

	:	STATE OF NEW JERSEY
	:	DEPARTMENT OF LABOR
	:	& WORKFORCE DEVELOPMENT
In the matter of	:	
CHIPOTLE MEXICAN GRILL, INC.	:	CASE NO.: GE-291-0522-CAG
	:	
	:	
	:	<u>SETTLEMENT AGREEMENT</u>
	:	

This Settlement Agreement (the "Agreement") is hereby entered into between the New Jersey Department of Labor and Workforce Development, Division of Wage and Hour Compliance ("NJ DOL"), and Chipotle Mexican Grill, Inc. (together with its direct and indirect wholly-owned subsidiaries, "Chipotle") and agree to be bound by the following terms and conditions:

WHEREAS, NJ DOL administers and enforces, among other laws, the New Jersey Child Labor Law ("CLL"), N.J.S.A. 34:2-21.1 to -21.22a, and the Earned Sick Leave Law ("ESLL"), N.J.S.A. 34:11D-1 to -13; and

WHEREAS, Chipotle Mexican Grill, Inc. is a publicly traded restaurant company, incorporated in the State of Delaware in 1998, whose affiliates operated dozens of active business locations in the State of New Jersey during all relevant time periods; and

WHEREAS, NJ DOL alleges that, at all times relevant hereto, one or more Chipotle entities was an employer within the meaning of the CLL and ESLL; and

WHEREAS, the NJ DOL commenced an audit of Chipotle's compliance with the CLL and ESLL on August 28, 2020. As a result of that audit, NJ DOL determined that between September 1, 2017 and December 31, 2020 Chipotle did not violate the ESLL, but Chipotle violated:

1. N.J.S.A. 34:2-21.3, including prohibitions on work between 11 p.m. and 6 a.m., prohibitions on work more than eight hours per day, prohibitions on work more than 40 hours per week, and prohibitions on work more than six consecutive days for minor employees; and
2. N.J.S.A. 34:2-21.4 by failing to provide meal breaks of at least 30 minutes after five hours worked to minor employees under the age of 18; and
3. N.J.S.A. 34:2-21.7 by failing to keep an employment certificate for all employed minors; and
4. N.J.S.A. 34:2-21.6 by failing to keep records for all employed minors; and

WHEREAS, Chipotle disputes and does not admit the alleged violations and findings by NJ DOL referred to above, and nothing in this Agreement shall be construed as an admission by Chipotle of any wrongful or unlawful act whatsoever, including with respect to any employment practices; and

WHEREAS, NJ DOL and Chipotle wish to amicably resolve this matter and to that end, enter into this Agreement, and without admitting liability, Chipotle is willing to pay penalties to NJ DOL and take other remedial measures to improve its compliance with the CLL according to the terms of Agreement set forth below;

NOW, THEREFORE, in consideration of the terms and conditions contained herein, NJ DOL and Chipotle agree as follows, to fully and finally resolve all claims, defined herein:

1. **Settlement Amount.** Chipotle shall pay the gross total amount of Seven Million Seven Hundred Fifty Thousand Dollars (\$7,750,000.00) ("Total Settlement Amount") to resolve, settle, close, and waive all claims and matters related to NJ DOL's audit of Chipotle's compliance with the CLL and ESSL, which audit was commenced on August 28, 2020. The distribution of the Total Settlement Amount between administrative penalties, attorneys' fees, or any other damages or monetary contributions shall be as follows: \$7,665,000 in administrative penalties; and \$85,000 in attorneys' fees.

