

## SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE (“Agreement”) is entered into this \_\_\_ day of May 2015 between Ashley Provino (“Provino”), an individual, and Muster, Inc. d/b/a Big League Haircuts, a Colorado Corporation, and Kyle Reed, individual. The American Civil Liberties Union Foundation Women’s Rights Project is also a party to this Agreement. Provino, the ACLU, Muster, Inc., and Reed may collectively be referred to as the “Parties” throughout this Agreement.

### RECITALS

A. WHEREAS, Provino was formerly employed as an employee of Muster, Inc. until February 2013, at which time Provino’s employment terminated. Further, subsequent to that termination, Provino filed a claim against Muster, Inc. and Reed (Civil Action No: 14-CV-03262-RPM). The ACLU entered its appearance on behalf of Provino; and

B. WHEREAS this Agreement is offered to Provino by Muster, Inc. and Reed on May 21, 2015, its purpose being to fully and finally resolve any issues, legal disputes, lawsuits, appeals, etc. between the parties relating to her employment with Muster, Inc.; and

C. WHEREAS the Parties’ willingness to enter into this Agreement is not an admission of any wrongdoing or liability by either party relating to their former employment relationship or the termination of that relationship. In fact, each party specifically denies any wrongdoing or liability to the other;

NOW THEREFORE, in consideration of the mutual promises and covenants set forth in this Agreement, the Parties agree as follows:

### TERMS AND CONDITIONS

1. **Release of Claim(s) and Litigation.** In consideration of Muster, Inc. and Reed fulfilling its promises set forth in this Agreement, Provino hereby releases Reed, Muster, Inc., its shareholders, owners, commissioners, members, directors, officers, agents, managers, employees, representatives, insurers, attorneys, successors and assigns, present and past, and all other individuals and entities, from liability for any and all potential claim(s) at law or in equity, debts, demands, damages, injuries, losses and liabilities of whatsoever kind and nature arising from or in any way arising out of Provino’s employment with, separation of employment from, and relationship of any kind with Muster, Inc. This Agreement shall include, but is not limited to, potential claim(s) for:

- a. Wrongful discharge in violation of public policy;
- b. Violation of any fair employment practices law;
- c. Unpaid wages, overtime, other compensation, benefits or remuneration; violation of the Fair Labor Standards Act, Colorado’s Wage Claim Act or the Colorado Minimum Wage Order;
- d. Violation of ERISA;

- e. Defamation, libel, slander, invasion of privacy, outrageous conduct, intentional interference with current or prospective contract and all other negligent or intentional torts;
- f. Breach of express or implied contract;
- g. Breach of covenant of good faith and fair dealing; promissory estoppel or other claims based on equity;
- h. Discrimination, harassment, constructive discharge, or retaliation prohibited under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, or Colorado's Anti-Discrimination and Unfair Employment Practices Act including but not limited to sex, gender, sexual orientation, race, color, national origin, ancestry, religion, creed, age, or disability discrimination;
- i. Disability discrimination, harassment or retaliation under the Americans with Disabilities Act;
- j. Violation of the National Labor Relations Act;
- k. Interference with or retaliation of any rights under the Family and Medical Leave Act;
- l. Retaliation in violation of any state or federal law; and/or
- m. Failure to accommodate in violation of Workplace Accommodations for Nursing Mothers Act;
- n. Retaliation in violation of Workplace Accommodations for Nursing Mothers Act;
- o. All other claims whether based on contract, tort, legal or equitable theories, or any federal, state or local law, regulation, ruling or ordinance.

This waiver and release covers all forms and types of damages including, but not limited to, compensatory and consequential damages, past and future wages, past and future employment benefits, damages for emotional distress, mental anguish, humiliation, and loss of reputation, interest, any and all attorney fees and associated costs and expenses, and claims for punitive damages or penalties. However, Provino does not release the right to receive unemployment benefits or vested pension benefits if Provino is entitled to either or both. Further, Provino does not release any claim for any alleged workers' compensation claim, injury, etc., nor does Provino waive rights or claims that may arise after the date the waiver is executed.

