDALE (*pro hac vice*)  
700 Sixth Street NW  
Washington, DC 20001  
Telephone: (202) 862-2200  
Facsimile: (202) 862-2400

OLIVER W. WANGER (40331)  
PATRICK D. TOOLE (190118)  
WANGER JONES HELSLEY PC  
265 East River Park Circle, Suite 310

Fresno, California 93720  
Telephone: (559) 233-4800  
Facsimile: (559) 233-9330

*Attorneys for Anheuser-Busch, LLC*

CHIELPEGIAN • COBB

DATED: September \_\_, 2023

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Mark E. Chielpegian (190314)  
5200 North Palm Avenue, Suite 201  
Fresno, CA 93704  
Telephone: (559) 225-5370  
Facsimile: (559) 244-6931

*Attorneys for Donaghy Sales, LLC*