

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
30 pay, minimum wage, and regular wages), and claims for interest, penalties,
31 or premiums in connection therewith, as well as any claims under the
32 California Labor Code, California Wage Orders, or the Fair Labor Standards
33 Act;
- 34 b. Any claims for injunctive relief, declaratory relief, restitution, fraudulent
35 business practices or punitive damages alleged or which could have been
36 alleged under the facts pleaded in the Lawsuit;
- 37 c. Any claims under PAGA arising out of the wage, hour and payroll practices
38 alleged or could have been alleged based upon the facts alleged in the
Lawsuit; and

- 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.

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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

1 **WORK PERIOD DISPUTE FORM –FLSA CLASS MEMBERS**

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

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

7 **I. CLAIMANT IDENTIFICATION:**

8 **0123456**

Name/Address Changes (if any)

9 [ID]

[NAME]

10 [ADDR1]

[ADDR2]

11 [CITY] [STATE] [ZIP]

12
13 If your name or address is different from information shown above, print corrections on the lines to the right.

14 Residence Telephone Number: [123-456-7890]

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

16 Last 4 digits of Social Security Number: _____

17 **II. EMPLOYMENT INFORMATION:**

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

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

26 I disagree with the information stated above. I believe that my actual dates of employment during the
27 Class Period were ____ / ____ / _____ to ____ / ____ / _____. I have attached payroll, tax
28 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