2. **Release.** In exchange for receiving and accepting the Total Settlement Amount, NJ DOL will provide Chipotle a full release of all claims (including known and unknown) related to the CLL and the ESSL (hereinafter the "claims") covering the audit period, August 28, 2017 through the date of execution of this Agreement (hereinafter the "Effective Date"). Releasees shall include Chipotle, their current and former parents, subsidiaries, affiliates, directors, officers, employees, agents, successors, and assigns. All claims arising or occurring on or prior to the Effective Date shall be released. Any claims against Chipotle that would be enforced by NJ DOL arising during the Term, as defined below, shall be addressed solely within the terms set forth in this Agreement. Chipotle acknowledges that NJ DOL has a statutory obligation to investigate all CLL or ESSL claims it receives notice of; however, for any complaint against Chipotle arising or occurring on or prior to the Effective Date, NJ DOL shall waive any penalties or other remedies it would be entitled to seek on behalf of the State. NJ DOL and Chipotle agree that the Agreement does not settle or impair the right of any current or former employee to file any complaint or private action against Chipotle, and for such individuals to seek appropriate relief for violations of the CLL or ESSL arising before or after the Term.

If Chipotle fails to timely render the Total Settlement Amount within the time period prescribed in paragraph 10 herein, then the Agreement, including the within release, shall be deemed void and NJ DOL shall immediately proceed with enforcing its assessment against Chipotle dated May 19, 2022 under the above case number.

3. **Self-Audit Terms.** Chipotle shall conduct self-audits of its CLL compliance (in Excel format), including minor employees' work hour records, one time each year for three (3) years following the Effective Date (the three-year period following the Effective Date shall constitute the "Term"). The self-audit periods shall be October 1, 2022 through December 31,

2022 (Q4) for the first year of the Term; October 1, 2023 through December 31, 2023 (Q4) for the second year of the Term; and July 1, 2024 through September 30, 2024 (Q3) for the third year of the Term. The restaurants to be included in the self-audits shall be selected by NJ DOL and shall not exceed 10% of Chipotle restaurants in New Jersey for each self-audit period. NJ DOL will notify Chipotle of the sample restaurants selected no later than the first day of the self-audit period each year. The self-audit reports shall be provided no later than ninety (90) days after the last day of the self-audit period.

4. **Self-Audit Findings.** In each of the self-audit reports, Chipotle shall calculate and tally all violations of the CLL separately for the selected restaurants for the applicable self-audit period, regardless of whether there is more than one CLL violation arising out of the same minor employee's shift on a given date. Chipotle's identification of violations in its self-audit reports shall not be an admission that any data reported conclusively demonstrate any violations exist. With respect to minors' time records, if the percentage of the number of minor shifts with violations shown in their time records, out of the total number of minor shifts worked during the self-audit period at the sample restaurants, is at or below the following thresholds, NJ DOL agrees that no penalties shall be assessed for such violations:

- a. 10% for the first self-audit in year one;
- b. 7% for the second self-audit in year two; and
- c. 3% for the third self-audit in year three.

For any other violations of the CLL, and for any minors' time record violations found in excess of the above thresholds, NJ DOL may consider assessing penalties in accordance with the factors set forth in NJSA 34:2-21.19(b); however, NJ DOL agrees it will not expand the scope of the self-audit.

5. **Stipulated Additional Damages.** Chipotle's timely compliance with the terms of paragraphs 3 and 4 for any year of the Term is expressly understood to be a substantial and material provision of the Agreement and a failure to timely and materially comply shall entitle NJ DOL to recover damages flowing from such breach specifically, in a lump sum of One Hundred Thousand Dollars (\$100,000.00) per occurrence. In the event that Chipotle fails to provide a complete self-audit in accordance with paragraphs 3 and 4 no later than fifteen (15) days of the due date for a given self-audit period, NJ DOL shall notify Chipotle that the self-audit is overdue, identify any deficiencies that NJ DOL contends need to be addressed by Chipotle, and provide Chipotle thirty (30) days to cure the deficiency(ies). If, following the expiration of the 30-day cure period, Chipotle has still failed to provide the complete self-audit, NJ DOL may proceed with an enforcement action in accordance with this paragraph. The additional stipulated damages contemplated by this paragraph shall not be assessed if Chipotle reasonably and materially complies with its obligations in paragraphs 3 and 4. It is expressly agreed that the damages set forth in this paragraph in the event of a breach are not a penalty but are fair and reasonable in light of the expenditure of time and resources that would go into investigating Chipotle's compliance with minor labor laws in New Jersey. Furthermore, the damages set forth in this paragraph shall be in addition to any penalties that NJ DOL may otherwise assess against Chipotle for violations of the CLL or any other wage-and-hour statute uncovered as a result of any investigation necessitated by Chipotle's breach of its obligations under paragraphs 3 and 4, but will otherwise be the exclusive remedy for Chipotle's breach of its obligations under paragraphs 3 and 4. For the