This Agreement and the payments contemplated herein are in compromise of a pending litigation between Reed, Muster, Inc. and Provino. By entering into this Agreement, Provino, Muster, Inc. and Reed make no admission regarding the sufficiency or validity of such pending claim(s) or litigation and any wrongdoing by Reed, Muster, Inc., its officials, officers, employees, agents, and/or volunteers is specifically and unequivocally denied.

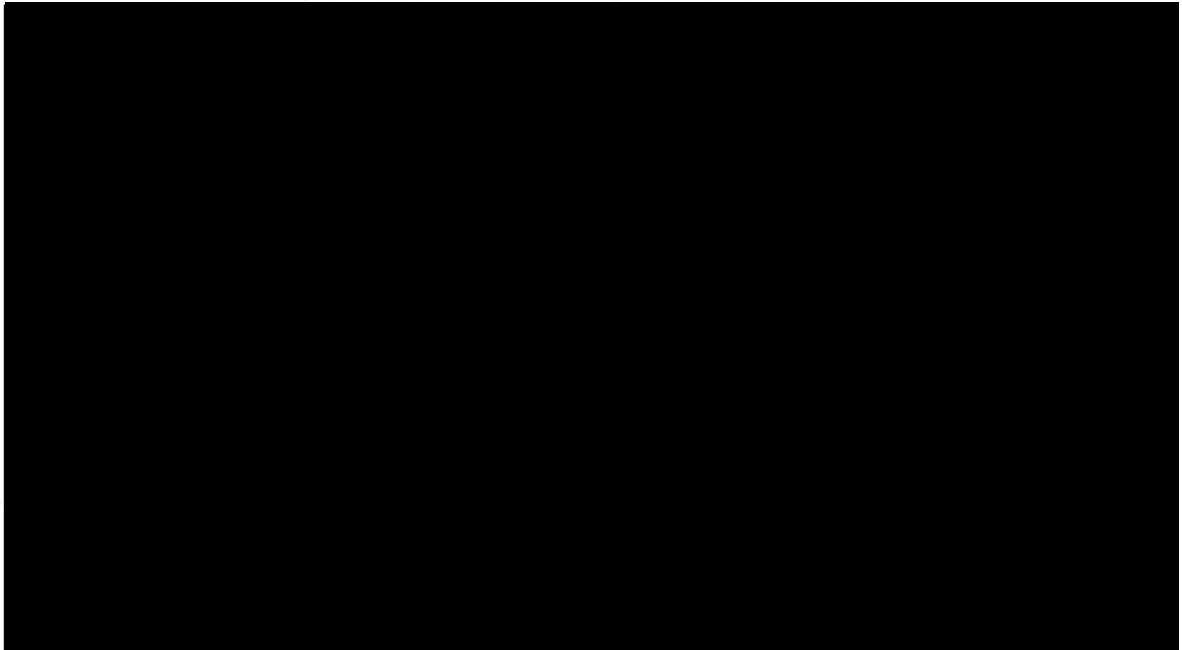
Based on this Agreement, Provino shall not institute, prosecute, file or process any further federal or state litigation, grievances, or other claims or charges against Reed, Muster, Inc., or its and their officers, agents or employees, in any capacity, attorneys, insurers, successor, heirs and assigns, in any way related to or arising from Provino's separation from employment or any other claims, or causes of action against Reed and Muster, Inc. or its and their officers, agents or employees, attorneys, insurers, successors, heirs and assigns arising out of alleged

instances of any loss or injury whatsoever, including but not limited to employment discrimination on any protected basis, claims or causes of action under the constitution, in tort, negligence, or contract, workers compensation, terms and conditions of employment, nor for any liability for injuries, losses, expenses, damages, costs, liabilities, damage to property, claims, and the consequences thereof, except for those claims that arise as a result of this Agreement.

