

IN THE CIRCUIT COURT FOR THE  
EIGHTH JUDICIAL CIRCUIT IN AND  
FOR ALACHUA COUNTY, FLORIDA

CASE NO.: 2022-CA-00689

BAITING HOLLOW DEVELOPMENT  
LLC, a Florida limited liability company,

Plaintiff,

v.

PREMA TOY COMPANY, INC.,  
a Foreign Corporation,  
FOX MEDIA LLC, a Foreign  
limited liability company, and  
BENTO BOX ENTERTAINMENT, LLC  
a Foreign limited liability company,

Defendants.

---

**BAITING HOLLOW DEVELOPMENT, LLC'S**  
**MOTION FOR LEAVE TO FILE ITS SECOND AMENDED COMPLAINT**

Plaintiff BAITING HOLLOW DEVELOPMENT, LLC, a Florida limited liability company, hereby moves for leave to file its Second Amended Complaint, pursuant to Rule 1.190(a), *Florida Rules of Civil Procedure*, and as grounds, states as follows:

1. Plaintiff seeks leave of Court to file a Second Amended Complaint in this action, in two respects.
2. First, Plaintiff seeks to add causes of action against Defendants for breach of contract (Count 2), breach of the implied covenant of good faith and fair dealing (Count 3), and conversion (Count 4, all stemming from Defendants' wrongful and improper July 21, 2025 termination of the License Agreement that is the subject of this dispute.

3. Second, Plaintiff seeks to add Fox Corporation, which is a necessary party to this action in order to afford complete relief to Plaintiff on its various claims arising from the same conduct, transaction, or occurrence. Therefore, Fox Corporation must be named and joined as a party-Defendant in this action.

4. Pursuant to Florida Rules of Civil Procedure 1.190(a), leave of court shall be freely given when justice so requires. Failure to permit amendment “constitutes an abuse of discretion unless it clearly appears that the amendment would prejudice the opposing party, the privilege to amend has been abused, or amendment would be futile.” *Carter v. Ferrell*, 666 So. 2d 556, 557 (Fla. 2d DCA 1995); *See Scott v. Trevett*, 751 So. 2d 616 (Fla. 4th DCA 1999). Each of these factors is satisfied here.

5. First, little discovery and no depositions have occurred to date, and trial is not scheduled until July 2026. Moreover, Defendants recently sought and were granted (with Plaintiff’s consent) leave of Court to file a Counterclaim in this action, adding previously unstated causes of action by Defendants against Plaintiff. Defendants, therefore, will not suffer any prejudice were the Court to grant Plaintiff the leave it seeks. Conversely, were the Court to deny leave to Plaintiff here, Plaintiff would be unduly prejudiced.

6. Second, with only one prior amendment to its then-operative complaint, Plaintiff has not abused the privilege to amend its pleading.

7. Third, the amendments Plaintiff seeks here are not futile, as such claims are well-pleaded and grounded in allegations of ultimate fact.

8. To avoid prejudice to the Plaintiff and allow all of Plaintiff’s claims against all of the Fox entities to be fully resolved in the instant action, Plaintiff needs to file its Seconded Amended Complaint.

9. A copy of the proposed Second Amended Complaint is attached hereto as **Exhibit**  
**“1.”**

**WHEREFORE**, Plaintiff respectfully moves that this honorable Court grant Plaintiff leave to file and serve its Second Amended Complaint and that the attached proposed Second Amended Complaint stand as Plaintiff’s Second Amended Complaint.

Respectfully submitted,

/s/ Mark F. Raymond

Mark F. Raymond, Esq.

Florida Bar No.: 373397

mark.raymond@nelsonmullins.com

stacy.smith@nelsonmullins.com

Shane P. Martin, Esq.

Florida Bar No. 056306

shane.martin@nelsonmullins.com

stacy.smith@nelsonmullins.com

NELSON MULLINS

2 S. Biscayne Blvd.

One Biscayne Tower, 21<sup>st</sup> Fl

Miami, Florida 33131

Telephone: 305.373.9425

*Attorneys for Plaintiff Baiting Hollow  
Development, LLC*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 31st day of December 2025, a true and correct copy of the foregoing was filed using the Florida Court's E-Filing Portal, which will send a notice of electronic filing to counsel of record for the parties:

John R. Zoesch, Esq.  
jack.zoesch@phelps.com  
Rebecca Woodcock, Esq.  
rebecca.woodcock@phelps.com  
*Counsel for Defendants*

Jennifer Cates Lester, Esq.  
jlester@avera.com  
bcorely@avera.com  
sdewey@avera.com  
*Co-Counsel for Plaintiff*

*/s/ Mark F. Raymond*  
Mark F. Raymond, Esq.

4929-8757-9525 v.1

**Exhibit "1"**

IN THE CIRCUIT COURT FOR THE EIGHTH JUDICIAL CIRCUIT IN AND FOR  
ALACHUA COUNTY, FLORIDA

CASE NO.: 2022-CA-00689

BAITING HOLLOW DEVELOPMENT, LLC  
a Florida Limited Liability Company,

Plaintiff,

v.

FOX CORPORATION, a Foreign Corporation,  
FOX MEDIA, LLC, a Foreign Limited Liability  
Company Authorized to do Business in Florida,  
BENTO BOX ENTERTAINMENT, LLC,  
a Foreign Limited Liability Company, and  
PREMA TOY COMPANY, INC., a  
Foreign Limited Liability Company,

Defendants.

---

**SECOND AMENDED COMPLAINT**

Plaintiff BAITING HOLLOW DEVELOPMENT, LLC, a Florida limited liability company, files this Second Amended Complaint against Defendants FOX CORPORATION, a foreign corporation, FOX MEDIA, LLC, a foreign limited liability company authorized to do business in Florida, BENTO BOX ENTERTAINMENT, LLC, a foreign limited liability company, and PREMA TOY COMPANY, INC., a foreign limited liability company, alleging as follows:

**THE PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff BAITING HOLLOW DEVELOPMENT, LLC (“BAITING”) is a Florida limited liability company and has its principal place of business located at 2028 SW 34th Street, Gainesville, FL 32607.

2. Defendant FOX CORPORATION is a Delaware corporation. One of the divisions of FOX CORPORATION is “Fox Entertainment.” FOX CORPORATION may claim some direct or indirect interest in the License Agreement; BAITING herein alleges that

FOX CORPORATION breached the License Agreement, financially damaged BAITING's business, and ultimately stole BAITING's intellectual property rights set forth in the License Agreement.

3. Defendant FOX MEDIA, LLC is a foreign limited liability company authorized to business in the state of Florida. FOX MEDIA, LLC may claim some direct or indirect interest in the License Agreement; BAITING herein alleges that FOX MEDIA, LLC breached the License Agreement, financially damaged BAITING's business, and ultimately stole BAITING's intellectual property rights set forth in the License Agreement.

4. Defendant BENTO BOX ENTERTAINMENT, LLC is a foreign limited liability company and subsidiary of FOX MEDIA LLC. BENTO BOX ENTERTAINMENT, LLC may claim some direct or indirect interest in the License Agreement; BAITING herein alleges that BENTO BOX ENTERTAINMENT, LLC breached the License Agreement, financially damaged BAITING's business, and ultimately stole BAITING's intellectual property rights set forth in the License Agreement.

5. Defendant PREMA TOY COMPANY, INC. ("PREMA") is a foreign corporation and subsidiary of BENTO BOX ENTERTAINMENT, LLC and/or FOX MEDIA, LLC, and/or FOX CORPORATION transacting or authorized to transact business in Florida. As detailed below, PREMA licensed certain rights to BAITING via a License Agreement dated June 27, 1986 (the "License Agreement") and, therefore, may claim some direct or indirect interest in the License Agreement; BAITING herein alleges that PREMA breached the License Agreement, financially damaged BAITING's business, and ultimately stole BAITING's intellectual property rights set forth in the License Agreement.

6. FOX CORPORATION, FOX MEDIA, LLC and BENTO BOX ENTERTAINMENT, LLC acquired PREMA on or about February 7, 2022. FOX CORPORATION, FOX MEDIA, LLC, BENTO BOX ENTERTAINMENT, LLC, and

PREMA are collectively referred to as “FOX.”

7. This Court has jurisdiction over FOX pursuant to §48.193(1)(a)(1) and §48.193(2), Florida Statutes, because it has filed documents with the Florida Department of State reflecting that it conducts business in the state of Florida. Furthermore, as discussed below, FOX licensed the Gumby Characters (as defined below) to BAITING for the use of marketing and promotion of food and beverage businesses pursuant to the License Agreement, including marketing and promotion in Florida, and FOX has received the benefits of the marketing and promotion in Florida under the License Agreement.

8. Additionally, FOX is subject to Florida’s jurisdiction pursuant to §48.193(1)(a)(7), Florida Statutes, insofar as it has materially breached the License Agreement by demanding that the licensee perform acts that, pursuant to a prior waiver and modification, are no longer required under the License Agreement, and by threatening to and ultimately, without cause, terminating the License Agreement, held by BAITING as licensee in Alachua County, Florida, for non-compliance with its improper demands, which were contrary to the License Agreement and rights owned by BAITING in the Gumby Characters.

9. Venue for this action is proper in Alachua County, Florida because, pursuant to §47.051, Florida Statutes, Alachua County is the location where the causes of action accrued and, where FOX breached the License Agreement and its associated intellectual property rights.

10. Chapter 86, Florida Statutes, provides this Court with jurisdiction to declare the parties’ rights under the License Agreement, as the amount in controversy exceeds \$30,000.00 (the jurisdictional amount when this action was filed).

## GENERAL ALLEGATIONS

11. During the middle part of the last century, Art Clokey created clay animated cartoon characters “Gumby,” “Pokey,” and the “Blockheads,” along with about two dozen other characters (hereinafter collectively “Gumby Characters”). The Gumby Characters proved to be extremely popular with the general public and were featured in many movies, cartoons, and popular television shows.

12. At some point, upon information and belief, Art Clokey transferred the intellectual property rights of the Gumby Characters from his individual capacity to PREMA, which, at the time, was an entity fully owned by Mr. Clokey.

13. In 1986, PREMA granted Tau Ventures, Inc. a license to utilize the Gumby Characters for its marketing and promotion of its food and beverage business via the License Agreement. A true, accurate, and correct copy of the License Agreement between PREMA, as licensor, and Tau Ventures, Inc., as licensee, is attached as **Exhibit “A”** and incorporated by reference herein.

14. Subsequent to the execution of the License Agreement, Tau Ventures, Inc. assigned all of its licensing rights to Gumby’s Pizza Systems, Inc., which, in turn, assigned such licensing rights to Gumby’s Pizza International, Inc., which, in turn, assigned such licensing rights to Gumby’s Pizza International, LLC, which rights were then assigned to BAITING, the current licensee. True, accurate, and correct copies of each of these assignments are attached as **Composite Exhibit “B”** and incorporated by reference herein.

15. On March 2, 2022, Tirzah Lowe, writing in her capacity as the vice president “for intellectual property” for “Fox Entertainment” sent an email to an attorney who is affiliated with BAITING. In her email, Ms. Lowe stated that her principal had recently acquired PREMA and, consequently, currently owned the rights. A true, accurate, and correct copy of the communication is attached as **Exhibit “C”** and incorporated by reference herein.

16. The email communication further states, in pertinent part, that it was her principal's position that BAITING had violated the License Agreement by maintaining a website known as "GumbyCoins.Com." Ms. Lowe's demands were made in bad faith and with malice. The email correspondence between Mrs. Clokey and BAITING that she included in her own email of March 2, 2022 (Exhibit "C") shows that Mrs. Clokey's concern was whether the GumbyCoins.Com website was related to foods and beverages (as part of that communication, a customer receipt was included and showed exactly how the coins were being utilized as digital gift cards for the purchase of Gumby's Pizza, Pokey Stix, and Blockhead Pepperoni Rolls). Even more egregious was the fact that Ms. Lowe blatantly omitted a February 11, 2022 email from Mrs. Clokey to BAITING wherein she thanked BAITING stating: "It's been a pleasure working with you. We appreciate all that you've done to bring fun and exciting Gumby merchandise to the market." It is obvious that Mrs. Clokey was thanking BAITING for the Gumby Coins project (as one would be hard pressed to call newspaper advertisements for pizza "exciting Gumby merchandise"). A true, accurate, and correct copy of the communication is attached as **Exhibit "D"** and incorporated by reference herein.

17. GumbyCoins.Com was a website that was established to sell four separate crypto currency coins that featured the Gumby Characters. The four coins were digital gift cards and being used to advertise and promote the purchase of foods and beverages for Gumby's Pizza.

18. Ms. Lowe's email asserted that there had been a breach of the License Agreement because BAITING had not first obtained consent from FOX before establishing the website.

19. Consequently, FOX demanded that the GumbyCoins.Com website be taken down within seven (7) days from the date of Ms. Lowe's communication. It further stated:

“If you do not wish to comply, we expect all use of the Gumby properties to cease within 30 days from the date of this letter.” This was a clear warning that FOX would treat any failure to comply with this demand as grounds for terminating the License Agreement.

20. FOX contends that BAITING, as the licensee, must first obtain FOX’s approval, as licensor, before using the Gumby Characters in advertising and promotions.

21. FOX was apparently relying on paragraph 8 of the License Agreement, which states, in pertinent part:

APPROVAL: Licensee agrees to furnish Licensor copies of all advertising and promotions to be used by Licensee, by certified mail. Within 30 days after receipt of said materials, Licensor shall inform Licensee in writing of its approval or disapproval, as to the quality and style of the materials. Failure to notify Licensee within 30 days shall constitute approval by Licensor ....

22. However, BAITING is not required to obtain pre-approval of advertising and promotions because this pre-approval language has been expressly waived. In or around 1987, Mr. Clokey, facing a constant series of approval requests from the then-licensee for various advertisements and promotions involving the Gumby Characters, expressly and permanently waived the pre-approval previously required under paragraph 8 of the License Agreement.

23. Indeed, the parties’ memorialized this waiver or modification to the License Agreement concerning paragraph 8 in a memorandum dated February 7, 1991, wherein paragraph 8 was deleted from the Licensing Agreement. A true, accurate, and correct copy of the “Memorialization” is attached as **Exhibit “E”** and incorporated by reference herein.

24. Alternatively, the parties agreed to modify the License Agreement to omit the pre-approval requirement under paragraph 8 or modified the License Agreement by their course of conduct and performed under the License Agreement in accordance with that modification for decades.

25. In reliance on this waiver and/or modification, the licensee ceased to send pre-approval requests regarding its advertising and promotions involving the Gumby Characters.

26. For decades, FOX knowingly accepted the financial benefits under the License Agreement without demanding compliance with paragraph 8's former pre-approval requirement.

27. In reliance on FOX's actions and inactions, BAITING expended significant marketing and technological funds in funding and operating the GumbyCoins.Com website, and FOX should be estopped from asserting paragraph 8 of the License Agreement's pre-approval requirement in connection with GumbyCoins.Com or any other advertising and promotions involving the Gumby Characters.

28. While disagreeing that deactivation of the website was required, BAITING took down the GumbyCoins.Com website within the seven (7) day period as FOX demanded, subject to the Court's adjudication of this declaratory judgment action concerning the parties' rights under the License Agreement.

29. FOX's demand that BAITING take down its website was improper, made in bad faith, and contrary to the License Agreement, as amended or modified.

30. On July 22, 2024, FOX demanded an audit of BAITING's books and records, ostensibly pursuant to Paragraph 6 of the License Agreement. This right to audit, however, has likewise been modified or deleted from the License Agreement, and thus FOX has no right to demand an audit of BAITING'S books and records. BAITING, disagreeing that FOX had the right to conduct an audit, allowed FOX's auditors from PricewaterhouseCoopers to conduct an audit of its books and records on October 30/31, 2024. Then, on January 2, 2025, FOX demanded a second audit, which again, PricewaterhouseCoopers conducted on March 24, 2025. And, finally, on June 9, 2025, FOX demanded a third audit along with making many

scurrilous claims against BAITING in its demand letter. A true, accurate, and correct copy of the “FOX’s Letter” is attached as **Exhibit “F”** and incorporated by reference herein. BAITING responded to FOX with its own letter dated July 4, 2025. A true, accurate, and correct copy of the “BAITING’s Letter” is attached as **Exhibit “G”** and incorporated by reference herein. In its letter, disagreeing with FOX’s right to conduct another audit, nevertheless, offered to allow FOX to conduct a third audit. BAITING recently learned that FOX terminated the License Agreement on July 21, 2025 (effectively stealing BAITING’s unbelievably valuable rights – exactly what they have been attempting to do for four years).

31. In the mid-1990s, Mr. Chance Hippler contacted Mr. Art Clokey concerning a data storage issue. Gumby’s Pizza had expanded greatly in the early 1990s, and, at that time, everything was on paper, e.g., paper receipts, paper bank statement, paper financials, etc. (the “books and records”). This created a storage problem for Gumby’s Pizza – it simply had run out of space for the numerous boxes of paper that it was maintaining for a possible future audit. Mr. Hippler faced two choices: rent a warehouse to store the boxes or deliver them to Mr. Clokey.

32. When Mr. Hippler spoke to Mr. Clokey and explained this dilemma, Mr. Clokey objected to the idea of taking on storage responsibility himself. Instead of taking delivery of the boxes, Mr. Clokey told Mr. Hippler to dispose of the boxes and assured Mr. Hippler that he, Mr. Clokey, would never conduct an audit in the future and did not want any of the books or records, as he trusted Mr. Hippler and Mr. O’Brien implicitly. At that point, the right to audit was deleted from the License Agreement. In fact, for nearly 40 years, not a single audit was conducted, nor even requested, until FOX recently demanded one on July 22, 2024.

33. At all times relevant to this litigation, both Tirzah Lowe and Brett Coker were agents of FOX; they both had actual authority to bind FOX and act on behalf of FOX; and,

even if they lacked actual authority, they both had apparent authority to bind FOX and act on behalf of FOX.

34. There have been other oral modifications of the License Agreement:

- a. Page 1, Schedule B #3: Last two sentences are deleted and replaced with the following: Licensee and its sublicensees may use all of the Gumby Characters in the naming, promoting, and advertising any and all types of foods and beverages, whether sold in restaurants or retail businesses, such as grocery stores, etc. Licensee and its sublicensees may use the Gumby Characters in the naming of any business related to the selling of foods or beverages and in the promotion or advertising of the businesses, foods, or beverages.
- b. Page 2, Schedule C: LICENSED TERRITORY. The United States and International.
- c. Page 2, Schedule E. Percentage Compensation (a)  $\frac{3}{4}$  of one (1) percent is not due on delivery sales. (b) If Licensee sublicenses its License and earns profits from its sublicensees use of the Gumby Characters in the naming of businesses or in the naming of food items or beverage items or for any other promotion or advertising of any foods or beverages or the businesses related to the selling of foods or beverages, Licensee shall pay Licensor twenty (20) percent of the profit Licensee earns. If Licensor obtains the sublicense deal for Licensee, then Licensee shall pay Licensor forty (40) percent of the profits Licensee earns. Licensor is not entitled to any additional compensation from any sublicensee of the Licensee.
- d. Page 2, Schedule D: Licensee may renew this license forever but should continue to give notice every 20 years of its desire to do so,
- e. Page 5, #8: DELETED (no approvals necessary), and
- f. Page 4, #6: DELETED.