avoidance of doubt, the stipulated additional damages described in this paragraph shall not be assessed for violations found in excess of the thresholds set forth in paragraphs 4.a., 4.b., and 4.c.

6. **Training.** Chipotle General Managers and Apprentice managers in New Jersey have already been, or shall be, trained on Chipotle's minor labor policy (which is more restrictive than New Jersey's CLL) within three (3) months of the Effective Date or within three (3) months of their hire or promotion to a General Manager or Apprentice position during the Term. Chipotle shall maintain and produce electronic records demonstrating completion of such training. All records of such training shall be provided to NJ DOL in accordance with the schedule set forth in paragraph 3 for all stores included in each year's reporting cycle sample. NJ DOL acknowledges that Chipotle's minor labor policy training program already provided to NJ DOL is sufficient to meet the training obligations in this paragraph.

7. **Policy Distribution to Minors.** Chipotle's minor labor policy applicable to New Jersey includes, or shall be revised to include, information regarding Chipotle's Respectful Workplace Hotline as a resource to report any child labor concerns. Within thirty (30) days of the Effective Date, Chipotle shall distribute its minor labor policy to all active minor employees in New Jersey. For all minor employees hired after this initial distribution, Chipotle shall provide a copy of its minor labor policy upon their hire, and managers shall meet with such minor employees to provide and discuss the CLL and Chipotle's minor labor policy. Minor employees will have the opportunity to ask questions during these meetings and confirm their understanding of the policies. Beginning in the first self-audit reporting cycle, Chipotle shall produce to NJ DOL a ten percent (10%) sample of records demonstrating distribution of such minor labor policies to all minor employees in accordance with the schedule outlined in paragraph 3 for all stores included in each year's reporting cycle sample. Chipotle shall also submit to NJ DOL an affidavit or other sworn statement, attesting to Chipotle's having distributed its minor labor policy to all minor employees in the State of New Jersey through the date of that year's reporting cycle sample.

8. **Child Labor Compliance Officer.** Chipotle agrees to designate a Child Labor Compliance Officer(s), who may be contacted via counsel, Betsy Bulat Turner at Martenson, Hasbrouck & Simon LLP.

9. **Timekeeping System.** Chipotle has implemented and will continue to maintain an electronic scheduling system that identifies minor employees to managerial staff. Chipotle shall provide NJ DOL proof of such a scheduling system within seven (7) days of its implementation. Said system shall be implemented within 30 days of the Effective Date.

10. **Payment Timing.** No later than thirty (30) days after the Effective Date, Chipotle shall deliver the Total Settlement Amount to NJ DOL via bank-to-bank wire transfer(s).

11. **Submissions to NJ DOL.** For any provisions herein that require Chipotle to furnish self-audit reports or any documentation to NJ DOL, Chipotle shall furnish any such self-audit report or documentation or reporting in electronic copy to Bureau Chief Kevin Triplett at kevin.triplett@dol.nj.gov and Assistant Director Barry T. Hickey at barry.hickey@dol.nj.gov or by hard copy to the Division of Wage and Hour Compliance, P.O. Box 389, Trenton, NJ 08625-0389. Chipotle shall also provide an electronic copy of all submissions to Deputy Attorneys

General Peter Basso at Peter.Basso@law.njoag.gov and Nadya Comas at Nadya.Comas@law.njoag.gov.