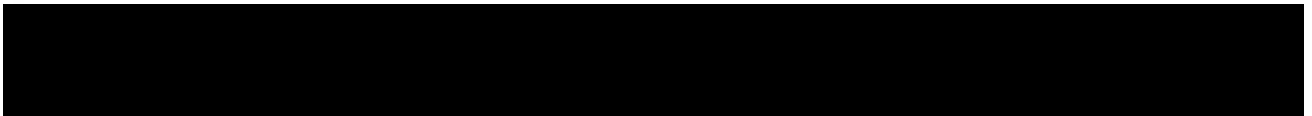
**2. Obligations / Consideration of Reed and Muster, Inc.**

The Parties acknowledge that as a result of this Agreement, Reed and Muster, Inc. have paid Provino all compensation and accrued benefits owed to her by Reed and Muster, Inc.

In consideration of her foregoing waiver and release and performance of other promises stated in this Agreement, Reed and Muster agree that they will pay Provino, or her attorneys, as designated below, the gross amount of the following:



The payments made to the ACLU shall be recorded on an IRS tax form 1099 made to the ACLU. The payments made to Provino will be designated as nonwage compensatory damages and reported on a IRS tax form 1099 (box 3) at the appropriate time. Reed and Muster, Inc. make no representation as to the taxability of the amounts paid to Ms. Provino and one behalf of Ms. Provino. Ms. Provino agrees to pay federal or state taxes, if any, which are required by law to be paid by Ms. Provino with respect to this settlement. Moreover, Ms. Provino agrees to indemnify Reed and Muster, Inc. and hold them harmless from any interest, taxes or penalties assessed against it by any governmental agency as a result of Ms. Provino's non-payment of taxes on any amounts paid to her or to her attorney under the terms of this Agreement.



[REDACTED]

Muster will also provide Provino the following non-monetary relief:

- a. Designate a sanitary, private place for expression of breast milk that is not a bathroom at each franchise location;
- b. Post an explicit written notice regarding employee rights' under the Workplace Accommodations for Nursing Mothers Act and the federal Reasonable Break Time for Nursing Mothers provision at each of its franchise locations in a common area to which all employees have access (a sample of which is attached hereto as Attachment 1);
- c. Designate an employee as the individual charged with assisting employees in exercising their rights under the Workplace Accommodations for Nursing Mothers Act and the federal Reasonable Break Time for Nursing Mothers provision and provision of training to the designated employee within sixty (60) days of such designation and at least once every two (2) years subsequently; and
- d. Provide of a copy of the Workplace Accommodations for Nursing Mothers Act and the Notice described above to each current employee and each new employee BLH hires in the future, as well as to any employee who notifies a BLH manager of her pregnancy within ten (10) days of such notification.

3. **Provino's Obligations / Consideration.** After the above titles are provided to the ACLU, Provino agrees to promptly file a voluntary Motion for Dismissal of Action with Prejudice with the Court in which her current action was filed to inform the Court that the Parties have reached a settlement and, thus, a voluntary dismissal of action with prejudice is appropriate and requested. Each party to pay its own fees and costs except as provided herein.

4. **Unforeseen Damages.** Provino enters into this Agreement with a full understanding that she may have sustained or will sustain unknown or unforeseen damages resulting directly or indirectly from the separation of her employment with Muster, Inc. By executing this Agreement, Provino fully intends to release everyone and every entity from any and all liability for any and all such unknown or unforeseen damages.

5. **Informed.** Provino states that she is fully informed as to the nature, extent, and character of her damages, losses, and liabilities, if any, and as to the nature, extent, severity, and duration and all other known or unknown, foreseen, or unforeseen consequences of such damages, losses, or liabilities, if any.

6. **Competent.** Provino warrants that no promise or inducement has been offered except as set forth in this Agreement and that Provino is legally competent to execute this

Agreement. Provino assumes the risk of any mistake of fact that might be associated with the execution and entering into of this Agreement.

7. **No assignment.** Provino represents that she has not assigned or subrogated any claims arising out of the employment relationship or separation from employment to any other person or entity and no person or entity has a claim for damages, losses or liabilities against Reed and Muster arising out of Provino's employment or any associated claims. In the event the persons or entities released herein are subject to claims by Provino she assigns claims that are released under this Agreement, Provino will hold the persons or entities sued harmless from any such claims and indemnify the persons or entities released herein for their damages, attorneys' fees and costs in defending any such claims.