Collectively, items a. through f. are “Oral Modifications” to the License Agreement. The Oral Modifications are in dispute in that BAITING’s position is that the License Agreement has been amended by the Oral Modifications and, upon information and belief, FOX’s position is that the License Agreement has not been amended by the Oral Modifications.

This is in addition to the dispute over GumbyCoins.Com and the four cryptocurrencies (digital gift cards), i.e., Gumby Coin, Pokey Coin, Blockhead Coin, Gumby Metaverse Coin, additional cryptocurrencies using the other Gumby Characters, and NFTs using the Gumby Characters. Whereby BAITING's position is that under the License Agreement it had the right to create GumbyCoins.Com, Gumby Coin, Pokey Coin, Blockhead Coin, Gumby Metaverse Coin, crypto currencies and NFTs using the other Gumby Characters without the approval of FOX in accordance with its License Agreement and, upon information and belief, FOX's position is that BAITING did not have the right to do so.

35. FOX intentionally interfered with BAITING's intellectual property rights in the Gumby Characters for nearly four years beginning shortly after they acquired the Gumby Characters and continuing to the present date. FOX's bad faith and malicious actions have caused BAITING to suffer significant financial damages during this period of time. Additionally, and egregiously, on July 21, 2025, FOX stole BAITING's extremely valuable rights in the Gumby Characters. To date, BAITING has sustained damages in excess of Sixty Billion Dollars (\$60,000,000,000.00).

**COUNT I: Declaratory Relief**

36. BAITING re-alleges and incorporates by reference the allegations of paragraphs 1 through 35, above, as though fully set forth herein.

37. This is an action by BAITING against FOX for declaratory relief with respect to the parties' rights under the License Agreement.

38. There is a bona fide, actual, present practical need for the declaration.

39. The declaration sought deals with a present, ascertained or ascertainable state of facts, or present controversy as to a state of facts and the parties' rights under contract.

40. An immunity, power, privilege or right of BAITING depends on the facts or the law that applies to the facts.

41. The parties in this action have an actual, present, adverse, and antagonistic interest in the subject matter.

42. All parties in this action with an adverse and antagonistic interest are before the Court.

43. The declaration sought does not amount to mere legal advice or the seeking of an advisory opinion.

44. In view of the foregoing conflicting contentions of the parties' rights under the License Agreement, BAITING is in doubt as to its rights under the License Agreement.

45. BAITING has performed all obligations under the License Agreement.

46. BAITING has performed all conditions precedent to the filing of this action or the same have occurred or been waived.

47. BAITING is obligated to pay its undersigned counsel a reasonable fee for service rendered on BAITING's behalf, for which FOX is liable pursuant to the License Agreement.

**WHEREFORE**, BAITING demands a declaratory judgment declaring that the License Agreement includes the following modifications:

- a. Page 1, Schedule B #3: Last two sentences are deleted and replaced with the following: Licensee and its sublicensees may use all of the Gumby Characters in the naming, promoting, and advertising any and all types of foods and beverages, whether sold in restaurants or retail businesses, such as grocery stores, etc. Licensee and its sublicensees may use the Gumby Characters in the naming of any business related to the selling of foods or beverages and in the promotion or advertising of the businesses, foods, or beverages.
- b. Page 2, Schedule C: LICENSED TERRITORY. The United States and International.
- c. Page 2, Schedule E. Percentage Compensation (a)  $\frac{3}{4}$  of one (1) percent is not due on delivery sales. (b) If

Licensee sublicenses its License and earns profits from its sublicensees use of the Gumby Characters in the naming of businesses or in the naming of food items or beverage items or for any other promotion or advertising of any foods or beverages or the businesses related to the selling of foods or beverages, Licensee shall pay Licensor twenty (20) percent of the profit Licensee earns. If Licensor obtains the sublicense deal for Licensee, then Licensee shall pay Licensor forty (40) percent of the profits Licensee earns. Licensor is not entitled to any additional compensation from any sublicensee of the Licensee.

- d. Page 2, Schedule D: Licensee may renew this license forever but should continue to give notice every 20 years of its desire to do so,
- e. Page 5, #8: Deleted (no approvals necessary), and
- f. Page 4, #6: Deleted.

BAITING further demands a declaratory judgment that:

- g. BAITING is only required to comply with the License Agreement as modified;
- h. that FOX is estopped from asserting any rights that it lost in the various modifications to the License Agreement;
- i. that BAITING is permitted under the License Agreement to maintain the GumbyCoins.Com website and is permitted to create cryptocurrencies, i.e., Gumby Coin, Pokey Coin, Blockhead Coin, Gumby Metaverse Coin, additional cryptocurrencies using the other Gumby Characters, and NFTs using the Gumby Characters; and
- j. that BAITING is entitled to damages resulting from FOX's improper demands, and such further relief as the Court deems just and proper, along with its reasonable attorney fees and costs incurred in this action.

### **COUNT 2: Breach of Contract**

48. This is an action by BAITING against FOX for common law breach of contract in which BAITING is seeking to recover damages against FOX in an amount that exceeds \$50,000.00.

49. BAITING re-alleges and incorporates by reference the allegations of paragraphs 1 through 35, above, as though fully set forth herein.

50. FOX materially breached the License Agreement when it:

- (a) demanded that BAITING refrain from fully utilizing the rights that it acquired in the Gumby Characters under the License Agreement,
- (b) demanded that BAITING do things that it was not required to do under the License Agreement, and
- (c) terminated the License Agreement on July 21, 2025.

51. As a result of FOX's material breach of the contractual obligations owed to BAITING under the License Agreement, BAITING incurred damages.

52. Prior to FOX's material breach, BAITING had satisfactorily performed all of its contractual obligations toward FOX.

**WHEREFORE**, BAITING demands judgment against FOX for damages along with its reasonable attorney fees and costs and such other relief as this honorable Court deems just and proper.

**COUNT 3: Breach of Implied Covenant of Good Faith and Fair Dealing**

53. This is an action by BAITING against FOX for breach of implied covenant of good faith and fair dealing in which BAITING is seeking to recover damages against FOX in an amount that exceeds \$50,000.00.

54. BAITING re-alleges and incorporates by reference the allegations of paragraphs 1 through 35, above, as though fully set forth herein.

55. Pursuant to the License Agreement, FOX owed BAITING an implied duty of good faith and fair dealing.

56. FOX materially breached its implied duty of good faith and fair dealing by engaging in conduct that made it impossible for BAITING to realize the economic benefits of the License Agreement, to-wit: FOX forced BAITING to take down the GumbyCoins.Com website and refrain from marketing its digital gift cards, i.e. Gumby Coin, Pokey Coin, Blockhead Coin, and Gumby Metaverse Coin (along with other cryptocurrencies and NFTs) and, ultimately, depriving BAITING of all of its intellectual property under the License Agreement when it, without justification, terminated the License Agreement on July 21, 2025.

57. As a result of FOX's breach of its implied covenant of good faith and fair dealing, BAITING incurred damages.

58. Prior to FOX's material breach, BAITING had satisfactorily performed all of its contractual obligations toward FOX.

59. FOX's conduct was intentional, willful, and with malice.

**WHEREFORE**, BAITING demands judgment against FOX for damages and its reasonable attorney fees and costs. Further, BAITING reserves the right to amend this Count to seek punitive damages against FOX pursuant to Rule 1.190(f) of the Fla.R.Civ.P.

#### **COUNT 4: Conversion**

60. This is an action by BAITING against FOX for conversion in which BAITING is seeking to recover damages against FOX in an amount that exceeds \$50,000.00.

61. BAITING re-alleges and incorporates by reference the allegations of paragraphs 1 through 35, above, as though fully set forth herein.

62. When FOX without any legitimate basis terminated the License Agreement on July 21, 2025, it stole BAITING's valuable intellectual property rights in the Gumby Characters that it owned pursuant to the License Agreement.

63. As a result of FOX's conversion of BAITING's intellectual property to its own use, BAITING incurred damages.

64. FOX's conduct was intentional, willful, and with malice.

**WHEREFORE**, BAITING demands judgment against FOX for damages and its reasonable attorney fees and costs. Further, BAITING reserves the right to amend this Count to seek punitive damages against FOX pursuant to Rule 1.190(f) of the Fla.R.Civ.P.

**DEMAND FOR JURY TRIAL**

BAITING demands a trial by jury on all issues so triable.

Respectfully submitted,

*/s/ Mark F. Raymond*

Mark F. Raymond, Esq.

Florida Bar No.: 373397

mark.raymond@nelsonmullins.com

stacy.smith@nelsonmullins.com

Shane P. Martin, Esq.

Florida Bar No. 056306

shane.martin@nelsonmullins.com

stacy.smith@nelsonmullins.com

NELSON MULLINS

2 S. Biscayne Blvd.

One Biscayne Tower, 21<sup>st</sup> Fl

Miami, Florida 33131

Telephone: 305.373.9425

*Attorneys for Plaintiff Baiting Hollow  
Development, LLC*

# **EXHIBIT “A”**

## **LICENSE AGREEMENT**

LICENSE AGREEMENT

THIS LICENSE AGREEMENT made June 27, 1986 By and between PREMA TOY CO., INC., Post Office Box 707, Topanga, California 90290 (hereinafter referred to as "Licensor"), and TAG VENTURES, INC., of 15 SW 2nd Street, Gainesville, Florida 32601 (hereinafter referred to as "Licensee").

The specific details of this license to which the language in succeeding numbered paragraphs hereof refer, and which said language embellishes and explains, is set forth in the immediately following Schedules A through F which are hereby made a part of this Agreement.

SCHEDULE A: SUBJECT MATTER OF LICENSE AGREEMENT: GUMBY and POKEY are characters derived from the television series produced by Clokey Productions, Inc. entitled "The Adventures of Gumby." Licensor is the proprietor of the name and characters so derived, including registered trademarks, symbols, designs, likenesses, logos, and visual representations. The subject matter of this License Agreement, as outlined above, shall be referred to as "Name and Character."

SCHEDULE B: EXTENT OF LICENSE AGREEMENT: Licensee's grant of rights to use the Name and Character as delineated in Schedule A shall include the following:

1. As the name of restaurants either owned by Licensee or under a franchise agreement with Licensee.
2. In connection with restaurant names, promotional advertising materials, packaging of products sold by the restaurants, and product names used by the restaurants.
3. In connection with Licensee's or Licensor's franchisees' restaurants' sale and promotion of food and beverage products whether such food and beverage products are served in, carried out, or delivered from said restaurants. This license shall extend only to food

and beverage products sold in the course of the restaurant business. This license shall not extend to the sale or promotion of items, food or otherwise, which are for general distribution outside the restaurant context, whether sold in the Licensee's restaurants or not.

Deleted → (X) D.C.

~~Notwithstanding the above, Licensee shall have all rights delineated with respect to the use of the Name and Character in connection with the sale of pizzas, whether such sales are connected with Licensee's restaurant business or not, including the right to use the Name and Character in connection with the sale of frozen pizzas.~~

D.C.

SCHEDULE C: LICENSED TERRITORY. The United States of America Only.

SCHEDULE D: LICENSED PERIOD. For a period of twenty years from the date of the execution of this Agreement. Licensee shall have the right in his sole discretion to renew this license for an additional period of twenty years by giving notice thereof to Licensor 30 days before the expiration of this license. Licensee shall have the same right of renewal for three additional twenty-year periods, after the initial twenty-year renewal period.

SCHEDULE E: FIXED COMPENSATION. Upon the initial opening for business of each restaurant owned by Licensee, Licensee shall pay to Licensor \$300.00. Upon the initial opening for business of each restaurant franchised by Licensee, Licensee shall pay to Licensor \$750.00.

PERCENTAGE COMPENSATION. For those restaurants owned by Licensee, the percentage compensation shall be 3/4 of one (1) percent of gross sales as defined in Paragraph 4B. For those restaurants franchised by Licensee, the percentage compensation shall be 3/4 of one (1) percent of gross sales as defined in Paragraph 4B.

SCHEDULE F: COPYRIGHT AND TRADEMARK NOTICES. "© 1985 Freda Toy Co., Inc." shall be legibly printed adjacent to all images of the Characters; "TM" shall be printed adjacent to all printed Names.

AGREEMENT

1. GRANT OF LICENSE: Licensor grants to Licensee for the term of this Agreement, as outlined in Schedule D, subject to the terms and conditions hereinafter contained, the exclusive license to utilize the Name and Character as delineated in Schedule A, to the extent as specified in Schedule B.

2. TERRITORY: Licensee shall be entitled to use the license granted hereunder only in the territory described in Schedule C as shown above (herein such territory is called "Licensed Territory"). Licensee will not make or make use of or authorize any use of the license or licensed products outside the Licensed Territory.

3. LICENSE PERIOD: The license granted hereunder shall be effective and terminate as of the dates specified in Schedule D, as shown above, unless sooner terminated or renewed in accordance with the terms and conditions hereof.

4. PAYMENT: (a) FIXED COMPENSATION: Licensee agrees to pay Licensor the sums specified in Schedule E, as shown above, as fixed compensation. Such fixed compensation shall become payable only upon the opening of a new restaurant either owned or franchised by Licensee. No part of such fixed compensation shall be refundable.

(b) PERCENTAGE COMPENSATION: Licensee agrees to pay Licensor a sum equal to the percentage specified in Schedule E of all gross sales by Licensee, Licensee's franchisees, or any affiliated, associated, or subsidiary company of Licensee engaged in the restaurant business. (Such percentage of gross sales is herein called "Percentage Compensation"). Percentage Compensation shall be payable concurrently with the periodic

statements required in the following paragraph. For purposes of this Agreement, the term "gross sales" means the entire amount of sales and receipts, not including federal or state sales taxes or gross receipt taxes.

5. For each restaurant owned by Licensee or by Licensee's franchisees, Licensee shall submit to Licensor promptly on the 28th day following each calendar quarter complete and accurate statements, certified to be accurate by an officer of Licensee showing the gross sales of each unit of Licensee or Licensee's franchisee. Receipt or acceptance by Licensor of any of the statements furnished pursuant to this Agreement or of any sums paid hereunder shall not preclude Licensor from questioning the correctness thereof at any time, and in the event that any inconsistencies or mistakes are discovered in such statements or payments, they shall immediately be rectified and the appropriate payments made by Licensee.

6. BOOKS AND RECORDS: Licensee shall keep, maintain and preserve (in Licensee's place of business) for at least two (2) years following termination or expiration of the license period or any renewal thereof, complete and accurate records of accounts including, without limitation, invoices, correspondence, banking and financial and other records pertaining to the various items required to be shown on the statements to be submitted by Licensee. Such records and accounts shall be available for inspection and audit at any time or times during or after the term or terms of the license period during reasonable business hours and reasonable notice by Licensor or its nominees. Licensee agrees not to cause or permit any interference with Licensor or nominees of Licensor in the performance of their duties of inspection and audit.

The exercise by Licensor in whole or in part, or at any time or times of the right to audit records and accounts or of any other right herein granted, the acceptance of Licensor of any

statement or statements or the receipt and deposit by Licensor of any payment tendered by or on behalf of Licensee shall be without prejudice to any rights or remedies of Licensor and shall not stop or prevent Licensor from thereafter disputing the accuracy of any such statement or payment.

7. COPYRIGHT AND TRADEMARK NOTICES: Licensee shall cause to be imprinted irremovably and legibly adjacent to every Name and Character as delineated in Schedule A used by Licensee either (i) the appropriate copyright notice, following an encircled "c"; (ii) the initials "TM"; or (iii) the letter "R" encircled, as directed by Licensor in Schedule F hereof. Any copyrights or trademarks procured by Licensee shall be for the benefit, and under the name of Licensor but at Licensee's expense.

8. APPROVALS: Licensee agrees to furnish Licensor copies of all advertising and promotions to be used by Licensee, by certified mail. Within 30 days after receipt of said materials, Licensor shall inform Licensee in writing of its approval or disapproval, as to the quality and style of the materials. Failure to notify Licensee within 30 days shall constitute approval by Licensor. Licensee shall have the right to prepare an advertising and promotional package, which when approved by Licensor, may be used by Licensee or its franchisees any time thereafter.

9. GOOD WILL: Licensee recognizes the great value of the publicity and good will associated with the Name and Character and, in such connection, acknowledges that such good will exclusively belongs to Licensor and its Grantors and that the Name and Character have acquired a secondary meaning in the mind of the purchasing public.

10. SPECIFIC UNDERTAKING OF LICENSEE: During the License Period, each Additional License Period if any and thereafter, Licensee agrees that:

(a) It will not attack the title of Licensor or its Grantors in and to the Name and Character or any copyright or trademark pertaining thereto, nor will it attack the validity of the license granted hereunder so long as the representations made within this Agreement are true and correct;

(b) It will not harm, misuse or bring into disrepute the Name and Character as outlined in Schedule A.

(c) It will protect the good name and reputation of the Name and Character as a wholesome symbol and not permit in any way its denigration.

(d) It will conduct business in an ethical manner and in accordance with the terms and intent of this Agreement.

(e) It will not create any expenses chargeable to Licensor without the prior written approval of Licensor.

(f) It will offer on the menu of each of its own units and those units of its franchisees: (1) "Gumby's Favorite Vegetarian Pizza" and (2) "Gumby's Favorite Vegetarian Submarine." [Except that for the word "Submarine", the word "Limousine" may be substituted.]

11. TERMINATION UPON OCCURRENCE OF EVENTS. This Agreement will terminate or may be terminated upon the occurrence of any of the events set out in this Paragraph.

(a) Licensee's Insolvency, Bankruptcy, Etc. If Licensee makes any assignment of its assets or business for the benefit of its creditors, or if a trustee or receiver is appointed to administer or conduct Licensee's business or affairs, or if Licensee is adjudged in any legal proceeding to be either a voluntary or involuntary bankrupt, then the rights granted by this Agreement to Licensee shall cease and terminate without prior notice or legal action by Licensor.

(b) Licensee's Failure to Comply with Terms of Agreement. Should Licensee fail to comply with any provision of this Agreement, Licensor may terminate this Agreement upon not

less than 30 days written notice to Licensee. However, if Licensee corrects the default during the notice period, the notice shall be of no further force or effect.

(c) Licensors's Failure to Comply with Terms of Agreement. Should Licensor fail to comply with any provision of this Agreement, Licensee may terminate this Agreement upon not less than 90 days written notice to Licensor. However, if Licensor corrects the default during the notice period, the notice shall be of no further force or effect.

12. RESERVATION OF RIGHTS: Licensor retains all rights not expressly and exclusively conveyed herein.

13. NOTICES: All notices and statements provided for herein shall be in writing and together with all payments provided for herein shall be mailed to the addresses set forth above or such other address as may be designated in writing by Licensor or Licensee from time to time.

14. NO PARTNERSHIP, ETC.: This Agreement does not constitute and shall not be construed as constituting a partnership or joint venture between Licensor and Licensee. Licensee shall have no right to obligate or bind Licensor in any manner whatsoever, and nothing herein contained shall give or be intended to give any rights of any kind to any third persons.

15. SUCCESSORS AND ASSIGNS: This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns.

16. LAW UNDER WHICH TO BE CONSTRUED: This Agreement shall be construed in accordance with the laws of the State of Florida.

17. ATTORNEY'S FEES: In the event any action is filed in relation to this Agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all of the sums that either party may be called upon to pay, a reasonable sum for the successful party's attorney's fees.

