

SETTLEMENT AGREEMENT AND MUTUAL RELEASE
Pet Holdings, Inc. v. John Doe, (D. Az. Case No. 2:10-CV-00189-MHB) (the “Lawsuit”)

THIS Settlement Agreement and Mutual Release (the “**Agreement**”) is made effective as of the later of the dates signed below (the “**Effective Date**”), by and between Pet Holdings, Inc. (“**PHI**”) and Cristian Castillo (“**Castillo**”). PHI and Castillo are referred to together as the “**Parties**” or the “parties”.

RECITALS

PHI asserted claims against Castillo (the registrant of <failbook.com> (the “**Domain Name**”)) alleging that (i) Castillo infringed on PHI trademarks and misled consumers into believing there was an affiliation between Castillo and PHI and (ii) Castillo improperly utilized automated means to access PHI’s website located at <Failbooking.com> (the “**PHI Site**”) and accessed copyrighted material thereon;

The Parties wish to resolve the differences between them in order to avoid the time and expense associated with a legal proceeding;

The Parties enter into this Agreement to memorialize the terms of the settlement.

AGREEMENT

1. **Releases.** In exchange for payment of the amount set forth in Section 2, and Castillo’s agreement to the conditions set forth in Section 3, PHI releases all claims (existing on or prior to the Effective Date) against Castillo relating to the Domain Name and the web site accessible via the Domain Name, including those asserted in the Lawsuit. Castillo releases all claims (existing on or prior to the Effective Date) against PHI, including those based on PHI’s enforcement efforts. The foregoing releases shall be broadly construed (on behalf of both Parties), includes all claims, whether known or unknown, contingent or actual, whether arising under the laws of the United States or any foreign country. The release by Castillo extends to PHI’s executives, employees, counsel, and others who acted on PHI’s behalf. The release by PHI does not extend to any subsequent transferee or purchaser of the Domain Name and does not cover any claims which PHI may have in the future.

2. **Settlement Payment.** Castillo agrees to pay to PHI the amount of \$8095.00 (US Dollars) (the “**Settlement Payment**”) either via wire transfer or PayPal, to the account specified by PHI. Castillo shall make the Settlement Payment to PHI within forty eight (48) hours of the later of the Effective Date or the date PHI provides its account information for the Settlement Payment. Within five (5) days of receipt of the Settlement Payment, PHI shall dismiss the Lawsuit.

3. **Collateral Obligations.** In addition to payment of the Settlement Payment above, Castillo agrees to (i) not advertise, offer, or promote (through the website accessible via the Domain Name) any product or service which is competitive with the products or services of PHI, including the PHI Site; or (ii) utilize any trademarks or service marks of PHI (or confusing variations of such marks) on the website accessible via the Domain Name, including those set forth in Exhibit A. Additionally, Castillo shall post a notice on the website accessible via the homepage of the Domain Name as follows: “Looking for Failbooking.com? Click here. Failbook.com is not associated with Failbooking.com.” (The text “Click here.” shall hyperlink to the PHI Site.) The text of this notice shall be larger than 18 point font (as expressed in Arial typeface), and shall be above the fold.

4. **Confidentiality.** The parties agree to keep the terms of this Agreement strictly confidential, and may disclose the Agreement, and the terms thereof, only to their accountants and attorneys, who shall be bound by the confidentiality provisions of this Agreement. PHI may additionally disclose the Agreement to GoDaddy for purposes of enforcement of the terms of the Agreement. The parties acknowledge and agree that this confidentiality is a material term of the Agreement. To the extent either party receives a subpoena seeking disclosure of the settlement terms, the party receiving such notice shall promptly provide the other party notice and cooperate with respect to keeping the Agreement confidential. In the event either party is required to disclose the Agreement, or the terms thereof, it shall undertake best efforts to redact Sections 1 and 2. In response to any queries regarding the Lawsuit (or the dispute generally) or in public statements, the parties may only state that they have “resolved their differences pursuant to a confidential settlement agreement.” The parties shall also refrain from publicly disparaging each other, or any of their executives (i.e., in Castillo’s case he agrees to not disparage Ben Huh).

5. **Consent to Jurisdiction.** Castillo consents irrevocably to the jurisdiction of the United States District Court for the District of Arizona and the Western District of Washington and the state courts in Arizona and Washington with respect to resolution of any dispute under this Agreement, relating to the Domain Name, or in any action by PHI to enforce the provisions of this Agreement. Further, Castillo agrees to accept service of process via email (at the email address set forth under his signature) of all papers in the Lawsuit, including but not limited to the Summons and the Complaint, and all papers, including but not limited to a summons or a complaint, in any future action seeking to enforce the provisions of this Agreement. Castillo waives any objection to personal jurisdiction in Arizona or Washington, and any rights he may have to hand delivery or personal service of process of the Summons and Complaint, whether such rights arise under the laws of the United States, or of Mexico, or any international treaty (e.g., the Hague Convention). Castillo further consents that (1) the Domain Name shall remain registered at GoDaddy for a period of twelve (12) months from the Effective Date (unless Castillo transfers the Domain Name to PHI), and (2) consents to placement of a “full lock” by

GoDaddy which prevents the Domain Name from being transferred to a different registrant *or* registrar during this twelve (12) month time period. Castillo further acknowledges that he grants to PHI a security interest in the Domain Name to ensure Castillo's performance of his obligations under this Agreement, and PHI may enforce such security interest by taking possession of the Domain Name in the event of Castillo's non-compliance. Castillo agrees to sign any document perfecting PHI's security interest in the Domain Name. In the event of a breach of the provisions of Sections 3 or 4 of this Agreement, Castillo consents to the entry of an ex parte temporary restraining order due to the irreparable nature of the harm which would flow from such breaches. Such temporary restraining order may include preventing transfer of the Domain Name to a third party, or an order requiring transfer of the Domain Name to PHI.

6. **Entire Agreement.** This Agreement contains the entire agreement of the Parties, and supersedes any prior agreements or discussions. The Parties acknowledge and agree that any moneys exchanged pursuant to this Agreement shall fully resolve all monetary disputes relating to the Lawsuit, that they shall have no additional rights to seek or collect any costs or fees with respect to the Lawsuit, and that they waive any claims for fees and costs relating to the Lawsuit.

7. **Opportunity to Review.** The Parties acknowledge that each party has had the opportunity to review, negotiate, and understand the provisions of this Agreement through legal counsel of each party's choice. The Agreement shall be interpreted as having been jointly drafted. This Agreement shall be governed and construed according to the laws of the United States, and the State of Washington without reference to any choice of law rules to the contrary.

8. **Counterparts.** This Agreement may be signed in counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. The Parties hereto confirm that any facsimile copy of another party's executed counterpart of this Agreement (or its signature page thereof) will be deemed to be an executed original thereof.

Pet Holdings, Inc. By: _____ Ben Huh, its CEO Dated: Address:	Cristian Castillo By: _____ Dated: Address:
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EXHIBIT A

“CHEEZBURGER”
“I CAN HAS CHEEZBURGER?”
“FAILBOOKING”
“TOO FUNNY TO UNFRIEND”
