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In re Buffets, LLC, et al. Case No. 16-50557-RBK, US Bankruptcy Court for the Western District of Texas, San Antonio Division

Dear Claimant,

Please find enclosed a check representing your recovery payment in the settlement in the case referenced above. The Bankruptcy Court for the Western District of Texas has approved a Settlement Agreement between servers and the Bankruptcy Trustee of claims against the Bankruptcy Trust.¹ This settlement covers claims for the period between July 18, 2012 and September 8, 2015 for Eligible Servers, that is, servers who worked at a Buffets restaurant, who joined this case by submitting a consent to sue, and from whom we received a Confirmation of Loss Statement by the deadline set by the Court. You are receiving a recovery payment because you are an Eligible Server.

Trust Settlement

The negotiated settlement takes into account the various risks that Eligible Servers faced in continuing to litigate these claims. These risks included typical litigation risks such as losing at trial and recovering nothing at all or recovering substantially less than the full claim amount even if successful at trial. The risks also include risks unique to bankruptcy, including that litigating the claims would expend much of the funds available in bankruptcy or would push the bankruptcy into a liquidation that would provide little or no recovery. The settlement also takes into account the time and expense of going to trial. For example, Eligible Servers would likely have been required to provide individual testimony at trial to support their claims and the cost of going to trial could have outweighed the recovery available in bankruptcy. Based on those risks, the Court approved the settlement as fair and reasonable.

In return for a recovery in the bankruptcy, Eligible Servers release any claims brought or that could have brought against the Trust or its agents.²

Recovery Payment Calculation

The Settlement Agreement allows each Eligible Server a General Unsecured Claim (“GUC Claim”) in the bankruptcy that is calculated at 40% of the amount listed on the Proof of Claim.

¹ You can view a copy of the Settlement Agreement here: <https://getmansweeney.com/wp-content/uploads/2018/11/Trust-Settlement-Agreement.pdf>

² You can view the full release in Section 7 of the Settlement Agreement.

That GUC Claim is then subject to the rules of the Bankruptcy Plan.³ Under the Bankruptcy Plan, a Trust, or pool of money, is established to pay all the GUC Claims, including those of the Eligible Servers. In most bankruptcies, including this one, the Trust is insufficient to pay the full value of GUC Claims and only a percentage of each GUC Claim can be paid. In this case, the Trust Payment will be approximately 10% of the GUC Claim value. One-third of the Trust Payment is paid to counsel for litigation fees and the costs of litigation. An example of the recovery payment calculation is as follows:

Proof of Claim amount:	\$ 10,000.00
GUC Claim (40% of Proof of Claim):	\$ 4,000.00
Trust Payment (10% of GUC Claim):	\$ 400.00
Less one third in litigation fees and costs:	-\$ 133.33
Eligible Server recovery:	\$ 266.67

One half of the Eligible Server recovery will be paid as back wages (subject to tax withholding on a W-2) and the second half paid as liquidated damages (listed on a 1099 tax form). The Bankruptcy Trust will pay the employer's share of Social Security and Medicare taxes. Any additional withholding taxes will be taken from the Eligible Server recovery.

Eligible Servers have 9 months to cash or deposit the enclosed check. If the check is not negotiated within 9 months after being issued, the money shall be transferred to the appropriate state department of unclaimed funds.

If you have questions about your settlement payment, or need to update your mailing address, telephone number or email, please contact the Settlement Administrator at 1-888-328-9450.

Sincerely,

/s/ Mike Sweeney

Mike Sweeney

³ You can view a copy of the Bankruptcy Plan here: <https://getmansweeney.com/wp-content/uploads/2018/11/2576-Findings-of-Fact-Conclusions-of-Law-and-Order-Confirming-Chapter-11-Plan-2573-Second-Amended-Chapter-11-Plan-1.pdf>