18. ASSIGNMENT: Notwithstanding anything herein to the

contrary, Licensee may assign this license or any interest therein without the prior consent of Licensor. Licensee does hereby agree to give written notice to Licensor within 30 days of any assignment of its interest.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

LICENSOR:  
PREMA TOY, INC.

By: Arthur Clokey  
President

ATTEST: Shirley [unclear]  
Secretary

LICENSEE:  
TAB VENTURES, INC.

By: Jeff Owen  
President

ATTEST: Mark Andersen  
Secretary

Mark Andersen

# **COMPOSITE EXHIBIT “B”**

**ASSIGNMENTS OF THE LICENSE AGREEMENT**

# ASSIGNMENT AGREEMENT

Baiting Hollow Development, LLC ("Baiting") desires to purchase all of the licensing rights currently owned by Gumby's Pizza International, LLC (aka Gumby's Pizza International, Inc.) ("Gumby") and Gumby desires to sell to Baiting all of the licensing rights that it owns.

Gumby owns the exclusive Gumby's license for food and beverage products sold in the United States of America pursuant to an assignment of these rights from Tau Ventures, Inc. The license from Prema Toy Company, Inc. ("Prema") to Tau Ventures is hereby attached as Exhibit "A".

Baiting has paid ten dollars and other valuable consideration to Gumby the receipt and adequacy is hereby acknowledged by Gumby for all of the licensing rights owned by Gumby under Exhibit "A".

Gumby shall still own the licensing rights for existing pizza stores and franchises as of the date of this Assignment Agreement and shall still be required to remit to Prema all amounts due under Exhibit "A". All existing franchisees as of the date of this Assignment Agreement shall continue to remit all royalties to Gumby. If an existing pizza store or franchise closes then the licensing right for that store or franchise shall be forfeited by Gumby and shall revert back to Baiting.

Gumby agrees that all existing stores shall adopt any look and style required by Baiting and if Gumby fails to abide by any requirements of Baiting then Gumby shall forfeit its licensing rights for that store and the rights shall revert back to Baiting.

  
\_\_\_\_\_  
Gumby  
By: Jeff O'Brien  
Title: Director, Officer, Managing Member

5-10-2010  
\_\_\_\_\_  
Date

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

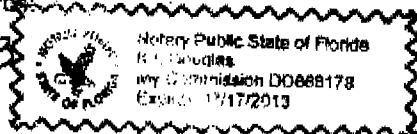
The foregoing instrument was acknowledged before me on this 10th day of May 2010 by Jeff O'Brien; who is personally known to me or has produced \_\_\_\_\_ as identification.

SEAL

  
\_\_\_\_\_  
Notary Public

K. Douglas  
\_\_\_\_\_  
Printed Notary Name

My Commission Expires July 17, 2013



[Signature]  
Gusby

5.10.10

Date

By: Chance Hippler  
Title: Director, Officer, Managing Member

STATE OF Florida  
COUNTY OF Alachua

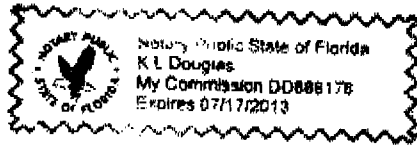
The foregoing instrument was acknowledged before me on this 10<sup>th</sup> day of May 2010 by Chance Hippler; who is personally known to me or has produced \_\_\_\_\_ as identification.

[Signature]  
Notary Public

SEAL

KL Douglas  
Printed Notary Name

My Commission Expires: July 17, 2013



LICENSE AGREEMENT

THIS LICENSE AGREEMENT made June 27, 1986 By and between PREMA TOY CO., INC., Post Office Box 707, Topanga, California 90290 (hereinafter referred to as "Licensor"), and TAG VENTURES, INC., of 15 SW 2nd Street, Gainesville, Florida 32601 (hereinafter referred to as "Licensee").

The specific details of this license to which the language in succeeding numbered paragraphs hereof refer, and which said language embellishes and explains, is set forth in the immediately following Schedules A through F which are hereby made a part of this Agreement.

SCHEDULE A: SUBJECT MATTER OF LICENSE AGREEMENT: GUMBY and POKEY are characters derived from the television series produced by Clokey Productions, Inc. entitled "The Adventures of Gumby." Licensor is the proprietor of the name and characters so derived, including registered trademarks, symbols, designs, likenesses, logos, and visual representations. The subject matter of this License Agreement, as outlined above, shall be referred to as "Name and Character."

SCHEDULE B: EXTENT OF LICENSE AGREEMENT: Licensee's grant of rights to use the Name and Character as delineated in Schedule A shall include the following:

1. As the name of restaurants either owned by Licensee or under a franchise agreement with Licensee.
2. In connection with restaurant names, promotional advertising materials, packaging of products sold by the restaurants, and product names used by the restaurants.
3. In connection with Licensee's or Licensor's franchisees' restaurants' sale and promotion of food and beverage products whether such food and beverage products are served in, carried out, or delivered from said restaurants. This license shall extend only to food

and beverage products sold in the course of the restaurant business. This license shall not extend to the sale or promotion of items, food or otherwise, which are for general distribution outside the restaurant context, whether sold in the Licensee's restaurants or not.

Deleted → (X) A.C.

~~Notwithstanding the above, Licensee shall have all rights delineated with respect to the use of the Name and Character in connection with the sale of pizzas, whether such sales are connected with Licensee's restaurant business or not, including the right to use the Name and Character in connection with the sale of frozen pizzas.~~

A.C.

SCHEDULE C: LICENSED TERRITORY. The United States of America Only.

SCHEDULE D: LICENSED PERIOD. For a period of twenty years from the date of the execution of this Agreement. Licensee shall have the right in his sole discretion to renew this license for an additional period of twenty years by giving notice thereof to Licensor 30 days before the expiration of this license. Licensee shall have the same right of renewal for three additional twenty-year periods, after the initial twenty-year renewal period.

SCHEDULE E: FIXED COMPENSATION. Upon the initial opening for business of each restaurant owned by Licensee, Licensee shall pay to Licensor \$300.00. Upon the initial opening for business of each restaurant franchised by Licensee, Licensee shall pay to Licensor \$750.00.

PERCENTAGE COMPENSATION. For those restaurants owned by Licensee, the percentage compensation shall be 3/4 of one (1) percent of gross sales as defined in Paragraph 4B. For those restaurants franchised by Licensee, the percentage compensation shall be 3/4 of one (1) percent of gross sales as defined in Paragraph 4B.

SCHEDULE F: COPYRIGHT AND TRADEMARK NOTICES. "© 1985 Fred's Toy Co., Inc." shall be legibly printed adjacent to all images of the Characters; "TM" shall be printed adjacent to all printed Names.

AGREEMENT

1. GRANT OF LICENSE: Licensor grants to Licensee for the term of this Agreement, as outlined in Schedule D, subject to the terms and conditions hereinafter contained, the exclusive license to utilize the Name and Character as delineated in Schedule A, to the extent as specified in Schedule B.

2. TERRITORY: Licensee shall be entitled to use the license granted hereunder only in the territory described in Schedule C as shown above (herein such territory is called "Licensed Territory"). Licensee will not make or make use of or authorize any use of the license or licensed products outside the Licensed Territory.

3. LICENSE PERIOD: The license granted hereunder shall be effective and terminate as of the dates specified in Schedule D, as shown above, unless sooner terminated or renewed in accordance with the terms and conditions hereof.

4. PAYMENT: (a) FIXED COMPENSATION: Licensee agrees to pay Licensor the sums specified in Schedule E, as shown above, as fixed compensation. Such fixed compensation shall become payable only upon the opening of a new restaurant either owned or franchised by Licensee. No part of such fixed compensation shall be refundable.

(b) PERCENTAGE COMPENSATION: Licensee agrees to pay Licensor a sum equal to the percentage specified in Schedule E of all gross sales by Licensee, Licensee's franchisees, or any affiliated, associated, or subsidiary company of Licensee engaged in the restaurant business. (Such percentage of gross sales is herein called "Percentage Compensation"). Percentage Compensation shall be payable concurrently with the periodic

statements required in the following paragraph. For purposes of this Agreement, the term "gross sales" means the entire amount of sales and receipts, not including federal or state sales taxes or gross receipt taxes.

5. For each restaurant owned by Licensee or by Licensee's franchisees, Licensee shall submit to Licensor promptly on the 28th day following each calendar quarter complete and accurate statements, certified to be accurate by an officer of Licensee showing the gross sales of each unit of Licensee or Licensee's franchisee. Receipt or acceptance by Licensor of any of the statements furnished pursuant to this Agreement or of any sums paid hereunder shall not preclude Licensor from questioning the correctness thereof at any time, and in the event that any inconsistencies or mistakes are discovered in such statements or payments, they shall immediately be rectified and the appropriate payments made by Licensee.

6. BOOKS AND RECORDS: Licensee shall keep, maintain and preserve (in Licensee's place of business) for at least two (2) years following termination or expiration of the license period or any renewal thereof, complete and accurate records of accounts including, without limitation, invoices, correspondence, banking and financial and other records pertaining to the various items required to be shown on the statements to be submitted by Licensee. Such records and accounts shall be available for inspection and audit at any time or times during or after the term or terms of the license period during reasonable business hours and reasonable notice by Licensor or its nominees. Licensee agrees not to cause or permit any interference with Licensor or nominees of Licensor in the performance of their duties of inspection and audit.

The exercise by Licensor in whole or in part, or at any time or times of the right to audit records and accounts or of any other right herein granted, the acceptance of Licensor of any

statement or statements or the receipt and deposit by Licensor of any payment tendered by or on behalf of Licensee shall be without prejudice to any rights or remedies of Licensor and shall not stop or prevent Licensor from thereafter disputing the accuracy of any such statement or payment.

7. COPYRIGHT AND TRADEMARK NOTICES: Licensee shall cause to be imprinted irremovably and legibly adjacent to every Name and Character as delineated in Schedule A used by Licensee either (i) the appropriate copyright notice, following an encircled "c"; (ii) the initials "TM"; or (iii) the letter "R" encircled, as directed by Licensor in Schedule F hereof. Any copyrights or trademarks procured by Licensee shall be for the benefit, and under the name of Licensor but at Licensee's expense.

8. APPROVALS: Licensee agrees to furnish Licensor copies of all advertising and promotions to be used by Licensee, by certified mail. Within 30 days after receipt of said materials, Licensor shall inform Licensee in writing of its approval or disapproval, as to the quality and style of the materials. Failure to notify Licensee within 30 days shall constitute approval by Licensor. Licensee shall have the right to prepare an advertising and promotional package, which when approved by Licensor, may be used by Licensee or its franchisees any time thereafter.

9. GOOD WILL: Licensee recognizes the great value of the publicity and good will associated with the Name and Character and, in such connection, acknowledges that such good will exclusively belongs to Licensor and its Grantors and that the Name and Character have acquired a secondary meaning in the mind of the purchasing public.

10. SPECIFIC UNDERTAKING OF LICENSEE: During the License Period, each Additional License Period if any and thereafter, Licensee agrees that:

(a) It will not attack the title of Licensor or its Grantors in and to the Name and Character or any copyright or trademark pertaining thereto, nor will it attack the validity of the license granted hereunder so long as the representations made within this Agreement are true and correct;

(b) It will not harm, misuse or bring into disrepute the Name and Character as outlined in Schedule A.

(c) It will protect the good name and reputation of the Name and Character as a wholesome symbol and not permit in any way its denigration.

(d) It will conduct business in an ethical manner and in accordance with the terms and intent of this Agreement.

(e) It will not create any expenses chargeable to Licensor without the prior written approval of Licensor.

(f) It will offer on the menu of each of its own units and those units of its franchisees: (1) "Gumby's Favorite Vegetarian Pizza" and (2) "Gumby's Favorite Vegetarian Submarine." [Except that for the word "Submarine", the word "Limousine" may be substituted.]

11. TERMINATION UPON OCCURRENCE OF EVENTS. This Agreement will terminate or may be terminated upon the occurrence of any of the events set out in this Paragraph.

(a) Licensee's Insolvency, Bankruptcy, Etc. If Licensee makes any assignment of its assets or business for the benefit of its creditors, or if a trustee or receiver is appointed to administer or conduct Licensee's business or affairs, or if Licensee is adjudged in any legal proceeding to be either a voluntary or involuntary bankrupt, then the rights granted by this Agreement to Licensee shall cease and terminate without prior notice or legal action by Licensor.

(b) Licensee's Failure to Comply with Terms of Agreement. Should Licensee fail to comply with any provision of this Agreement, Licensor may terminate this Agreement upon not

less than 30 days written notice to Licensee. However, if Licensee corrects the default during the notice period, the notice shall be of no further force or effect.

(c) Licensors Failure to Comply with Terms of Agreement. Should Licensor fail to comply with any provision of this Agreement, Licensee may terminate this Agreement upon not less than 90 days written notice to Licensor. However, if Licensor corrects the default during the notice period, the notice shall be of no further force or effect.

12. RESERVATION OF RIGHTS: Licensor retains all rights not expressly and exclusively conveyed herein.

13. NOTICES: All notices and statements provided for herein shall be in writing and together with all payments provided for herein shall be mailed to the addresses set forth above or such other address as may be designated in writing by Licensor or Licensee from time to time.

14. NO PARTNERSHIP, ETC.: This Agreement does not constitute and shall not be construed as constituting a partnership or joint venture between Licensor and Licensee. Licensee shall have no right to obligate or bind Licensor in any manner whatsoever, and nothing herein contained shall give or be intended to give any rights of any kind to any third persons.

15. SUCCESSORS AND ASSIGNS: This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns.

16. LAW UNDER WHICH TO BE CONSTRUED: This Agreement shall be construed in accordance with the laws of the State of Florida.

17. ATTORNEY'S FEES: In the event any action is filed in relation to this Agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all of the sums that either party may be called upon to pay, a reasonable sum for the successful party's attorney's fees.

18. ASSIGNMENT: Notwithstanding anything herein to the

contrary, Licensee may assign this license or any interest therein without the prior consent of Licensor. Licensee does hereby agree to give written notice to Licensor within 30 days of any assignment of its interest.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

LICENSOR:  
PREMA TOY, INC.

By: Arthur Clokey  
President

ATTEST: Marie [unclear]  
Secretary

LICENSEE:  
TAB VENTURES, INC.

By: Jeff Owen  
President

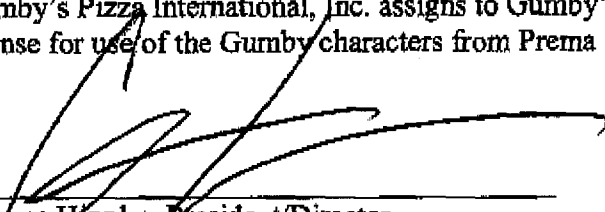
ATTEST: Mark Andersen  
Secretary

Mark Andersen

## Assignment of License

May 30, 2009

Gumby's Pizza International, Inc. assigns to Gumby's Pizza International, LLC the license for use of the Gumby characters from Prema Toy Co., Inc. dated June 27, 1986.



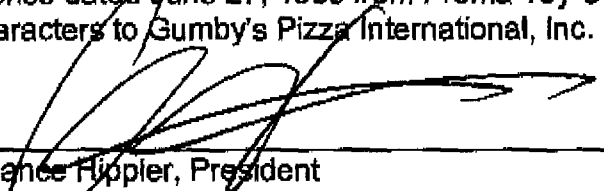
---

Chance Hippler, President/Director  
Gumby's Pizza International, Inc.  
Gumby's Pizza International, LLC

---

Assignment to Gumby's Pizza International, Inc.

On this 15<sup>th</sup> day of October, 1991, Gumby's Pizza Systems, Inc. assigns the license dated June 27, 1986 from Prema Toy Co., Inc for use of the Gumby characters to Gumby's Pizza International, Inc.



---

Chance Flipper, President  
Gumby's Pizza Systems, Inc.  
Gumby's Pizza International, Inc.

July 1, 1987

**ASSIGNMENT**

Tau Ventures, Inc. the owner of the license agreement for the use of Gumby characters from Prema Toy Co., Inc dated June 27, 1986 is hereby assigned to Gumby's Pizza Systems, Inc.

  
\_\_\_\_\_  
Chance Hippler, President  
Tau Ventures, Inc.

# **EXHIBIT “C”**

**MARCH 2, 2022 EMAIL  
FROM MS. LOWE ON BEHALF OF FOX**



**Lowe, Tirezah** <tirezah.lowe@fox.com>

To: kennethmanney@bellsouth.net <kennethmanney@bellsouth.net>

Cc: jeff@gumbyspizza.com <jeff@gumbyspizza.com>, IPdocketing <ipdocketing@fox.com>

Mar 2, 2022 at 10:23 AM

Kenneth J. Manney  
Attorney at Law  
Post Office Box 644324  
Vero Beach, FL 32964-4324  
772-231-7887

Dear Mr. Manney,

I represent Fox Entertainment, who recently acquired Prema Toy Company, Inc. ("Licensor"). We have reviewed your email exchange below with Joan Rock regarding the [gumbycoins.com](http://gumbycoins.com) website, as well as the License Agreement. We hereby provide Tau Ventures, Inc. ("Licensee") with notice of Licensor's intent to terminate the License Agreement under Paragraph 11(b) for Licensee's failure to comply with the terms of the Agreement. Specifically, Licensee did not submit the materials on the [gumbycoins.com](http://gumbycoins.com) website to Licensor for review and approval. Once Licensor expressed its disapproval in the December 9, 2021 email below, Licensee failed to remove the materials within 30 days as required under the Agreement. We believe that your client has had ample time to cure this breach; however, in view of the change of ownership, **we will provide you with 1 week from the date of this correspondence to remove the content from the gumbycoins.com website and all references thereto.** In the meantime, please provide us with an accounting of how many people made purchases from the [gumbycoins.com](http://gumbycoins.com) website and the gross revenue.

If you do not wish to comply, we expect all use of the Gumby properties to cease within 30 days from the date of this letter.

Sincerely,

## TIRZAH LOWE

VICE PRESIDENT, INTELLECTUAL PROPERTY

(310) 369-5040

[Tirezah.Lowe@fox.com](mailto:Tirezah.Lowe@fox.com)

2121 Avenue of the Stars, 9th Fl.  
Los Angeles, CA 90067



Begin forwarded message:

**From:** KENNETH MANNEY <[kennethmanney@bellsouth.net](mailto:kennethmanney@bellsouth.net)>

**Subject:** Re: Cease and Desist

**Date:** December 10, 2021 at 6:10:54 AM PST

**To:** jeff o'brien <[jeff@gumbyspizza.com](mailto:jeff@gumbyspizza.com)>, Joan Rock <[joan@premavision.com](mailto:joan@premavision.com)>

**Cc:** Kenneth Manney <[kennethmanney@bellsouth.net](mailto:kennethmanney@bellsouth.net)>

Jeff,

Below is the receipt that each customer receives upon purchase. I think that it is extremely clear that these coins are "gift cards" redeemable for food. It appears clear to me that the NFT is being given away as a promotional gift and everyone who buys the coins has an opportunity to win it. Finally, the link to the [gumbycoins.com](http://gumbycoins.com) website is via the [gumbyspizza.com](http://gumbyspizza.com) website. Again, you are absolutely doing exactly what you are permitted to do under the license to promote and grow your business. This is the most cutting edge gift card on the market and I think it should really help to increase business. I know these last 18 months have been terribly difficult but, let's hope, things turn around and your new marketing strategy works!