12. **General Cure Period and Enforcement.** With the exception of Chipotle's failure to pay the Total Settlement Amount as addressed in paragraph 2 herein, Chipotle shall be entitled to notice and ability to cure any other alleged violations of this Agreement. Specifically, NJ DOL shall notify Chipotle of any such alleged breach, specifically identify any deficiencies leading to the alleged breach, and provide Chipotle thirty (30) days to cure the breach and/or deficiency (ies) prior to pursuing any action or steps to address the alleged breach. Should Chipotle fail to cure such breach within thirty (30) days of notice of the breach, NJ DOL shall have the right to enforce the Agreement in the Superior Court of New Jersey and seek any remedies available at law, including the Stipulated Additional Damages set forth in paragraph 5 above, any equitable remedies, and any other relief the court may deem just and proper.

13. **Governing Law.** The Agreement shall be governed by the laws of New Jersey for all purposes including enforcement and may be amended or modified only in writing executed by the parties.

14. **Non-Admission of Liability.** Nothing in this Agreement shall constitute any admission on behalf of Chipotle of any form of liability or the accuracy of any allegation made by NJ DOL.

15. **Good Faith Compromise.** The parties to this Agreement agree that it reflects their good faith compromise of the claims raised in this matter, based upon their assessment of the mutual risks and costs of further litigation and the assessments of their respective counsel.

16. **Complete and Binding.** Once executed, this Agreement shall operate as a complete and final disposition of this matter and contains the entire agreement between NJ DOL and Chipotle, including all material terms, and is binding on the parties. This Agreement sets forth all of the promises, covenants, agreements, conditions and understandings between the parties, and it supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, express or implied. There are no representations, arrangements, or understandings, oral or written, between the parties relating to the subject matter of this Agreement that are not fully expressed herein, incorporated by reference, or attached hereto. Each party specifically warrants that this Agreement is executed without reliance upon any statement or representation by any other party hereto, except as expressly stated herein, incorporated by reference, or attached hereto.

17. **No Waiver.** Failure by NJ DOL to seek enforcement of any provision of this Agreement shall not be construed as a waiver of such provision, or a waiver of any other provision of this Agreement.

18. **Knowing and Voluntary.** This Agreement is entered into by each party freely and voluntarily and with full knowledge and understanding of the obligations and duties imposed by this Agreement.

19. **Severability.** If any clause, provision, or paragraph of this Agreement shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or paragraph of this Agreement and this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable clause, paragraph, or other provision had not been contained herein.

20. **No Inference Against the Drafter.** Neither NJ DOL nor Chipotle shall be considered the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

21. **Counterparts.** This Agreement may be executed in any number of counterparts and by different signatories on separate counterparts, each of which shall constitute an original counterpart hereof and all of which together shall constitute one and the same document. One or more counterparts of this Agreement may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart hereof.

22. **Expiration of Obligations.** Chipotle's obligations under this Agreement shall cease after the Term.

WHEREFORE, Chipotle and NJ DOL, intending to be bound by this Settlement Agreement, through their signatories below, certify that they are fully authorized to enter into this Settlement Agreement and execute this document on behalf of NJ DOL and Chipotle, to bind NJ DOL and Chipotle to the terms and conditions of this Agreement.

*** Signatures to Follow ***

Date: September 15, 2022

Joseph Petrecca

Joseph Petrecca, Assistant Commissioner
Department of Labor, Division of Wage and Hour Compliance
On behalf of NJ DOL

9/15/2022

Dated

Michael McGawn

Michael McGawn
Deputy General Counsel
On behalf of Chipotle

9/15/2022

Dated

Signature: Michael McGawn
Michael McGawn (Sep 15, 2022 09:57 PDT)

Email: [REDACTED]