8. **Non-disparagement / Confidentiality.** Provino will refrain from making disparaging remarks regarding BLH, Kyle and Elaine Reed. Speaking about the facts of this case shall not be deemed "disparagement" under this Agreement. Provino will refrain from speaking with any of her students about this lawsuit and the facts underlying this lawsuit. Upon request, Muster, Inc. and Reed agree to provide a neutral reference to any future prospective employer of Provino and will state only Provino's last position with Employers, her tenure with Employers, and that her employment was separated by mutual agreement. No other details shall be provided to prospective employers of Provino without express written consent. This obligation shall apply only if such inquiries are directed to Kyle Reed, and neither Reed, nor Muster, Inc. will not be subject to any liability, claims, etc., for requests made to someone other than Reed.

Additionally, Ms. Provino, Reed, and Muster, Inc. agree not to disclose the monetary amount of this Agreement to anyone other than their attorneys, accountants, etc. unless as required by Court order or law. Ms. Provino, Reed, Muster, Inc. shall advise the parties with whom they have the right to share information about this Agreement that they, also, are obligated not to disclose the terms and conditions, and that Ms. Provino and they can be held liable for any damages suffered a party as a result of their disclosure.

The ACLU shall issue a press release that focuses on public education regarding the rights of nursing mothers in the workplace and the parties' cooperative efforts to protect them. Any press release shall include a specific statement explicitly commending BLH for its strides to protect the rights of nursing mothers in the workplace. The ACLU Foundation of Colorado will send a courtesy copy of any press release to counsel for BLH by 3pm the day prior to publication.

9. **Acceptance of Agreement.** Provino's signature below evidences her knowing and voluntary acceptance of this Agreement. This Agreement is forever binding upon the Parties hereto, their heirs, assigns and successors-in-interest. No rescission, modification or release of the Parties from the terms of this Agreement shall be made for any reasons.

10. **Waiver of Breach / Entire Agreement.** No breach of any provision of this Agreement can be waived unless in writing. Waiver of any one breach shall not be deemed to be

a waiver of any other breach of the same or any other provision hereof. This Agreement may be amended only by a written agreement executed by the parties in interest at the time of the amendment. This Agreement represents the entire agreement between the Parties regarding Provino's employment, separation from employment, release of claims and the subjects covered herein.

11. **Invalid or Void Provisions.** If any provision of this Agreement is held to be invalid or void or ineffective against any party hereto by any court of competent jurisdiction, then any such provision shall be deemed stricken and the remaining provisions shall remain in full force and effect.

12. **Medicare.** Provino hereby warrants and represents that she is not, nor has she ever been, enrolled in Medicare Part A, Part B, or Part C. Based upon a review of the relevant facts and circumstances, Provino has advised and warranted to Reed and Muster, Inc. that Medicare has not paid any of Provino's medical expenses, that Provino has not been and is not now eligible for Medicare benefits, and that Provino has no plans to apply for SSDI or Medicare benefits within thirty (30) months of this Agreement. It is not anticipated or foreseeable that Provino will become eligible for Medicare in the near future. Therefore, no funds are being set aside for Provino's future Medicare-covered treatment.

Provino agrees to hold harmless, indemnify, and defend Reed and Muster, Inc. and their attorneys from any claim or cause of action, including but not limited to, an action by Centers for Medicare & Medicaid Services ("CMS") to recover or recoup Medicare benefits or loss of Medicare benefits, including past, present, and future and/or conditional payments, regardless of whether the claim or cause of action has merit. Provino shall be responsible for and hold all RELEASEE(S) harmless from any claim for conditional payments made by Medicare, including past, present and future. This indemnification obligation includes all damages and costs incurred by RELEASEE(S), and/or their attorneys and/or insurer(s), including but not limited to attorneys' fees incurred by or on behalf of RELEASEE(S), and/or their attorneys and/or insurer(s), fines and penalties, multipliers, costs, interest, expenses and judgments.