### RECEIPT UPON PURCHASE

Token Purchase Confirmation!

Dear Friend,

THANK YOU for your purchase in the amount of 10 USD

for your Gumby Coins, Pokey Coins, and Blockhead Coins. As previously stated,

all sales are final during this promotional Launch period of 31 weeks. After one hundred

days if you would like to move your coins from your dashboard wallet onto your external

wallet you may do so. And, at the conclusion of our promotional Launch period, you will

be able to go onto [gumbyspizza.com](http://gumbyspizza.com) and redeem your coins for our Gumby's Pizza,

Pokey Stix, and Blockhead Pepperoni Rolls. It will only cost you 7,500 Gumby Coins

plus Shipping & Handling for a Delicious Gumby's Pizza, 75,000 Pokey Coins for our World Famous Pokey Stix plus Shipping & Handling, and 750,000 Blockhead Coins plus Shipping & Handling for a half dozen of our Best Blockhead Pepperoni Rolls.

Love always,

Your Friends

GUMBY, POKEY AND THE BLOCKHEADS

If you have any additional issues, let me know.

Thank you,

Kenneth J. Manney  
Attorney at Law  
Post Office Box 644324  
Vero Beach, FL 32964-4324  
772-231-7887

On Thursday, December 9, 2021, 08:16:01 PM EST, Joan Rock <[joan@premavision.com](mailto:joan@premavision.com)> wrote:

Jeff,

Where does it mention on the website that the money paid to you for NFT' and Gumbycoin is for gift cards only redeemable for your food? That is not stated obviously on the website.

Joan

Joan Rock Clokey  
President  
Premavision/ Clokey Productions/ Prema Toy, Inc.  
[joan@premavision.com](mailto:joan@premavision.com)  
415.299.9848

On Dec 9, 2021, at 3:37 PM, jeff o'brien <[gumbys2@yahoo.com](mailto:gumbys2@yahoo.com)> wrote:

Joan,

Please see the below response from our corporate attorney. I want you to know that I'm in complete compliance with our licensee as we are only selling digital gift cards that are redeemable for our food. I hope you understand Chance & i are doing everything possible during this pandemic to stay in business. We are trying like crazy to promote the restaurant to increase the sales that benefits us all financially. I hope this answers your question & that this new marketing plan REALLY works & your checks from us will be growing significantly.

Thank, Jeff

Jeff O'Brien  
[gumbys2@yahoo.com](mailto:gumbys2@yahoo.com)

----- Forwarded Message -----

**From:** KENNETH MANNEY <[kennethmanney@bellsouth.net](mailto:kennethmanney@bellsouth.net)>  
**To:** jeff o <[gumbys2@yahoo.com](mailto:gumbys2@yahoo.com)>; Kenneth Manney <[kennethmanney@bellsouth.net](mailto:kennethmanney@bellsouth.net)>  
**Sent:** Thursday, December 9, 2021, 06:22:40 PM EST  
**Subject:** Re: Cease and Desist

Hi Jeff,

I am in receipt of your email and have reviewed your license agreement along with all of the information concerning [gumbycoins.com](http://gumbycoins.com). It is obvious to me that you are well within the scope of your license as you are permitted to utilize the characters to promote your restaurants. The coins are only gift cards redeemable for Gumby's Pizza, Pokey Stix, and Blockhead Pepperoni Rolls, which are being issued on the blockchain, as obviously, this is a very popular method for people to store their gift cards and a great marketing strategy to grow your restaurants. In particular, section B of the license states: "Licensee's grant of rights to use the

Name and Character as delineated in Schedule A shall include the following: (2) In connection with restaurant names, promotional advertising materials, packaging of products sold by the restaurants, and product names used by the restaurants. Hence, you are in full compliance with your license.

If you have any additional questions or wish to discuss further, I'm happy to have a conference call with you.

Thank you,

Kenneth J. Manney  
Attorney at Law  
Post Office Box 644324  
Vero Beach, FL 32964-4324  
772-231-7887

On Thursday, December 9, 2021, 06:15:15 PM EST, jeff o'brien <[gumbys2@yahoo.com](mailto:gumbys2@yahoo.com)> wrote:

Ken, Please take a look at the e-mail i received.

Thanks, Jeff

Jeff O'Brien  
[gumbys2@yahoo.com](mailto:gumbys2@yahoo.com)

----- Forwarded Message -----

**From:** Joan Rock <[joan@premavision.com](mailto:joan@premavision.com)>  
**To:** jeff o'brien <[gumbys2@yahoo.com](mailto:gumbys2@yahoo.com)>; "gumbys1@yahoo.com" <[gumbys1@yahoo.com](mailto:gumbys1@yahoo.com)>  
**Sent:** Thursday, December 9, 2021, 01:25:12 PM EST  
**Subject:** Cease and Desist

Chance and Jeff,

It has come to my attention that Gumby's Pizza is using GUMBY for products/services without permission: <https://gumbycoins.com/> and <https://twitter.com/GumbyCoins>. It seems that your names are associated with these sites.

You do not have our permission to use GUMBY and THE GUMBY CHARACTERS or any of our intellectual property for any use beyond the name of the Gumby's Pizza restaurants. Gumby coins and Pokey NFTs are not specified in your contract. Please remove the aforementioned sites and any others that are not specifically Gumby's Pizza shop locations within the next 48 hours or we will pursue further legal action.

Thank you,  
Joan

Joan Rock Clokey  
President  
Premavision/ Clokey Productions/ Prema Toy, Inc.  
[joan@premavision.com](mailto:joan@premavision.com)  
415.299.9848

This message and its attachments may contain legally privileged or confidential information. It is intended solely for the named addressee(s). If you are not an addressee indicated in this message (or responsible for delivery of the message to an addressee), you may not copy or deliver this message or its attachments to anyone. Rather, you should permanently delete this message and its attachments and kindly notify the sender by reply e-mail. Any content of this message and its attachments that does not relate to the official business of Fox Corporation, or its subsidiaries must be taken not to have been sent or endorsed by any of them. No representation is made that this email or its attachments are without defect.

# **EXHIBIT “D”**

**FEBRUARY 11, 2022 EMAIL  
FROM JOAN ROCK CLOKEY**

**Fw: Gumby's New Home**

kennethmanney@b.../Inbox



**jeff o'brien** <gumbys2@yahoo.com>

To: Chance Hippler <chance352@gmail.com>, Kenneth Manney <kennethmanney@bellsouth.net>

Feb 14, 2022 at 12:52 PM

Jeff O'Brien  
gumbys2@yahoo.com

----- Forwarded Message -----

**From:** Joan Rock <joan@premavision.com>  
**To:** jeff o'brien <gumbys2@yahoo.com>  
**Cc:** Coker, Brett <brett.coker@bentoboxent.com>  
**Sent:** Friday, February 11, 2022, 02:26:24 PM EST  
**Subject:** Gumby's New Home

Dear Jeff,

As you may have heard, we are happy to announce that Gumby has a new home with FOX Entertainment! (See the February 8th press release below.)

There is something magical in this move, as it seems as though Gumby has come full circle. In the mid-1950s, after viewing Art Clokey's college class project, the film *Gumbasia*, the head of Twentieth Century FOX gave Art his big break by hiring him to create clay characters and a pilot for a TV Series...and, lo and behold, Gumby was born.

We are confident that, under their creative leadership, FOX Entertainment will thoughtfully and imaginatively grow one of the world's most popular, recognizable, and beloved characters.

It's been a pleasure working with you. We appreciate all that you've done to bring fun and exciting Gumby merchandise to the market.

Allow me by way of email to introduce you to Brett Coker, COO of FOX Entertainment's Emmy Award-winning animation studio, Bento Box Entertainment, which will play an important role in shepherding this great franchise. Moving forward, he will be your new primary Gumby contact related to licensing.

Again, thank you for your support.

Warmest Regards,  
Joan Rock  
New email: [rock.joan@gmail.com](mailto:rock.joan@gmail.com)

## FOX WELCOMES GUMBY

FOX Celebrates Acquisition of Beloved IP,  
Welcoming Gumby, Pokey and All Their Friends to the FOX Studios Lot

FOX Entertainment Studios, Bento Box, Tubi, Blockchain Creative Labs and  
the entire FOX Creative Team 'Reimagining' Gumby for New Generations

New Animated Series, Live-Action Original Content, NFTs,  
Consumer Products, Licensing, Publishing and More to Follow

Iconic Claymation Characters Making FOX Studios Their New Home,  
Bring L.A. Traffic to a Standstill (see below)

FOX Entertainment has acquired the iconic animated character Gumby, and all his friends, from the estate of Joseph Clokey, son of creator Art Clokey, it was announced today by FOX Entertainment CEO Charlie Collier. The acquisition expands on FOX Entertainment's long-term strategy of building a select, curated and culturally compelling library of owned content and intellectual property to showcase across its linear, AVOD, blockchain-based and other platforms.

FOX Entertainment has obtained all rights to the popular franchise, including film, television and streaming, consumer products, licensing, publishing and all other categories. In addition, FOX has acquired the full library of *Gumby* animated series, specials, movies and content, which will expand Tubi's current offerings of the franchise. This classic and well-known IP complements other recent FOX Entertainment acquisitions and FOX partnerships, including Tubi, Bento Box Entertainment, Studio Ramsay Global, TMZ, MarVista Entertainment and start-up company Blockchain Creative Labs, as well as FOX Alternative Entertainment and the newly formed FOX Entertainment Studios.

"Picking a new home was important to me, and I've found great partners in FOX Entertainment," explained Gumby in a very green statement. "They have a vision for my modern, multi-platform reemergence, which is thrilling. Throughout our conversations, Pokey and I reiterated that we are talent they can mold. Literally."

"Competition for globally recognized intellectual property is fierce. Uncovering this gem, with its built-in awareness and affinity, and bringing it to FOX, adds meaningful value and creative possibilities to the IP itself and to multiple divisions of our company," said Collier. "FOX is proud to be home to these iconic characters. Welcome one and all."

Internal teams are already hard at work both showcasing the classic *Gumby* series on Tubi and reimagining this beloved franchise for broadcast, streaming and beyond.

Upon Gumby and Pokey's arrival at the iconic FOX Studios Lot in Century City, traffic on Pico Blvd. came to a standstill.



#### About FOX Entertainment

FOX Entertainment's 35-year legacy of innovative, hit programming includes *9-1-1*, *9-1-1: Lone Star*, *The Masked Singer*, *Lego Masters*, *The Simpsons*, *Empire*, *24*, *The X-Files* and *American Idol*. Delivering high-quality scripted, non-scripted, animated and live content and major sports, FOX won the 2021 fall broadcast season, marking the third consecutive year it ranked #1. In addition to its broadcast network, FOX Entertainment oversees the operations of FOX Alternative Entertainment, its in-house unscripted studio that produces *The Masked Singer*, *I Can See Your Voice* and *Name That Tune*, among other series; the

award-winning animation studio Bento Box Entertainment, which produces animated content for FOX, including the Emmy Award-winning hit ***Bob's Burgers, Duncanville, The Great North*** and ***HouseBroken***, as well as programming for other broadcast, streaming and cable platforms; and Blockchain Creative Labs, a new business and creative unit formed in 2021 by FOX Entertainment and Bento Box, to build, launch, manage and sell Non-Fungible Tokens (NFTs) and related content and experiences, and fungible tokens, as well as digital goods and assets. FOX Entertainment also recently formed the production venture Studio Ramsay Global, in partnership with award-winning chef, restaurateur and presenter Gordon Ramsay, to develop, produce and distribute culinary and lifestyle programming for FOX, its fast-growing ad-supported video-on-demand (AVOD) service, Tubi and platforms worldwide. Tubi features more than 35,000 movies and television series, and news content available in the U.S., Canada, Mexico, and Australia. FOX Entertainment recently acquired the entertainment platform TMZ and all its media properties, including its hit syndicated magazine programs TMZ and TMZ LIVE and its flagship digital platform, [TMZ.com](https://www.tMZ.com). Most recently, FOX Entertainment acquired MarVista Entertainment, a global leader in made-for-platform original content. Ranking among the world's leading independent studios, MarVista will focus on developing and producing content for FOX's digital platforms, including Tubi, as well as for third-party platforms worldwide.

-FOX-

# **EXHIBIT “E”**

## **MEMORIALIZATION OF CHANGES TO THE LICENSE AGREEMENT**

February 7, 1991

Licensors and Licensee had previously agreed to the following changes to their License Agreement dated June 27, 1986:

Page 1, Schedule F # 3 :

Last two sentences are deleted and replaced with the following:  
Licensee and its sublicensees may use all of the Gumby Characters in the naming, promoting, and advertising any and all types of foods and beverages, whether sold in restaurants or retail businesses, such as grocery stores, etc. Licensee and its sublicensees may use the Gumby Characters in the naming of any businesses related to the selling of foods or beverages and in the promotion or advertising of the businesses, foods, or beverages.

Page 2, Schedule C :

LICENSED TERRITORY. The United States and International.

Page 2, Schedule D :

Licensee may renew this license forever but should continue to give notice every 20 years if it desire to do so.

Page 2, Schedule E :

Percentage Compensation

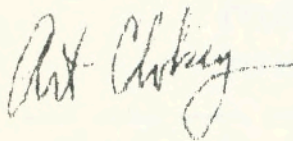
- (a) 3/4 of one(1) percent is not due on delivery sales.
- (b) If Licensee sublicenses its License and earns profits from its sublicensees use of the Gumby Characters in the naming of businesses or in the naming of food or beverage items or for any other promotion or advertising of any foods or beverages or the businesses related to the selling of foods or beverages, Licensee shall pay Licensor twenty(20) percent of the profit Licensee earns. If Licensor obtains the sublicense deal for Licensee, then Licensee shall pay Licensor forty(40) percent of the profits Licensee earns. Licensor is not entitled to any additional compensation from any sublicensee of the Licensee.

Page 5, #8 :

Deleted(no approvals necessary)

Licensors:  
Prema Toy, Inc.

Licensee:  
Gumbys Pizza Systems, Inc.



By : Arthur Clokey



By : Chance Hippler

# **EXHIBIT “F”**

**JUNE 9, 2025 LETTER  
FROM BRETT COKER ON BEHALF OF FOX**



June 9, 2025

**VIA PRIORITY MAIL EXPRESS & E-MAIL**

Mr. Chance Hippler  
Baiting Hollow Development, LLC  
2028 SW 34th Street  
Gainesville, Florida 32607

Baiting Hollow Development, LLC  
Post Office Box 510747  
Melbourne Beach, Florida

[chance352@gmail.com](mailto:chance352@gmail.com)

**RE: Notice of Termination of License Agreement dated June 27, 1986 Pursuant to Section 11(b) Thereof**

Dear Mr. Hippler:

This letter shall constitute Prema Toy Company, Inc.'s ("Prema") Notice of Termination to Baiting Hollow Development, LLC ("Baiting Hollow") of the License Agreement dated June 27, 1986. Baiting Hollow has failed to comply with multiple sections of the License Agreement. Prema demands that Baiting Hollow correct all of these defaults within forty (40) days of the date of this Notice of Termination, which has been provided via e-mail and certified mail. If Baiting Hollow fails to correct all of these defaults within that time, pursuant to Section 11(b) of the License Agreement, the License Agreement will terminate in forty-one (41) days from the date of this Notice of Termination.

**A. BAITING HOLLOW'S DEFAULTS UNDER THE LICENSE AGREEMENT**

Baiting Hollow has failed to comply with the following provisions of the License Agreement as set forth below:

**1) Section 6 – Books and Records**

Section 6 of the License Agreement requires Baiting Hollow to 1) keep a broad scope of books and records until at least two years following termination of the License Agreement, and 2) make those books and records available for inspection and audit by Prema during reasonable business hours upon reasonable notice, and not cause interference with Prema in the performance of the inspection and audit. Specifically, Section 6 states as follows:

6. **BOOKS AND RECORDS:** Licensee shall keep, maintain and preserve (in Licensee's place of business) for at least two (2) years following termination or expiration of the license period or any renewal thereof, ***complete and accurate records*** of accounts including, without limitation, invoices, correspondence, banking and financial and other records pertaining to the various items required to be shown on the statements to be submitted by Licensee. Such records and accounts shall be available for inspection and audit during or after the term or terms of the license period during reasonable business hours and reasonable notice by Licensor or its nominees. ***Licensee agrees not to cause or permit any interference with Licensor or nominees of Licensor in the performance of their duties of inspection and audit.***

The exercise by Licensor in whole or in part, or at any time or times of the right to audit records and accounts or of any other right herein granted, the acceptance of Licensor of any statement or statements or the receipt and deposit by Licensor of any payment tendered by or on behalf of Licensee shall be without prejudice to any rights or remedies of Licensor and shall not stop or prevent Licensor from thereafter disputing the accuracy of such statement or payment.

License Agreement § 6 (emphasis added). Prema has broad audit rights under this provision. It may inspect and review all Baiting Hollow financial records pertinent to its payments due under the License Agreement at any time during business hours upon "reasonable notice." Baiting Hollow must provide "complete and accurate records" to Prema during an audit.

a) Baiting Hollow Repeatedly Failed to Respond to Audit Requests

On July 22, 2024, Shana Merrill of Bento Box Entertainment, and the Manager of Prema Toy Company, Inc. License Agreements, sent an e-mail to Prema with the subject "Notice of Audit re: License Agreement." See Exhibit A. Her e-mail stated that pursuant to Section 6 of the License Agreement, Prema provided "notice of our intent to audit applicable books and records to determine compliance with the terms and conditions under the License Agreement." She further provided notice that PricewaterhouseCoopers ("PwC") would conduct the audit, and requested that you e-mail her "the name and contact information for the primary interface person at your company regarding the audit and the location(s) at which the on-site audit should occur." Ms. Merrill further stated that Prema and PwC would attempt to minimize any disruption to your business during the audit.

Baiting Hollow did not respond to Ms. Merrill's e-mail. Thus, on August 6, 2024, Ms. Merrill wrote to Baiting Hollow again, asking for a contact as well as the location for the on-site audit. See Exhibit B. She received automatic responses, with Mr. Hippler's stating he would be traveling through September 8 with "limited access" to e-mail, and Mr. O'Brien's stating he would be out of work until early September due to surgery. Ms. Merrill never received a response to her August 6th e-mail.

Rather than respond directly to Prema, Baiting Hollow filed an Amended Complaint in Alachua County Circuit Court on September 6, 2024, alleging in the pending lawsuit that the audit

provision in Section 6 has been “deleted” from the License Agreement. Prema interpreted this as Baiting Hollow’s refusal to comply with Prema’s audit request. Prema strongly disagrees with Baiting Hollow’s position on multiple grounds. Baiting Hollow must submit to an audit by Prema pursuant to Section 6 of the License Agreement.

Subsequently, Prema served a notice of termination to Baiting Hollow, dated September 17, 2024. *See* Exhibit C. Only after this notice did Prema receive a response from Baiting Hollow to its audit request. Ultimately, Prema’s auditors from PricewaterhouseCoopers (“PwC”) coordinated dates for a visit with Baiting Hollow, scheduled in late October 2024, and planned their visit for October 30 and 31. Baiting Hollow agreed to those dates, and indicated that you would make Baiting Hollow’s records available to PwC upon their arrival, at your business location in Gainesville, Florida. Although you stated that you did not believe you had to comply with the audit request, at no time prior to PwC’s visit did you indicate you would limit their access to Baiting Hollow’s records.

b) Baiting Hollow Failed to Provide Complete and Accurate Records to PwC During the October 2024 Visit

In advance of the first audit visit, PwC provided you with its document request form, which identified the documents it sought to obtain and review during its time at your business. PwC arrived in Gainesville for the audit on October 30, 2024. During this visit, PwC’s representative requested access to all books and records of Baiting Hollow as required by Section 6 of the License Agreement. You told him you were “surprised” that PwC actually came to Gainesville. You also told him that some of the License Agreement had been “removed” and “waived,” but that you were willing to allow them to conduct the audit regardless.

During the audit, you gave PwC’s representative a tour of the Gumby’s Pizza restaurant in Gainesville. While showing him the space, which also included multiple other ventures, you stated that Gumby-related sales are but a small part of what you do at that location. You further explained that you have different “ghost kitchens” that sell under up to 25 different brands out of that Gainesville location. These include both on-location and online sales, among others. Most prominently at the Gainesville location, which sits under a large “Gumby’s Pizza” fluorescent sign, you also have within the same space a sports bar called “Court of Hero’s” which had a large seating area, and an ice cream brand called “Working Cow.”

Pertinent to the audit, you refused to provide access to PwC of any sales records related to any of these other ventures which you operate out of the Gumby’s Pizza location in Gainesville. You did not provide any documents located at this location. More importantly, you refused PwC any access to the Point-of-Sale (“POS”) system at the Gainesville Gumby’s Pizza location. This would contain some of the most, if not the most, pertinent information to PwC’s audit of Baiting Hollow, as it provides direct evidence of Baiting Hollow’s gross sales.

You did offer PwC access to an offsite storage unit. This location was extremely disorganized, including everything from filing cabinets to broken fax machines to paint cans, and contained numerous boxes. From there, you took Mr. Schum to your house, which had 17 boxes of disorganized paper, containing everything from cashiers checks to insurance claims to invoices

to e-mail communications. The papers included bits and pieces of documents, crumpled up sheets, and a number of disorganized collections of paper. PwC's representative did his best to take notes of the categories of documents located at this location, but you did not allow him to remove or scan any documents.

You also discussed your process with Gumby's Pizza franchisees. You confirmed that franchisees sent you monthly sales reports, but you refused to provide those documents to PwC. You also confirmed that contracts exist for each franchise location, but you refused to provide those contracts. During this first visit, you refused to allow PwC to retain any documents or take any pictures or scans of any documents. Given the substantial number of documents that PwC could not review during this visit, PwC thus left Gainesville after two days with but a sketch of a small percentage of the documents in Baiting Hollow's possession.

c) Baiting Hollow Obstructed PwC's Access During its March 2025 Visit

Given PwC's failure to come anywhere near to completing a review of Baiting Hollow's records in October 2024, in addition to being refused access to a great deal of relevant information, PwC scheduled a second visit with Baiting Hollow. PwC again provided a document request to assist Baiting Hollow to prepare for the audit. *See Exhibit C (Document Request dated January 2, 2025)*. After significant back-and-forth regarding your availability, PwC scheduled the audit, with your agreement, for the week of March 24, 2025.

With your confirmation, and at your direction, the PwC team met with you at the off-site storage shed location located at 2707 SW 40<sup>th</sup> Blvd. Unit N-13. They arrived early afternoon on Monday, March 24. From the get-go, you stated that you believe Prema has no right to audit the premises, though you reiterated you would allow access. You also referenced the magnitude of documents and questioned PwC's ability to review all materials. Beyond the document-specific matters, you then notified PwC that there were rodents in the shed and noted the cans of Raid positioned throughout the shed. You pointed out the 3 cameras that had been installed for surveillance since the first audit. On top of that, you had two individuals sitting in an idling car outside of the shed to watch the auditors during the review.

Prior to PwC commencing its review, you stated that PwC was not permitted to take pictures, scan copies, or retain any documentation reviewed on-site. You also noted there are other business interests in the shed not relevant to Gumby's Pizza. To that end, you spoke further about the various "Ghost Kitchens" associated with the Gumby location. You showed PwC a document that listed the more than 20 "ghost kitchens" operating out of the Gumby's Pizza storefront. You continued to maintain that any sales revenue from these "ghost kitchens" does not apply to the audit, and did not provide any further information regarding those ghost kitchens.

It appeared to PwC that the storage unit contained approximately 100 boxes and seven filing cabinets. On the first day, PwC reviewed nine boxes of documents, of which only four contained financial information relevant to Baiting Hollow.

More critically, PwC realized about halfway through the first day's review that the boxes and documents contained an excessive amount of a dust-like substance on them. More

importantly, this substance had a pink hue and appeared to PwC's personnel to be a chemical agent. Initially, PwC continued its review, taking the boxes outside the shed to review to limit the amount of chemical exposure in the shed. When you arrived at the storage unit early that evening, a PwC representative asked you about the chemical agent, to which you responded that you did not know what it was. You told the PwC representative that your business partner must have put something down to deal with the rodent problem. With that information, PwC put the documents back in the boxes and returned them to the storage shed before leaving the site.

PwC's personnel then proceeded to an urgent care facility. Ultimately, PwC decided that the team should not return to the shed, as it posed a significant health risk them. PwC informed you of this decision and did not return to the storage unit on Tuesday, March 25. During this time, PwC resent the January 2 document request to you. You committed to reviewing the list and responding to each request, but PwC never heard further from you.

In total, Baiting Hollow's conduct constitutes a refusal to permit an audit and the obstruction of an audit. Baiting Hollow has never gained access to certain documents because you refused access or more have not retained them. These documents include the Point-of-Sale system records, any documents related to the "ghost kitchens" you operate out of the Gumby's Pizza location in Gainesville, and all franchise agreements and reports. Moreover, your haphazard retention of documents made it impossible to conduct a meaningful audit. Never mind the various locations, but the documents were kept in no order, were partial and scattered, and had no organization to them.

Furthermore, the condition of the storage unit upon PwC's arrival for the March audit amounts to a full-scale obstruction of Prema's attempts to conduct an audit. The documents were covered in a pink dust-like chemical substance which you indicated was probably put down to deal with a rodent problem. It put the auditors in danger and prevented them from completing their audit tasks. Coupled with the failure of the prior visit, your repeated refusals to allow PwC to scan or copy documents, and your prohibition on access to many relevant types of documents, your conduct constitutes a failure by Baiting Hollow to comply with the audit requirements of Section 6 of the License Agreement.

All told, Prema has twice endeavored to conduct an audit pursuant to Section 6 of the License Agreement due to your conduct. Prema and PwC repeatedly worked with you to coordinate the audit, offered significant time for you to schedule the audit, and on the whole, bent over backwards to suit your convenience in conducting the audit. Upon your agreement and invitation, Prema engaged PwC third-party auditors at significant expense to conduct the audit. You then provided unsuitable conditions and refused their requests for access and information on two separate occasions in both October 2024 and March 2025. But these two attempts are enough to confirm that a productive audit is not possible. Your conduct in preventing Prema's ability to conduct a meaningful audit plainly violates Section 6 of the License Agreement.

Section 11(b) of the License Agreement permits Prema to terminate the License Agreement if Baiting Hollow "fail[s] to comply with any provision of this Agreement," provided that Baiting Hollow fails to correct the default "upon not less than 30 days written notice to" Baiting Hollow. Should Baiting Hollow fail to fully comply with the audit provision in Section 6 within forty (40)

days of the date of this Notice of Termination, then pursuant to Section 11(b) of the License Agreement, the License Agreement will terminate after forty-one (41) days from the date of this Notice of Termination.

## 2) Section 5 – Complete and Accurate Quarterly Statements

Section 5 of the License Agreement requires Baiting Hollow to provide quarterly “complete and accurate” statements detailing the gross sales upon which Baiting Hollow bases its payments to Prema. Specifically, Section 5 states as follows:

5. For each restaurant owned by Licensee or by Licensee’s franchisees, Licensee shall submit to Licensor promptly on the 28th day following each calendar quarter ***complete and accurate statements***, certified to be accurate by an officer of Licensee showing the gross sales of each unit of Licensee or Licensee’s franchisee. Receipt or acceptance by Licensor of any of the statements furnished pursuant to this Agreement or of any sums paid hereunder shall not preclude Licensor from questioning the correctness thereof at any time, and in the event that any inconsistencies or mistakes are discovered in such statements or payments, they shall immediately be rectified and the appropriate payments made by Licensee.

License Agreement § 5 (emphasis added). During PwC’s audit visit in October 2024, you stated that you had reports from franchisees indicating their payments to Baiting Hollow. You also indicated that you had franchise agreements. Yet, you refused to provide those agreements to PwC. Prema therefore cannot verify the accuracy or completeness of your quarterly statements with respect to franchisees.

More directly, however, you boasted of having twenty-five “ghost kitchens” that operate out of your Gainesville Gumby’s Pizza location. Yet, you refused to provide any documents or information regarding the gross sales or revenues for those “ghost kitchens.” You flatly refused to provide access to your POS system, and thus Prema has no information regarding any sales or revenues for those outfits. Given your representation that Gumby’s Pizza represents a small part of what you offer at that location, these “ghost kitchens” presumably account for a significant majority of your sales at that location. Yet you have not reported these gross sales or provided any statements showing those gross sales.

This constitutes a default under Section 5 of the License Agreement. Your refusal to provide reports or agreements from your franchisees indicates Prema will not be able to determine whether your prior reports were complete or accurate with respect to franchisee payments. You also operate “ghost kitchens” out of the “Gumby’s Pizza” location in Gainesville, under the “Gumby’s Pizza” sign, within the “Gumby’s Pizza” storefront. Yet, you have failed to report any revenues for those “ghost kitchens,” despite selling services and goods under the Gumby name, character, and intellectual property. Without those gross sales, your statements cannot be (and have not been) “complete and accurate” under Section 5 of the License Agreement. Baiting Hollow therefore has failed to comply with Section 5 of the License Agreement.

Section 11(b) of the License Agreement states that the License Agreement will terminate if Baiting Hollow “fail[s] to comply with any provision of this Agreement,” provided that Baiting Hollow fails to correct the default “upon not less than 30 days written notice to” Baiting Hollow. Should Baiting Hollow fail provide statements that meet the requirements of Section 5 within forty (40) days of the date of this Notice of Termination, meaning providing “complete and accurate statements, certified to be accurate by an officer of Licensee showing the gross sales of each unit of Licensee or Licensee’s franchisee,” the License Agreement will terminate after forty-one (41) days from the date of this Notice of Termination.

### 3) Section 4(b) – Percentage Compensation

Under the License Agreement, Baiting Hollow pays Prema a royalty on a percentage basis. Section 4(b) sets forth the basis for payments by Baiting Hollow to Prema:

**(b) PERCENTAGE COMPENSATION:** Licensee agrees to pay Licensor a sum equal to the percentage specified in Schedule E of *all gross sales by Licensee, Licensee’s franchisees, or any affiliated, associated, or subsidiary company of Licensee engaged in the restaurant business.* (Such percentage of gross sales is herein called “Percentage Compensation”). Percentage Compensation shall be payable concurrently with the periodic Statements required in the following paragraph. For purposes of this Agreement, the term “gross sales” means the entire amount of sales and receipts, not including federal or state sales taxes or gross receipt taxes.

License Agreement § 4(b) (emphasis added). You will note the broad reach of the emphasized “all gross sales” language.

As previously stated, you made very clear during PwC’s visits to Gainesville that you operated numerous “ghost restaurants” out of the Gumby’s Pizza location in Gainesville. From their observation, you operate “Court of Hero’s” and “Working Cow” out of the same location, and advertise both brands. The consuming public cannot delineate between the different brands or services, as all fall under the same roof with no walls separating them. An individual seeking out Gumby’s Pizza would find all such brands at the same address, under the same roof, under the same sign, and served by the same people. Simply put, Baiting Hollow has taken advantage of its limited license to use the Gumby Name and Character by marketing it with numerous other brands, then attempting to carve out its sales for those other brands despite the obvious benefit provided by that use of the Gumby Name and Character.

Moreover, your repeated refusal to provide records or information regarding the sales of these brands or other “ghost kitchens” demonstrates you do not believe you owe Prema anything from those sales. This directly contradicts the License Agreement, which provides that Baiting Hollow must pay a percentage of “all gross sales by *Licensee, Licensee’s franchises, or any affiliated, associated, or subsidiary company of Licensee engaged in the restaurant business.*” *Id.* at § 4(b) (emphasis added). Thus, notwithstanding your attempt to delineate these brands for payment and audit purposes, Baiting Hollow owes Percentage Compensation for all of its gross sales (and those of its affiliated, associated, or subsidiary companies).

Based on your statements, as well as PwC’s observations of the Gumby’s Pizza restaurant in Gainesville, Baiting Hollow has significantly underpaid the Percentage Compensation to Prema for an extended period of time. Without your provision of documents and information as previously requested by Prema, Prema has no way to know the exact amount underpaid. But given your representation that Gumby’s Pizza represents a “small part” of what you offer at that location, Baiting Hollow has paid less than 50% of all gross sales since you have operated these other brands and “ghost kitchens.” Regardless of the exact shortfall, this constitutes Baiting Hollow’s failure to comply with Section 4(b) of the License Agreement.

Furthermore, Prema’s review of your prior statements and payments reveals you have either underpaid or failed to pay at all on multiple occasions. Never mind the fact that Baiting Hollow failed to provide numerous reports until Prema issued its prior Notice of Termination, but even after that, Baiting Hollow continues to fall short. First, when responding by providing royalty payments back on October 29, 2024, you alleged that you made overpayments to Prema in the past, thus admitting you had submitted false quarterly statements. Second, the royalty amounts on the updated quarterly statements you provided on October 29, 2024 differed from previous statements you had provided and payments you had made, including for Q1 2022, Q2 2022, and Q3 2022. This indicates that those prior payments were inaccurate. Third, you have provided reports that state different royalty amounts from the payment amounts you previously submitted for numerous quarters, including Q3 2023, Q4 2023, Q1 2024, Q2 2024, and Q3 2024.

Worse, Baiting Hollow has never made any payments for Q3 2022 and Q2 2023, despite reporting royalties for those quarters. For example, Baiting Hollow reported royalties of \$8,177.00 in Q2 2023, yet made no payment. For Q3 2022, Baiting Hollow first reported royalties of \$10,408.00 at the time, then in October 2024 reported royalties of \$8,792.00, yielding an underreporting of \$1,616. Whatever the correct amount, Fox received no payment for that period. And whatever the accuracy of the reports and accompanying payments (or lack thereof), it has become clear Baiting Hollow has vastly underpaid Prema under the License Agreement due to the issues raised above.

Section 11(b) of the License Agreement states that the License Agreement will terminate if Baiting Hollow “fail[s] to comply with any provision of this Agreement,” provided that Baiting Hollow fails to correct the default “upon not less than 30 days written notice to” Baiting Hollow. Should Baiting Hollow fail to make full payment under Section 4(b) within forty (40) days of the date of this Notice of Termination, meaning making full payment to Prema of the correct Percentage Compensation due under Section 4(b) of the License Agreement, the License Agreement will terminate after forty-one (41) days from the date of this Notice of Termination.

#### **4) Section 10(b) – Harm and Misuse of Name and Character**

In Section 10(b) of the License Agreement, Baiting Hollow agrees that “[i]t will not harm, misuse or bring into disrepute the Name and Character as outlined in Schedule A.” License Agreement § 10(b). The License granted in Section 1 of the License Agreement consists of “the exclusive license to utilize the Name and Character as delineated in Schedule A, to the extent as specified in Schedule B.” *Id.* at § 1. Schedule A defines the Name and Character as Gumby and

Pokey from “The Adventures of Gumby,” and includes all “registered trademarks, symbols, designs, likenesses, logos, and visual representations.” *Id.* at Schedule A. Schedule B limits Baiting Hollow’s use to “the name of restaurants,” advertising and promotional materials use in connection with restaurants, and to food and beverage products provided at restaurants. *Id.* at Schedule B.

Baiting Hollow’s use of numerous other brands in immediate conjunction or association with the Gumby Name and Character at its Gainesville location, from “Court of Hero’s” and “Working Cow” to the twenty-some numerous “ghost kitchens,” harms Prema’s rights in and constitutes a misuse of the Name and Character. As laid out thoroughly above, the Gumby’s Pizza location in Gainesville contains multiple other brands, and you contend that multiple restaurants and food and beverage service providers exist within that one location. Without question, those non-Gumby’s brands benefit from the goodwill of the Gumby intellectual property. This damages Prema’s rights in its Gumby intellectual property. Consumers will associate the Gumby brand with services and goods not authorized under the License Agreement, the quality of which Prema has no control. This forced (and unauthorized) association with other brands will also dilute and therefore weaken the strength of the Gumby marks. This conduct violates Section 10(b) of the License Agreement.

Section 11(b) of the License Agreement states that the License Agreement will terminate if Baiting Hollow “fail[s] to comply with any provision of this Agreement,” provided that Baiting Hollow fails to correct the default “upon not less than 30 days written notice to” Baiting Hollow. Should Baiting Hollow fail to cease providing services in association with the Name and Character under marks not authorized by the License Agreement within forty (40) days of the date of this Notice of Termination, the License Agreement will terminate after forty-one (41) days from the date of this Notice of Termination.

**5) Section 1 – Registration and Ownership GumbyCoins.com**

Section 1 of the License Agreement sets forth the scope of Baiting Hollow’s license rights, with more definition provided in Schedule B. *Id.* at §1, Schedule B. Despite Prema’s previous objections, voiced both by Joan Rock and representatives of its new ownership as of 2022, Baiting Hollow continues to own the domain name GumbyCoins.com. Baiting Hollow’s ownership of this domain name exceeds the scope of permissible uses of the Name and Character in the License Agreement. It is not used in connection with any restaurant names, promotional advertising materials, packaging of products, or product names used in restaurants. Nor is it used in connection with the sale of food and beverages at any of Baiting Hollow or its franchisees’ restaurants.

Rather, Baiting Hollow used the domain name to host a website that offered for sale various forms of cryptocurrency and NFTs which made unauthorized use of Prema’s intellectual property. Baiting Hollow’s continued ownership and registration of the domain name GumbyCoins.com does not comply with Section 1 of the License Agreement.

Section 11(b) of the License Agreement states that the License Agreement will terminate if Baiting Hollow “fail[s] to comply with any provision of this Agreement,” provided that Baiting Hollow fails to correct the default “upon not less than 30 days written notice to” Baiting Hollow.

Should Baiting Hollow fail to cause the transfer of ownership and registration of the domain name GumbyCoins.com to Prema (or a designated representative) within forty (40) days of the date of this Notice of Termination, the License Agreement will terminate after forty-one (41) days from the date of this Notice of Termination.

**6) Section 1 – Sale of Gumby Dog Toys**

Further to Section 1, Schedule B restricts its application by expressly stating that “[t]his license shall extend only to food and beverage products sold in the course of the restaurant business.” *Id.* at Schedule B.3. In at least one franchise location (Iowa City), PwC noted that the franchise sold Gumby dog toys. The License Agreement does not permit this; to the contrary, it expressly excludes the sale of any products beyond food and beverages.