In consideration of the payments set forth in the Agreement, Provino waives, releases, and forever discharges RELEASEE(S) from any obligations for any claim, known or unknown, arising out of the failure of Reed or Muster, Inc. to provide for a primary payment or appropriate reimbursement pursuant to 42 U.S.C. §1395y(b)(3)(A).

13. **Right to Obtain Legal Advice.** Provino acknowledges that she has been informed that **she has the right to seek advice from an attorney, and that Reed and Muster, Inc. recommend that she do so, before signing this Agreement,** and enters into this Agreement knowingly and voluntarily with full understanding that she is giving up legal rights by signing this Agreement. It shall be a breach of this Agreement to bring claims against any person or entity that is released herein. Furthermore, Provino acknowledges that she has obtained legal advice regarding this Agreement.

14. **EEOC Charge and Other Administrative Filings.** Notwithstanding any other provisions of this Agreement, Provino is not prohibited from filing a charge or participating in an

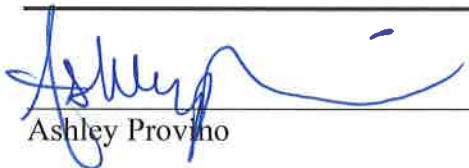
investigation with the Equal Employment Opportunity Commission (“EEOC”) or any Fair Employment Practices Agency, including but not limited to the Colorado Civil Rights Division, if such right is not waivable. But Provino releases any right to seek rehire or receive damages or other monetary awards in any action filed by the EEOC on her behalf arising out of or in any way relating to her employment or separation.

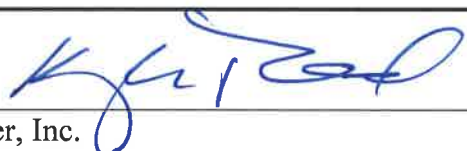
15. **Violation of Agreement.** Except as otherwise provided herein, a party who violates this Agreement causing the other party or anyone protected by this Agreement, to incur damages, costs of litigation or attorney’s fees, shall be liable to the other for all such reasonable damages, costs, and fees.

16. **State Law.** This Agreement shall be governed by the laws of the State of Colorado in the event of any dispute involving this Agreement. The Parties consent to jurisdiction in Colorado and venue in Mesa County, Colorado.

17. **Counterparts and Signatures.** This Agreement may be executed in two or more counterparts, and the failure to have the signatures of all Parties in a single Agreement shall not affect the validity or enforceability of any part of this Agreement against any party who executes any counterpart of the Agreement. Furthermore, electronically transmitted and faxed signatures shall be deemed as original signatures.


I HAVE CAREFULLY READ THE ABOVE AGREEMENT. I, HEREBY, KNOWINGLY AND VOLUNTARILY AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

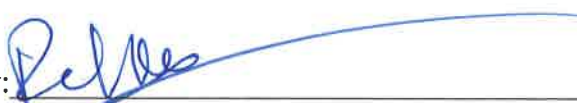
  
Ashley Provino

By:   
Muster, Inc.

Dated this 21 day of May 2015

Dated this 21 day of May 2015

  
Kyle Reed

By:   
American Civil Liberties Union Foundation of  
Women’s Rights Project Colorado

Dated this 21 day of May, 2015

Dated this 21 day of May, 2015

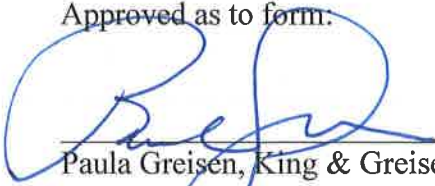
Subscribed and affirmed before me by Ashley Provino in the county of \_\_\_\_\_,  
State of Colorado, this \_\_\_\_\_ day of May, 2015.

\_\_\_\_\_  
Notary's Signature

\_\_\_\_\_  
Commission Expiration

Notary Seal

Approved as to form:

  
\_\_\_\_\_  
Paula Greisen, King & Greisen, LLP

5.21.15  
Date

  
\_\_\_\_\_  
Michael Santo, Bechtel & Santo

5/21/15  
Date