Section 11(b) of the License Agreement states that the License Agreement will terminate if Baiting Hollow “fail[s] to comply with any provision of this Agreement,” provided that Baiting Hollow fails to correct the default “upon not less than 30 days written notice to” Baiting Hollow. Should Baiting Hollow and/or its franchisees fail to cease the sale of dog toys within forty (40) days of the date of this Notice of Termination, the License Agreement will terminate after forty-one (41) days from the date of this Notice of Termination.

**7) Section 10(f) – Specific Menu Offerings**

Finally, in Section 10(f) of the License Agreement, Baiting Hollow agrees that “[i]t will offer on the menu of each of its own units and those units of its franchisees: (1) ‘Gumby’s Favorite Vegetarian Pizza’ and (2) ‘Gumby’s Favorite Vegetarian Submarine.’ (Except that for the word ‘Submarine’, the word ‘Limousine’ may be substituted.)” License Agreement § 10(f). Prema has found neither item on any Gumby’s Pizza menu. Neither item appears on the Gainesville menu, and none of the franchisees appear to offer either menu item.

Section 11(b) of the License Agreement states that the License Agreement will terminate if Baiting Hollow “fail[s] to comply with any provision of this Agreement,” provided that Baiting Hollow fails to correct the default “upon not less than 30 days written notice to” Baiting Hollow. Should Baiting Hollow fail to provide these menu items at all of its (and its franchisee’s) locations within forty (40) days of the date of this Notice of Termination, the License Agreement will terminate after forty-one (41) days from the date of this Notice of Termination.

**B. EFFECT OF TERMINATION OF LICENSE AGREEMENT**

Should Baiting Hollow fail to correct all defaults of the License Agreement within forty (40) days of the date of this Notice of Termination, the License Agreement will terminate after forty-one (41) days from the date of this Notice of Termination. If and when that occurs, Prema provides additional notice that following termination of the License Agreement, Baiting Hollow and its franchisees must immediately cease all use of the Gumby Name and Character, and all related intellectual property.

Post-termination, any further use by Baiting Hollow of the Gumby name, character, and/or any other Gumby-related intellectual property of any nature will constitute, among other things, trademark and/or copyright infringement, entitling Prema to, among other things, damages, injunctive relief, attorney's fees, and costs. *See, e.g., Burger King Corp. v. Agad*, 911 F. Supp. 1499, 1503 (S.D. Fla. 1995) ("It is hornbook law that once a license contract is terminated, there is no doubt that the ex-licensee has no authorization or consent to continue use of the mark. After the license has ended, the ex-licensee must stop use of the mark."); *Campero USA Corp. v. PCNY, LLC.*, 2011 WL 13319576, at \*5 (S.D. Fla. Sept. 8, 2011) (issuing preliminary injunction against franchisees where "[t]he refusal to accept those terminations [of the franchise agreement] and the continuation of the franchises without authority places [the franchisees] in the position of trademark infringers"); *MCA Television Ltd. v. Feltner*, 89 F.3d 766, 768 (11th Cir. 1996) (licensee's exploitation of copyrighted works following termination of license deemed willful copyright infringement).

Prema reserves all rights and remedies under the License Agreement, at law, and in equity.

Sincerely,

A handwritten signature in cursive script that reads "Brett Coker". The signature is written in black ink and is positioned above the printed name.

Brett Coker

# EXHIBIT A

**From:** [Shana Merrill \(BentoBoxEnt\)](#)  
**To:** [chance352@gmail.com](#); [gumbys2@yahoo.com](#)  
**Cc:** [jeff.leedom@pwc.com](#); [ryan.halversen@pwc.com](#); [Kaiser, Michael](#); [Eisner, Erin](#); [Coker, Brett \(BENTOBX ENT\)](#); [Lisa McFarlin \(BENTOBX ENT\)](#)  
**Subject:** Notice of Audit re: License Agreement  
**Date:** Monday, July 22, 2024 12:57:04 PM  
**Attachments:** [M\\_Contract\\_Gumby"s Pizza\\_1986.pdf](#)

---

Dear Messrs. Hippler and O'Brien:

Pursuant to Section 6 of the attached License Agreement, dated June 27, 1986, we hereby provide notice of our intent to audit applicable books and records to determine compliance with the terms and conditions under the License Agreement. This audit will be carried out by a third-party auditor, PricewaterhouseCoopers ("PwC").

PwC will contact you with regards to scheduling this audit. This audit can be conducted both remotely and on site and can be arranged between you and PwC. Please advise me by email the name and contact information for the primary interface person at your company regarding the audit and the location(s) at which the on-site audit should occur.

We and PwC will attempt to minimize, to the extent possible, any disruption to your business as a result of this audit. Your cooperation and assistance in this process will be most appreciated.

Sincerely,

Shana Merrill

--

**Shana Merrill**

CFO

**Bento Box Entertainment**

**Manager of Prema Toy Company, Inc. License Agreements**

5161 Lankershim Blvd, suite 120  
North Hollywood, CA 91601

LICENSE AGREEMENT

THIS LICENSE AGREEMENT made June 27, 1986 by  
and between PREMA TOY CO., INC., #17 100 El Estido Samalito,  
Post Office Box 707, Topanga,  
California <sup>94965</sup> ~~90290~~ (hereinafter referred to as "Licensor"), and  
TAU VENTURES, INC., of 15 SW 2nd Street, Gainesville, Florida  
32601 (hereinafter referred to as "Licensee").

The specific details of this license to which the language in succeeding numbered paragraphs hereof refer, and which said language embellishes and explains, is set forth in the immediately following Schedules A through F which are hereby made a part of this Agreement.

SCHEDULE A: SUBJECT MATTER OF LICENSE AGREEMENT: GUMBY and POKEY are characters derived from the television series produced by Clokey Productions, Inc. entitled "The Adventures of Gumby." Licensor is the proprietor of the name and characters so derived, including registered trademarks, symbols, designs, likenesses, logos, and visual representations. The subject matter of this License Agreement, as outlined above, shall be referred to as "Name and Character."

SCHEDULE B: EXTENT OF LICENSE AGREEMENT: Licensee's grant of rights to use the Name and Character as delineated in Schedule A shall include the following:

1. As the name of restaurants either owned by Licensee or under a franchise agreement with Licensee.
2. In connection with restaurant names, promotional advertising materials, packaging of products sold by the restaurants, and product names used by the restaurants.
3. In connection with Licensee's or Licensee's franchisees restaurants' sale and promotion of food and beverage products whether such food and beverage products are served in, carried out, or delivered from said restaurants. This license shall extend only to food

and beverage products sold in the course of the restaurant business. This license shall not extend to the sale or promotion of items, food or otherwise, which are for general distribution outside the restaurant context, whether sold in the Licensee's restaurants or not.

Deleted: ~~(X)~~  
A.C.

~~Notwithstanding the above, Licensee shall have all rights delineated with respect to the use of the Name and Character in connection with the sale of pizzas, whether such sales are connected with Licensee's restaurant business or not, including the right to use the Name and Character in connection with the sale of frozen pizzas.~~ X J.O.

J.O.

SCHEDULE C: LICENSED TERRITORY. The United States of America only.

SCHEDULE D: LICENSED PERIOD. For a period of twenty years from the date of the execution of this Agreement. Licensee shall have the right in his sole discretion to renew this license for an additional period of twenty years by giving notice thereof to Licensor 30 days before the expiration of this license. Licensee shall have the same right of renewal for three additional twenty-year periods, after the initial twenty-year renewal period.

SCHEDULE E: FIXED COMPENSATION. Upon the initial opening for business of each restaurant owned by Licensee, Licensee shall pay to Licensor \$300.00. Upon the initial opening for business of each restaurant franchised by Licensee, Licensee shall pay to Licensor \$750.00.

PERCENTAGE COMPENSATION: For those restaurants owned by Licensee, the percentage compensation shall be 3/4 of one (1) percent of gross sales as defined in Paragraph 4B. For those restaurants franchised by Licensee, the percentage compensation shall be 3/4 of one (1) percent of gross sales as defined in Paragraph 4B.

SCHEDULE F: COPYRIGHT AND TRADEMARK NOTICES. "© 1985 Prema Toy Co., Inc." shall be legibly printed adjacent to all images of the Characters; "TM" shall be printed adjacent to all printed Names.

AGREEMENT

1. GRANT OF LICENSE: Licensor grants to Licensee for the term of this Agreement, as outlined in Schedule D, subject to the terms and conditions hereinafter contained, the exclusive license to utilize the Name and Character as delineated in Schedule A, to the extent as specified in Schedule B.

2. TERRITORY: Licensee shall be entitled to use the license granted hereunder only in the territory described in Schedule C as shown above (herein such territory is called "Licensed Territory"). Licensee will not make or make use of or authorize any use of the license or licensed products outside the Licensed Territory.

3. LICENSE PERIOD: The license granted hereunder shall be effective and terminate as of the dates specified in Schedule D, as shown above, unless sooner terminated or renewed in accordance with the terms and conditions hereof.

4. PAYMENT: (a) FIXED COMPENSATION: Licensee agrees to pay Licensor the sums specified in Schedule E, as shown above, as fixed compensation. Such fixed compensation shall become payable only upon the opening of a new restaurant either owned or franchised by Licensee. No part of such fixed compensation shall be refundable.

(b) PERCENTAGE COMPENSATION: Licensee agrees to pay Licensor a sum equal to the percentage specified in Schedule E of all gross sales by Licensee, Licensee's franchisees, or any affiliated, associated, or subsidiary company of Licensee engaged in the restaurant business. (Such percentage of gross sales is herein called "Percentage Compensation"). Percentage Compensation shall be payable concurrently with the periodic

statements required in the following paragraph. For purposes of this Agreement, the term "gross sales" means the entire amount of sales and receipts, not including federal or state sales taxes or gross receipt taxes.

5. For each restaurant owned by Licensee or by Licensee's franchisees, Licensee shall submit to Licensor promptly on the 28th day following each calendar quarter complete and accurate statements, certified to be accurate by an officer of Licensee showing the gross sales of each unit of Licensee or Licensee's franchisee. Receipt or acceptance by Licensor of any of the statements furnished pursuant to this Agreement or of any sums paid hereunder shall not preclude Licensor from questioning the correctness thereof at any time, and in the event that any inconsistencies or mistakes are discovered in such statements or payments, they shall immediately be rectified and the appropriate payments made by Licensee.

6. BOOKS AND RECORDS: Licensee shall keep, maintain and preserve (in Licensee's place of business) for at least two (2) years following termination or expiration of the license period or any renewal thereof, complete and accurate records of accounts including, without limitation, invoices, correspondence, banking and financial and other records pertaining to the various items required to be shown on the statements to be submitted by Licensee. Such records and accounts shall be available for inspection and audit at any time or times during or after the term or terms of the license period during reasonable business hours and reasonable notice by Licensor or its nominees. Licensee agrees not to cause or permit any interference with Licensor or nominees of Licensor in the performance of their duties of inspection and audit.

The exercise by Licensor in whole or in part, or at any time or times of the right to audit records and accounts or of any other right herein granted, the acceptance of Licensor of any

statement or statements or the receipt and deposit by Licensor of any payment tendered by or on behalf of Licensee shall be without prejudice to any rights or remedies of Licensor and shall not stop or prevent Licensor from thereafter disputing the accuracy of any such statement or payment.

7. COPYRIGHT AND TRADEMARK NOTICES: Licensee shall cause to be imprinted irremovably and legibly adjacent to every Name and Character as delineated in Schedule A used by Licensee either (i) the appropriate copyright notice, following an encircled "c"; (ii) the initials "TM"; or (iii) the letter "R" encircled, as directed by Licensor in Schedule F hereof. Any copyrights or trademarks procured by Licensee shall be for the benefit, and under the name of Licensor but at Licensee's expense.

8. APPROVALS: Licensee agrees to furnish Licensor copies of all advertising and promotions to be used by Licensee, by certified mail. Within 30 days after receipt of said materials, Licensor shall inform Licensee in writing of its approval or disapproval, as to the quality and style of the materials. Failure to notify Licensee within 30 days shall constitute approval by Licensor. Licensee shall have the right to prepare an advertising and promotional package, which when approved by Licensor, may be used by Licensee or its franchisees any time thereafter.

9. GOOD WILL: Licensee recognizes the great value of the publicity and good will associated with the Name and Character and, in such connection, acknowledges that such good will exclusively belongs to Licensor and its Grantors and that the Name and Character have acquired a secondary meaning in the mind of the purchasing public.

10. SPECIFIC UNDERTAKING OF LICENSEE: During the License Period, each Additional License Period if any and thereafter, Licensee agrees that:

(a) It will not attack the title of Licensor or its Grantors in and to the Name and Character or any copyright or trademark pertaining thereto, nor will it attack the validity of the license granted hereunder so long as the representations made within this Agreement are true and correct;

(b) It will not harm, misuse or bring into disrepute the Name and Character as outlined in Schedule A.

(c) It will protect the good name and reputation of the Name and Character as a wholesome symbol and not permit in any way its denigration.

(d) It will conduct business in an ethical manner and in accordance with the terms and intent of this Agreement.

(e) It will not create any expenses chargeable to Licensor without the prior written approval of Licensor.

(f) It will offer on the menu of each of its own units and those units of its franchisees: (1) "Gumby's Favorite Vegetarian Pizza" and (2) "Gumby's Favorite Vegetarian Submarine." (Except that for the word "Submarine", the word "Limousine" may be substituted.)

11. TERMINATION UPON OCCURRENCE OF EVENTS. This Agreement will terminate or may be terminated upon the occurrence of any of the events set out in this Paragraph.

(a) Licensee's Insolvency, Bankruptcy, Etc. If Licensee makes any assignment of its assets or business for the benefit of its creditors, or if a trustee or receiver is appointed to administer or conduct Licensee's business or affairs, or if Licensee is adjudged in any legal proceeding to be either a voluntary or involuntary bankrupt, then the rights granted by this Agreement to Licensee shall cease and terminate without prior notice or legal action by Licensor.

(b) Licensee's Failure to Comply with Terms of Agreement. Should Licensee fail to comply with any provision of this Agreement, Licensor may terminate this Agreement upon not

less than 30 days written notice to Licensee. However, if Licensee corrects the default during the notice period, the notice shall be of no further force or effect.

(c) Licensor's Failure to Comply with Terms of Agreement. Should Licensor fail to comply with any provision of this Agreement, Licensee may terminate this Agreement upon not less than 90 days written notice to Licensor. However, if Licensor corrects the default during the notice period, the notice shall be of no further force or effect.

12. RESERVATION OF RIGHTS: Licensor retains all rights not expressly and exclusively conveyed herein.

13. NOTICES: All notices and statements provided for herein shall be in writing and together with all payments provided for herein shall be mailed to the addresses set forth above or such other address as may be designated in writing by Licensor or Licensee from time to time.

14. NO PARTNERSHIP, ETC.: This Agreement does not constitute and shall not be construed as constituting a partnership or joint venture between Licensor and Licensee. Licensee shall have no right to obligate or bind Licensor in any manner whatsoever, and nothing herein contained shall give or is intended to give any rights of any kind to any third persons.

15. SUCCESSORS AND ASSIGNS: This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns.

16. LAW UNDER WHICH TO BE CONSTRUED: This Agreement shall be construed in accordance with the laws of the State of Florida.

17. ATTORNEY'S FEES: In the event any action is filed in relation to this Agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all of the sums that either party may be called upon to pay, a reasonable sum for the successful party's attorney's fees.

18. ASSIGNMENT: Notwithstanding anything herein to the

contrary, Licensee may assign this license or any interest therein without the prior consent of Licensor. Licensee does hereby agree to give written notice to Licensor within 30 days of any assignment of its interest.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

LICENSOR:  
PREMA TOY, INC.

BY: Arthur Holley  
President

ATTEST: \_\_\_\_\_  
Secretary

LICENSEE:  
TAU VENTURES, INC.

BY: Jeff O'Brien  
President

ATTEST: Mark Anderson  
Secretary

ADDENDUM TO LICENSE AGREEMENT DATED JUNE 27, 1986, BETWEEN PREMA TOY CO., INC., AND TAU VENTURES, INC.:

It is further agreed that Tau Ventures, Inc., shall within 90 days from date of License Agreement file an application for a GUMBY'S PIZZA Trademark with the U.S. Patent Office.

AGREED AND ACCEPTED BY: Jeff O'River DATE: 7/7/86

FOR: Tau Ventures, Inc.

Arthur Chiky DATE: 7/14/86

FOR: Prema Toy Co., Inc.

restaurants' sale and promotion of food and beverage products whether such food and beverage products are served in, carried out, or delivered from said restaurants. This license shall extend only to food

LICENSE AGREEMENT

THIS LICENSE AGREEMENT made Aug. 8th, 1987  
by and between GUMBY PIZZA SYSTEMS, INC. ("Licensor") and TAU  
VENTURES, INC. ("Licensee").

Licensee acknowledges that Licensor acquired the rights being licensed hereunder via an assignment of that certain License Agreement dated June 27, 1986 by and between Prema Toy Co., Inc. and Tau Ventures, Inc., copy of which has been delivered to Licensee. The terms of such Licensee Agreement are herein incorporated by reference and made a part hereof as if Licensor were Prema Toy Co., Inc. and Licensee were Tau Ventures, Inc. except that:

(1) Licensee may not assign, grant or transfer in any way any rights granted hereunder,

(2) The statements contemplated therein shall be delivered to Licensor by the 20th day after each calendar quarter, rather than the 28th day, and

(3) the percentage compensation shall be 5% rather than 0.75% and shall be payable monthly on or before the tenth day of the following month, rather than quarterly on the 28th day following each quarter.

In Witness Whereof, the parties have executed this Agreement on the date first above written.

TAU VENTURES, INC.

GUMBY'S PIZZA SYSTEMS, INC.

By:

Jeff O'Brien  
President

By:

Jeff O'Brien  
Jeff O'Brien, President

# EXHIBIT B

**From:** [Shana Merrill \(BentoBoxEnt\)](#)  
**To:** [chance352@gmail.com](#); [gumbys2@yahoo.com](#)  
**Cc:** [jeff.leedom@pwc.com](#); [ryan.halversen@pwc.com](#); [Kaiser, Michael](#); [Eisner, Erin](#); [Coker, Brett \(BENTOBX ENT\)](#); [Lisa McFarlin \(BENTOBX ENT\)](#)  
**Subject:** Re: Notice of Audit re: License Agreement  
**Date:** Tuesday, August 6, 2024 12:47:22 PM

---

Mr. Hipplier & Mr. O'Brien,

I have yet to hear a response from you regarding the below email pertaining to our notice of our intent to audit under the License Agreement. Please can you advise the name and contact information for the primary interface person at your company with regards to this audit, as well as the location(s) at which the on-site audit should occur?

Thank you,  
Shana Merrill

On Mon, Jul 22, 2024 at 10:53 AM Shana Merrill <[shana.merrill@bentoboxent.com](mailto:shana.merrill@bentoboxent.com)> wrote:

Dear Messrs. Hippler and O'Brien:

Pursuant to Section 6 of the attached License Agreement, dated June 27, 1986, we hereby provide notice of our intent to audit applicable books and records to determine compliance with the terms and conditions under the License Agreement. This audit will be carried out by a third-party auditor, PricewaterhouseCoopers ("PwC").

PwC will contact you with regards to scheduling this audit. This audit can be conducted both remotely and on site and can be arranged between you and PwC. Please advise me by email the name and contact information for the primary interface person at your company regarding the audit and the location(s) at which the on-site audit should occur.

We and PwC will attempt to minimize, to the extent possible, any disruption to your business as a result of this audit. Your cooperation and assistance in this process will be most appreciated.

Sincerely,

Shana Merrill

--

**Shana Merrill**

CFO

**Bento Box Entertainment**

**Manager of Prema Toy Company, Inc. License Agreements**

5161 Lankershim Blvd, suite 120  
North Hollywood, CA 91601

--

**Shana Merrill**

Direct: (818) 333-7783



**EXHIBIT C**



**Prema Toy Company, Inc.**  
10201 WEST PICO BOULEVARD LOS ANGELES, CA 90035

September 17, 2024

**VIA USPS PRIORITY MAIL EXPRESS & E-MAIL**

Mr. Chance Hippler  
Mr. Jeffrey O'Brien  
Baiting Hollow Development, LLC  
2028 SW 34th Street  
Gainesville, FL 32607

Baiting Hollow Development, LLC  
Post Office Box 510747  
Melbourne Beach, FL 32951

[chance352@gmail.com](mailto:chance352@gmail.com)  
[gumbys2@yahoo.com](mailto:gumbys2@yahoo.com)

**RE: Notice of Termination of License Agreement dated June 27, 1986 Pursuant to Section 11(b) Thereof**

Dear Mr. Hippler & Mr. O'Brien:

This letter shall constitute Prema Toy Company, Inc.'s ("Prema") Notice of Termination to Baiting Hollow Development, LLC ("Baiting Hollow") of the License Agreement dated June 27, 1986. Baiting Hollow has failed to comply with multiple sections of the License Agreement, including repeated and continuous violations of Sections 5 and 6. Prema demands that Baiting Hollow correct these defaults within thirty-five (35) days of the date of this Notice of Termination, which has been provided via e-mail and USPS Priority Mail Express. If Baiting Hollow fails to correct these defaults within that time, pursuant to Section 11(b) of the License Agreement, the License Agreement will terminate in thirty-six (36) days from the date of this Notice of Termination.<sup>1</sup>

Baiting Hollow has failed to comply with the following provisions of the License Agreement as set forth below:

1) **Section 5 – Quarterly Statements**

---

<sup>1</sup> Although the License Agreement permits Prema to terminate the License Agreement "upon not less than 30 days written notice" (emphasis added) in the event of a breach of the License Agreement, as a courtesy to Baiting Hollow, Prema is giving Baiting Hollow thirty-five (35) days from the date of this Notice of Termination to cure the breaches specified herein. If Baiting Hollow fails to cure all of these specified breaches within that time period, the License Agreement will terminate in thirty-six (36) days from the date of this Notice of Termination.

Section 5 of the License Agreement requires Baiting Hollow to provide quarterly statements detailing the gross sales upon which Baiting Hollow bases its payments to Prema. Specifically, Section 5 states as follows:

5. For each restaurant owned by Licensee or by Licensee's franchisees, Licensee shall submit to Licensor promptly on the 28th day following each calendar quarter complete and accurate statements, certified to be accurate by an officer of Licensee showing the gross sales of each unit of Licensee or Licensee's franchisee. Receipt or acceptance by Licensor of any of the statements furnished pursuant to this Agreement or of any sums paid hereunder shall not preclude Licensor from questioning the correctness thereof at any time, and in the event that any inconsistencies or mistakes are discovered in such statements or payments, they shall immediately be rectified and the appropriate payments made by Licensee.

Prema has not received a statement from Baiting Hollow showing the gross sales of each unit of Licensee or Licensee's franchisees since the third quarter of 2022. Thus, Baiting Hollow has failed to comply with Section 5 on at least seven occasions, including Q4 2022, Q1 through Q4 of 2023, and Q1 and Q2 of 2024.<sup>2</sup> This constitutes a default under Section 5 of the License Agreement.

Section 11(b) of the License Agreement states that the License Agreement will terminate if Baiting Hollow "fail[s] to comply with any provision of this Agreement," provided that Baiting Hollow fails to correct the default "upon not less than 30 days written notice to" Baiting Hollow. Should you fail provide statements that meet the requirements of Section 5, meaning "complete and accurate statements, certified to be accurate by an officer of Licensee showing the gross sales of each unit of Licensee or Licensee's franchisee," the License Agreement will terminate in thirty-six (36) days from the date of this Notice of Termination.

## 2) **Section 6 – Books and Records**

Section 6 of the License Agreement requires Baiting Hollow to 1) keep a broad scope of books and records until at least two years following termination of the License Agreement, and 2) make those books and records available for inspection and audit by Prema during reasonable business hours upon reasonable notice. Specifically, Section 6 states as follows:

**6. BOOKS AND RECORDS:** Licensee shall keep, maintain and preserve (in Licensee's place of business) for at least two (2) years following termination or expiration of the license period or any renewal thereof, complete and accurate records of accounts including, without limitation, invoices, correspondence, banking and financial and other records pertaining to the various items required to be shown on the statements to be submitted by Licensee. Such records and accounts shall be available for inspection and audit during or after the

---

<sup>2</sup> In addition, Baiting Hollow's statements for Q1, Q2, and Q3 of 2022 failed to include the required certifications of accuracy required by Section 5.

term or terms of the license period during reasonable business hours and reasonable notice by Licensor or its nominees. Licensee agrees not to cause or permit any interference with Licensor or nominees of Licensor in the performance of their duties of inspection and audit.

The exercise by Licensor in whole or in part, or at any time or times of the right to audit records and accounts or of any other right herein granted, the acceptance of Licensor of any statement or statements or the receipt and deposit by Licensor of any payment tendered by or on behalf of Licensee shall be without prejudice to any rights or remedies of Licensor and shall not stop or prevent Licensor from thereafter disputing the accuracy of such statement or payment.

Prema has broad audit rights under this provision. It may inspect and review all Baiting Hollow financial records pertinent to its payments due under the License Agreement. And it may do so at any time during business hours upon “reasonable notice.”

On July 22, 2024, Shana Merrill of Bento Box Entertainment, and the Manager of Prema Toy Company, Inc. License Agreements sent to Baiting Hollow a “Notice of Audit re: License Agreement.” A copy of that notice is attached as Exhibit “A” to this Notice of Termination. Pursuant to Section 6 of the License Agreement, Prema provide notice of its “intent to audit applicable books and records to determine compliance with the terms and conditions under the License Agreement.” Notice was further provided that PricewaterhouseCoopers (“PwC”) would conduct the audit, and requested contact and location information to proceed with the Baiting Hollow audit. Ms. Merrill further stated that Prema and PwC would attempt to minimize any disruption to Baiting Hollow’s business during the audit.

Yet no one responded to Ms. Merrill’s July 22 e-mail.

On August 6, 2024, Ms. Merrill wrote to Baiting Hollow again for contact and location information. A copy of that e-mail is attached as Exhibit “B” to this Notice of Termination. Prema received automated “out-of-office” responses, with Mr. Hippler’s stating he would be traveling through September 8 with “limited access” to e-mail, and Mr. O’Brien’s stating he would be out of work until early September due to surgery.

Again, no one responded to Ms. Merrill’s August 6th e-mail.

Now, more than 50 days have passed since Ms. Merrill’s audit request. Prema has made repeated efforts to coordinate the logistics of the audit. Baiting Hollow has refused to respond to any requests or cooperate in submitting to an audit despite being contractually obligated to participate—a plain violation of Section 6 of the License Agreement.


In addition, Prema has become aware that Baiting Hollow has alleged in a separate lawsuit that the audit provision in Section 6 has been “deleted” from the License Agreement. Thus, despite not responding to Ms. Merrill’s correspondence, Baiting Hollow has taken the position in a recent court filing that it is not required to comply with Prema’s audit request.

Section 11(b) of the License Agreement permits Prema to terminate the License Agreement if Baiting Hollow “fail[s] to comply with any provision of this Agreement,” provided that Baiting Hollow fails to correct the default “upon not less than 30 days written notice to” Baiting Hollow. Should you fail to make all of Baiting Hollow’s books and records available for inspection by Prema and/or its representatives during reasonable business hours during the next thirty-five (35) days, pursuant to Section 11(b) of the License Agreement, the License Agreement will terminate in thirty-six (36) days from the date of this Notice of Termination. Specifically, if you continue to refuse to provide the information previously requested by Shana Merrill such that Prema or its representatives cannot schedule and visit your location within thirty-five (35) days of the date of this Notice of Termination, the License Agreement will terminate in thirty-six (36) days from the date of this Notice of Termination.

Moreover, notice is further given that following termination of the License Agreement, any further use by Baiting Hollow of the Gumby name, character, and/or any other Gumby-related intellectual property will be deemed, among other things, copyright and/or trademark infringement, entitling Prema to, among other things, damages, injunctive relief, attorney’s fees, and costs. *See, e.g., MCA Television Ltd. v. Feltner*, 89 F.3d 766, 768 (11th Cir. 1996) (licensee’s exploitation of copyrighted works following termination of license deemed willful copyright infringement); *Campero USA Corp. v. PCNY, LLC.*, 2011 WL 13319576, at \*5 (S.D. Fla. Sept. 8, 2011) (issuing preliminary injunction against franchisees where “[t]he refusal to accept those terminations [of the franchise agreement] and the continuation of the franchises without authority places [the franchisees] in the position of trademark infringers”).

Please feel free to contact me if you have any questions.

Sincerely,



Brett Coker

# **EXHIBIT “G”**

**JULY 4, 2025 LETTER  
FROM CHANCE HIPPLER ON BEHALF OF BAITING**

Baiting Hollow Development, LLC  
2028 SW 34<sup>th</sup> Street  
Gainesville, FL 32607

July 4, 2025

Prema Toy Company, Inc.  
Attn: Brett Coker  
10201 West Pico Blvd.  
Los Angeles, CA 90035

*Via US Express Mail  
Certified Mail Return Receipt*

Re: Response to Letter of June 9, 2025  
Notice of Termination

Dear Mr. Coker:

I am writing to you in response to your letter to me of June 9, 2025. In your letter, you advise that it is the position of Prema Toy Company, Inc. (hereinafter "Prema") that Baiting Hollow Development, LLC (hereinafter "Baiting") has been deficient in the performance of some of its contractual obligations under the parties' License Agreement dated June 17, 1986. In this regard, you state that Baiting has not complied with sections 6, 5, 4(b), 10(b), 1, and 10(f), which you addressed in your letter in that order. Further, you state in your letter that unless these alleged deficiencies are corrected within 40 days from the letterhead date of your letter, Prema will deem the License Agreement to be terminated. All of your assertions are not only without any legal merit, but many of them have no basis in truth and ignore decades of course of conduct between Baiting and Prema, which was only purchased by Fox on February 7, 2022. I will address each issue in the same order as presented in your letter.

Section 6 - Books and Record

On or about July 22, 2024, Prema sent an email request to audit Baiting books and records (this was the first audit request Baiting had received in nearly 40 years). Mr. O'Brien, my business partner of forty (40) years and best friend, was due to have serious back surgery in the next couple of weeks and I was at an out of town conference in Nashville to be followed by an annual late summer vacation before the beginning of the grind of another school year. As you know, Art Clokey, a dear friend and the creator of Gumby, had specifically and intentionally waived the audit provision of the License Agreement; hence, the audit request was a surprise. However, Baiting, having nothing to hide and wanting to err on the side of caution, without waiving any of its rights, allowed Prema to send its auditors to Gainesville to audit the books and records. For

approximately 1 - 2 weeks before the auditor's scheduled arrival, I heard nothing from Prema/PWC - complete silence. On the scheduled date of the audit, I diligently showed up at 9:00 a.m. at the previously agreed upon meeting place. About 90 minutes late (10:30 a.m.), Mr. Schum (PWC's auditor) finally showed up. When Mr. Schum showed up, I was actually on the phone with my attorney asking how long I had to wait. And, that is when I said, "I can't believe you actually showed up" – a reference to the fact that I hadn't heard anything from Prema/PWC in over a week coupled with the fact that he was approximately 90 minutes late. Mr. Schum then sent an impromptu text/email (after he was already there), saying that he was on the way. This was an obvious attempt to cover up his tardiness, failure to confirm the audit, and a complete lack of professionalism.

Baiting's records have been held for approximately 20 years at the same location (warehouse N-13). There are 40 years of documents/files/servers/computers (several million pieces of paper) in the warehouse, which I had discussed with Prema/PWC on the pre-audit phone call. Prema/PWC chose to send only one junior accountant (Mr. Schum) instead a team of 10 - 20 accountants, who was in Gainesville for a day and a half (10 man hours) on October 30<sup>th</sup>/31<sup>st</sup>, 2024 (Audit #1). I was with Mr. Schum at the warehouse during the entirety of Audit #1. Baiting operated a corporate office for approximately 38 years from 1986 - 2023. This office employed, at its height, up to a 20 person staff of accountants and support staff. I pointed out to Mr. Schum the multiple computers/servers that were used at the corporate office from 1986 - February 2023 (Baiting closed its office after Mr. O'Brien's divorce). This would have been an invaluable wealth of data to review. I told Mr. Schum he was free to set up the computers as the warehouse has electrical outlets and lighting or take them to a secure air-conditioned facility for inspection. I even ran to the local store to buy, at my expense, multiple bottles of water for Mr. Schum.

I also showed Mr. Schum a blue book in one of the filing cabinets. Baiting had put this "Blue Book" together for private equity investors. The book contained the sales of every location for every single week for approximately 10 years. PWC could have audited 10 years' worth of sales very quickly. PWC's blatant disregard for this unparalleled wealth of information led me to question Prema's true intention for the audit. Additionally, Mr. Schum seemed very disinterested in the servers/computers, complained about the heat, and stated to me that he needed to catch a flight back for the Halloween party he was hosting. He didn't mention any other problems with the working conditions of the warehouse during Audit #1.

Baiting had no further contact with Prema until January 2, 2025, at which time Prema notified Baiting that they were going to return to Gainesville for a 2nd audit (Audit #2). Through mutual agreement, both parties agreed that it would occur in late March 2025. Although Baiting again explicitly stated that Prema had no right to conduct an audit, Baiting allowed Prema to return for Audit #2 with no resistance.

As you now know, Jeff O'Brien, my business partner and close friend for 40 years and the co-founder of Gumby's Pizza, unexpectedly died around 1:00 a.m. on March 24, 2025, the very day that PWC showed up for Audit #2. He was only 60 years old. Less than 8 hours after my business

partner's tragic death and on zero sleep, I answered the bell and met Prema/PWC at the warehouse. The Prema/PWC team (Mr. Schum and two very junior accountants) was nonchalant about being two hours late (again); telling me that they had to stop by Walmart and stop for coffee. I was distraught, but not wanting to be difficult as I knew the audit had been scheduled for some time and was expecting a team of 10 - 20 lawyers and accountants to arrive, I did not try to reschedule Audit #2.

I was very surprised that Prema/PWC sent only 3 junior employees for Audit #2; Mr. Schum should have known that 3 people could not have finished an audit of that magnitude in 3 - 4 days. It was blatantly obvious that they were sent by Prema simply as a façade to show that they made an attempt at an audit before implementing their diabolical plan to simply steal Baiting's extremely valuable license by falsely accusing Baiting of being in default. Prema claimed that during Audit #2 there was a car outside with people watching the audit. I personally planned to be there for this audit as I had been for Audit #1. You conveniently forget that my business partner of 40 years tragically died only 8 hours earlier. In order to allow the audit to move forward, I asked a friend to oversee the audit. I knew that day was going to be "HELL" notifying Mr. O'Brien's 84 year old mother, family, and friends of his sudden death, and trying to stabilize the company in the wake of a key man loss.

Prema falsely claims that the warehouse is unauditible and, therefore, we have not complied with the terms of the license. Prema claimed a dust-like substance was in the warehouse that made the audit undoable. This is the same warehouse where I store valuable heirlooms, pictures, and memorabilia - some of which date back over 120 years. Additionally, restaurant equipment is stored in the warehouse and staff and I routinely access it on at least a monthly basis. If the warehouse is good enough for ancient family heirlooms, photos, and restaurant equipment, it is certainly good enough for a Prema audit. Regardless of Prema's malicious accusations, the warehouse is where the business records have been held and stored for decades. The warehouse has not materially changed since Audit #1 on 10/31/24. Mr. Schum was on the ground in October and knew the exact condition of the warehouse; I even told Mr. Schum that PWC could, at their expense, move the documents to another location more comfortable for PWC, which I was not required to offer. I also told Mr. Schum that I had heard many audit horror stories while growing up as my father was a senior CPA and worked for decades as a partner at Deloitte. I was in no way adversarial to PWC. My conversations with Mr. Schum were very friendly, he even asked me if I wanted PWC to organize the personal effects in a certain area of the warehouse, which I told him would be appreciated and I invited him to stop by the restaurant for dinner (obviously at no charge). Prema acknowledges that the "storage unit contained approximately 100 boxes of documents and seven filing cabinets," which was known from Audit #1, yet PWC sent only three junior accountants for only a brief amount of time to conduct Audit #2 (this does not make any sense). PWC went through only 2 boxes - I pointed Mr. Schum to the area of the warehouse where there were upwards of 20,000 Profit and Loss statements that plainly showed the sales and expenses for each store, which were purposefully ignored. The documents I pointed out also showed the "Royalty" expense that was paid to Prema. Prema chose to ignore decades of simple paperwork showing, without a doubt, that proper royalties were paid. Prema also chose to ignore decades of bank statements that would have backed up all royalties paid to Prema. Prema/PWC again disregarded the servers/computers that were in the

warehouse. Prema bought tables, chairs, umbrellas, among other items for Audit #2. After just one (1) day, you abandoned Audit #2 and abandoned all of the items that PWC brought to the warehouse. This left Baiting with unwanted items that could very well have created a dangerous situation and liability hazard. During Audit #1, Mr. Schum was provided with at least 10,000 profit/loss statements in a cool comfortable environment. I offered that Mr. Schum could stay for as many days as he needed. Instead, Mr. Schum responded that he had to get back for what he described as a “Hot Halloween Party” that he and his roommate were putting on.

Baiting’s view is at best, Prema sent a bunch of entry level Gen Z accountants, who thought they were above the assignment or, worse, something more sinister as a Prema attempt to hijack Baiting’s license and steal all of their ideas, they have cultivated, and paid for, for forty (40) years.

Prema claims that I denied access to the POS at the restaurant in Gainesville. I told Mr. Schum that all of the POS reports are printed off and brought to the warehouse at the end of each month. I also told Mr. Schum that these reports were downloaded or scanned into the corporate servers from all the locations and were at the warehouse. I explained to Mr. Schum that Gumby’s needs every POS station while the restaurant is open and that I thought it would unnerve the employees by having strangers in the store for hours looking through the computers on the very day of Mr. O’Brien’s untimely death. I was concerned with spooking the employees and rumors flying around in consideration of Mr. O’Brien’s sudden passing. Employees were already in complete shock. The last thing I needed was for them to start thinking that the restaurant might be closing down with strangers riffling through the POS – on the very day one of the owners died. When I stopped at the warehouse later that day, I told Mr. Schum that I was exhausted dealing with my business partner’s death but offered that if PWC could meet early in the morning, before employees came to work, that would be ok for PWC going through the POS. Mr. Schum said he would “check with his team” and let me know. I never heard anything further from PWC on the subject and PWC never came back after March 24<sup>th</sup> (day 1 of Audit #2).

If Baiting was, in any way, trying to delay, postpone, impede, or thwart the audit, the events in the early morning of March 24th would have provided a clear excuse to postpone the audit. On the day of my partner’s death, I could have reasonably rescheduled the audit for weeks if not months into the future. Yet, despite the unimaginable events that took place just hours before the Prema/PWC’s arrival, I showed up at the warehouse and was all business - amazing.

Baiting is a small business that remits royalties of roughly \$30,000 - \$40,000 annually. The fact that Prema’s parent company, a Fortune 500 company, is spending tens of thousands of dollars on auditing Baiting makes one question the motivation behind the audits.

In spite of all the falsities Prema claims about Audit #1 and Audit #2, and although Baiting still claims Prema has no right to even audit Baiting’s records, Baiting has in no way attempted to hinder, obstruct, or hamper an audit. We have nothing to hide. You’re welcome to come to Gainesville any time to review the documents, servers, and POS that your agents intentionally failed to review in the first two audits. Again, in 40 years the Clokey family never conducted a single audit. The right to audit was long ago waived by Art Clokey but you continue to insist

upon doing things that you are not permitted to do under the License Agreement and continue to insist that Baiting cannot do things that it is permitted to do under the License Agreement.

#### Section 5 - Complete and Accurate Records

Baiting has repeatedly stated that all documents, statements, and any related materials are located in the warehouse. The license states that Prema can audit in person where Baiting keeps the records, which is exactly where they are kept in the ordinary course of business when you purchased Prema and for decades prior to that date. This license does not allow Prema to demand that the audit take place in any other manner.

#### Section 4(b) - Percentage Compensation

Prema claims they are owed royalties from Court of Hero's Sports Bar, Working Cow Ice Cream, and the host of ghost kitchens that Baiting operates. Prema is again mistaken and making false allegations to support its nefarious scheme to steal Baiting's license. Multiple concepts actually began in 1995 with Baiting launching a Gumby's Pizza inside of a Fuddruckers restaurant owned by Joe O'Brien. The Fuddruckers restaurant was located in Overland Park, KS. Joe O'Brien is the father of Jeff O'Brien (co-founder of Gumby's Pizza). Art and Gloria Clokey were at the grand opening of the first Gumby's Pizza inside of a Fuddruckers (**Exhibit "A"**) and also stayed at the home of Joe O'Brien for a week. Art absolutely knew that he was not due royalties from the Fuddruckers sales, nor did he, or anyone on his behalf, ever demand or even raise that issue in the past 30 years. You can see the attached newspaper articles regarding the Grand Opening. The parent company, DAKA, which was a public company trading on NASDAQ, had plans to roll out Gumby's Pizza units in all 200+ Fuddruckers. Art and Gloria were beyond excited with the potential rollout. It is preposterous to imply that Art Clokey expected any royalties above and beyond the sales that only came from Gumby's Pizza. It is further laughable, if not offensive, to believe that DAKA would entertain any sort of an arrangement where their company would be obligated to pay blanket royalties to another company. As you can see from the newspaper clippings attached to this letter, it is beyond dispute that not only was there a Gumby's Pizza/Fuddruckers operation, but that Art Clokey was at the grand opening and fully supported the co-branding of multiple concepts. Furthermore, the newspaper states that Fuddruckers was also planning to add an ice cream concept and a coffee shop concept to the restaurant. Art Clokey knew that Prema was not entitled to receive royalties on those non-Gumby's concepts. Art and Gloria were thrilled with the possibility of Gumby's partnering with Fuddruckers. Another reason that Art and Gloria were in town was because we had a meeting with a Kroger executive about a frozen pizza deal between Kroger, Baiting, & Prema. Baiting was working diligently around this time on a frozen pizza deal as Prema and Baiting saw grocery stores as a huge potential money maker for both parties.

In 1998 or 1999, Baiting was moving locations in Gainesville to a larger space. I mentioned to Art that Jeff and I would also be building a sports bar along with the Gumby's Pizza. Art, although he did NOT have the legal right to stop us from naming the sports bar "Gumby's Sports Bar & Grill," which we suggested to Art, he told me that he was uneasy about selling hard liquor under the Gumby

brand and asked me if I would call it something else as a favor to him (he also told me that it was 100% my decision as I could call it Gumby's Sports Bar & Grill). I was disappointed. Art agreed that having "Gumby's Sports Bar & Grill" alongside a "Gumby's Pizza" would be a huge marketing sensation, but I had tremendous respect for Art and went along with his request. I explained that this move would possibly be a significant missed opportunity for him by not receiving royalties on a big portion of sales out of the Gainesville location. Art told me that he was not concerned about the missed opportunity of a larger royalty check (it was Art's idea to have the bar side of the business branded under a different name). As Art and I were longtime friends by this time, for almost 15 years, I decided to acquiesce to the wishes of Art and brand the bar under "Court of Heros Sports Bar." This decision, obviously, cost me a significant loss of revenue over the years. I truly believe that the gross revenue would have been far higher had the name of the bar been Gumby's Sports Bar & Grill, as I had planned. Based upon your hostile position toward us, can only lead me to believe that you have no idea of the business dealings of Prema prior to Fox's purchase of the company. To be clear, no royalties are due on Court of Heros, Working Cow Ice Cream, etc. just like no royalties were due on Fuddruckers' gross revenue. All of the percentage compensation paid by Baiting to Prema is backed up by decades of "course of conduct," which Fox should have known and realized when it purchased Prema.

In the early 2000's, Baiting was running multiple ghost kitchens through DoorDash's predecessors, such as 352 Delivery, Gainesville Delivery, and \$3 Delivery among others. The market had changed by then with higher minimum wage, more competition, and higher cost of goods. Mr. Clokey and I discussed the tightening market conditions and what Baiting needed to do to survive/succeed and what we were doing with ghost kitchens. Art agreed that Baiting had to do this to stay competitive and agreed that according to the license, that if Baiting sold products under a ghost kitchen, Prema would not be receiving any royalty income because, by nature, the ghost kitchen model was a delivery only business. I discussed with Art that I felt badly that he was not receiving any income from delivery sales because the entire pizza business was becoming a delivery business (not just the ghost kitchens but the entire business, e.g. Domino's), which is part of the 1991 Memorialization. Art told me that he was not concerned and that he would make it up on sub-licensing deals and wanted to try to get a frozen pizza deal done (Kroger deal). Art was more than happy with Baiting and repeatedly thanked us for keeping the Gumby Characters alive and relevant through the years. Again, this is completely backed up by decades of "course of conduct."

Prema claims that Baiting didn't pay royalties for Quarter 3, 2022, and Quarter 2, 2023 despite reporting sales. Your position that Prema received a sales report without a check in a certified mail envelope is absurd and defies logic (if this was true, why didn't Prema send an email, call, or a default letter at that time). Prema, at times, actually takes weeks or even months to cash a royalty check. Maybe Prema misplaced the check or worse, something more sinister is at play. I have sent roughly 12 quarterly royalty checks since Fox purchased Prema. Three of these envelopes have been returned to me and had to be resent to Prema (literally 25% of the royalty checks mailed to Prema were returned to Baiting by the post office). You were notified each time of the non-deliverability of the royalties (**Exhibit "B"**). As shown by the exhibits, I was in frequent contact with you, personally. The emails also show Prema was making somewhat of an

effort on the accounting of royalties. Now, Prema gets amnesia for those 2 quarters? Your position is outrageous because Prema has also received numerous quarterly checks since those dates and its accounting department didn't recognize alleged missing checks when subsequent payments came in?

Additionally, Prema claims I sent conflicting reports for the same quarter. When Prema asked for my signature on the royalties, which Art Clokey never requested and was confirmed through "course of conduct" for 40 years, I took a closer look and realized I had actually overpaid Prema. I occasionally overpaid for years because of our relationship with Art, Joe, and Joan Clokey. I knew Joan was struggling since the loss of Joe. She would often ask if half of the royalties could be sent early. That was our relationship with Prema pre-Fox.

I take the payment of royalties very seriously and send the checks and statements religiously at the end of each quarter. Prema (before Fox's purchase of Prema) received the checks at the end of every quarter (and sometimes earlier) without fail for 38 years. NOW, Prema claims that I missed 2 quarterly payments in the first 12 months after Fox purchased Prema? This, after Prema sent a termination letter to Baiting within mere weeks of acquiring the Gumby character rights? Even more unbelievable, Prema resorts to claiming that I mailed the statements without the checks? These are outrageous claims! Notably and very telling as to Prema's post-Fox motive, these false claims seem more suited for a Simpsons episode where the big bad corporation owned by Mr. Burns (who negligently failed to complete its due diligence when purchasing the mom-and-pop company) tries to bully the small college-town business (who faithfully fulfilled its contractual duties and paid its royalties for forty (40) years) in an attempt to steal a very valuable license. But, as in all the Simpsons episodes, in the end Mr. Burns (Prema / Fox) efforts will be thwarted.

I have enclosed a cashier's check in the amount of \$17,000.00 for the 2 quarters that you claim to have not been paid. Please note that if it is discovered that you actually cashed the prior checks, I'll view this payment as a pre-payment of future royalties.

#### Section 1 – Registration and Ownership GumbyCoins.com

Prema is now demanding that we abandon the GumbyCoins.Com website. As you know, our position is that we may own and operate GumbyCoins.Com. However, pursuant to your first default notice, mere weeks after Fox acquired Prema, we took down the website and filed a declaratory action for a court to resolve that dispute. Your current demand is outrageous as Prema or Fox would certainly acquire the website if we abandoned it and then extort us for an obscene amount of money to get it back once we are successful in the pending litigation concerning Gumby Coins (or worse refuse to sell it back to us at any price). To be clear, we have not put that website live since taking it down from the internet and we are not in breach of the License Agreement. Further, upon the final adjudication of the pending lawsuit concerning Gumby Coins, in the unlikely event that we are not successful, we have no objection to assigning the website over to you at that time. This matter is before a court and a court will resolve this dispute and your attempt to front-run a judge and jury is not appreciated.

Perhaps you are unaware, but Chucky Cheese has a promotion on its pizza box promoting 1,000 free “e-tokens” to be used in their locations (**Exhibit “C”**). This is no different than what Baiting was doing with the Gumby Coins. Furthermore, Prema knew about GumbyCoins.Com in February of 2022. Yet you chose not to demand the abandonment of the domain at that time. The “course of conduct” over the last 3 years and Prema’s complete failure to timely raise its improper position clearly demonstrates Prema is again making up false breaches to support its strategy of coming up with any reason it can to steal Baiting’s very valuable license.

#### Section 10(b) - Harm and Misuse of the Character

Prema claims that Baiting has harmed the Gumby Characters through the brands of Court of Heros, Working Cow Ice Cream, and various ghost kitchens. This was addressed earlier. Multiple brands were an idea in the early 90’s in collaboration with Art Clokey. Mr. Clokey was not only well aware of these brands, but he actually came up with the idea for some of them, and certainly blessed the idea for at least 30 years before Fox purchased Prema. Gumby’s Pizza and Court of Heros have had their own separate outdoor neon signs, their own separate doors, their own separate counters, and their own separate registers from the very beginning. This is certainly backed up by “Course of Conduct” since at least 1995 (30 years).

Prema then claims that the sale of Dog Toys in a Gumby restaurant violates the License Agreement. The toys are used for the promotion of the Gumby restaurant. This is addressed in the original agreement and readdressed in the 1991 Memorialization. Baiting can only assume Prema is receiving a royalty from the toy company producing the toys. This is no different than selling a Gumby T-Shirt which has been done since 1986. Additionally, regarding this petty claim of a breachable offense by Prema, the owner of the location told me that an employee received 10 of these toys as a gift so they decided to put the 10 toys up for sale. By the way, the location didn’t even sell one and he claimed the toys haven’t been for sale for 2 years! Why didn’t Prema claim a breach at that time? Furthermore, the final email from Joan Clokey specifically mentions “merchandise,” proving, without a doubt, Prema was aware for many years that Baiting was allowed to sell other Gumby related products and Fox should have known that when it purchased Prema or, perhaps, you did know and this is all part of your plan to steal the license.

#### Section 10(f) - Specific Menu Offerings

Prema claims Baiting breached the License Agreement by not offering a “Gumby’s Favorite Vegetarian Submarine Sandwich” and a “Gumby’s Favorite Vegetarian Pizza.” This was waived by Art Clokey in the first year of the License Agreement. The vegetarian submarine and pizza were money losers and did only a few sales per month. Since that time, customers’ preferences for vegetables and salads have changed and a vegetarian submarine and pizza are already on the menu at most stores - sometimes under different names. For instance, at the Gainesville unit the veggie pizza is called the “Gumby Garden” and the veggie submarine is known as the “Chucky Cheeze.” This was cemented through “course of conduct” for at least 35 years. Even though this specific part of the license was undoubtedly waived by Art, these items are currently on the menu at all

locations so we are in compliance regardless of our course of conduct and agreement by Art. Additionally, these options are blanketly offered and marketed on GumbysPizza.Com (**Exhibit “D”**).

I have lived in Gainesville since 1981. Therefore, I cannot help but to consider the comparison of Prema/Fox’s attempt to steal Baiting’s license with the case of Maris Distributing Company v. Anheuser-Busch matter. Roger Maris, Jr. was a friend of mine and I followed the case closely. A Fortune 500 company strolled into Gainesville and tried to bully a small Gainesville company out of its franchise with termination notices based on false and made-up facts, which the Judge and Jury immediately saw through. We see Prema’s conduct in this matter as even more egregious than that committed by Anheuser-Bush.

<https://www.wtsp.com/article/news/local/maris-family-anheuser-busch-settle-multibillion-dollar-lawsuit/67-396157088>

Based on the foregoing facts, Prema’s blatantly false allegations set forth in your letter dated June 9, 2025 and Prema’s false claims that Baiting has breached the License Agreement we are confident that a judge and jury will ultimately see through these nefarious attempts to steal our very valuable license. We faithfully complied with and satisfied all of our contractual obligations for over forty (40) years and are in full and complete compliance with the License Agreement.

Very truly yours,

A handwritten signature in black ink, appearing to read 'CH' with a stylized flourish extending to the right.

Chance Hippler, President  
Baiting Hollow Development, LLC

# Exhibit “A”

# B Business



**STOCKS DOWN**  
 Dow Jones fell 1.2 points to 2,618.84. The S&P 500 fell 1.2 points to 2,618.84. The NYSE fell 1.2 points to 2,618.84. The AMEX fell 0.62 points to 1,000.00. The 30-year bond yield fell 8.16 basis points to 8.16%.

## KU Hospital outlines cost-cutting plan

Some executives will be laid off, and 150 vacant jobs won't be filled.

By JILLIAN K. KASSEL

The University of Kansas Hospital on Thursday said it was implementing a cost-cutting plan to preserve jobs for a projected 10 to 15 million dollars.

"We are not in a position to reduce the size of the hospital, or to cut jobs, or to lay off any of our employees," said James C. Long, the hospital's chief executive officer. "We are in a position to reduce the size of the hospital, or to cut jobs, or to lay off any of our employees."

Long said the hospital would reduce the number of employees by 100 to 150. He said the hospital would also reduce the number of vacant jobs to 150. He said the hospital would also reduce the number of vacant jobs to 150.

What we're doing is effectively reducing the size of the hospital, or to cut jobs, or to lay off any of our employees.

## Judge blocks smut law

It would have banned sending obscene material over computer networks.

By Tom Ichniowski

A federal judge temporarily blocked enforcement of a law that would have banned the sending of obscene material over the Internet. The judge said the law would have violated the First Amendment.

The judge said the law would have violated the First Amendment. He said the law would have violated the First Amendment. He said the law would have violated the First Amendment.

See B1B, B1C, C1, C2

## HAVING A BLAST TAKES PREPARATION

High-tech laser cutting is used to cut steel for the construction of the new bridge over the Kansas River. The bridge is expected to be completed in 1992.



## Hotel gets readied for demolition day

Implosion of Manhattan Towers will cause streets to be blocked off for part of Sunday.

By JOE GIBBY

Demolition workers are preparing the 40-year-old Manhattan Towers for implosion. The towers will be demolished by a controlled explosion.

The towers will be demolished by a controlled explosion. The towers will be demolished by a controlled explosion. The towers will be demolished by a controlled explosion.

## NordicTrack agrees to settle with FTC

NordicTrack Inc. has agreed to settle with the Federal Trade Commission. The settlement involves the company's advertising practices.



The settlement involves the company's advertising practices. The settlement involves the company's advertising practices. The settlement involves the company's advertising practices.

## Fuddruckers, pizzeria test joint effort

Overland Park location has a Dairy's Pizzeria. It has plans to add ice cream, coffee shops.

By JEFFREY GIBBY

Fuddruckers is the new combination of a pizza and a pizzeria. The new combination of a pizza and a pizzeria.

The new combination of a pizza and a pizzeria. The new combination of a pizza and a pizzeria. The new combination of a pizza and a pizzeria.



The new Dairy's Pizzeria and Fuddruckers location in Overland Park. The new Dairy's Pizzeria and Fuddruckers location in Overland Park.

of the towers. give the Marriott a total of 1,000

See MUEHLBACH, B-2, Col. 1

See INVESTMENT, B-3, Col. 1

# Fuddruckers, pizzeria test joint effort

Overland Park location has a Gumbly's Pizza. It has plans to add ice cream, coffee shops.

By JOYCE SMITH  
Staff Writer

Fuddruckers is the latest restaurant chain to try co-branding. It's testing the idea at its area locations.

Under co-branding, two or more branded food service operations are combined in one building. Customers get more variety, and the restaurant makes the most of its unused space.

The 6,500-square-foot Overland Park Fuddruckers has opened a Gumbly's Pizza in its 450-square-foot bakery, and the Independence Fuddruckers will do the same in April.

The area Fuddruckers also will gradually add a Maggie Moo's ice cream and yogurt shop and French Quarter Coffee, along with wide-screen televisions, a game room and gift store selling branded items from the operations.

"Our goal is to make this a stress-free, user-friendly environment with good prices and fresh products and a large variety," said Joe O'Brien, owner of the area Fuddruckers and 22 other locations in Maryland and Virginia.

The co-brand concept will be expanded to Fuddruckers' 200 locations nationwide.

Wendy Webster, spokeswoman for the National Restaurant Association in Washington, D.C., said that more chains are looking at non-traditional ways to expand now that most of the good sites have been taken.

"The mind-set is that they kind of have to push the envelope to grow and expand," Webster said. "A bagel company may combine



JOYCE SMITH/The Star  
Joe O'Brien (left) of Fuddruckers, and Chris DiMeno and Joe O'Brien Jr. of Gumbly's Pizza, are testing a co-branding concept that will soon be in the 200 Fuddruckers nationwide.

with a coffee operation; a main meal restaurant may add frozen yogurt or pastries. Both get more customers."

Although there will be at least

See INVESTMENT, B-3, Col. 1

16  
Wednesday, February 14, 1996  
The Kansas City Star

MTS

Shawnee Mission Star/Business

# Business

## Pizzeria's mascot towers over Metcalf

By STEPHEN ROTH and MARISA AGHA  
Staff Writers

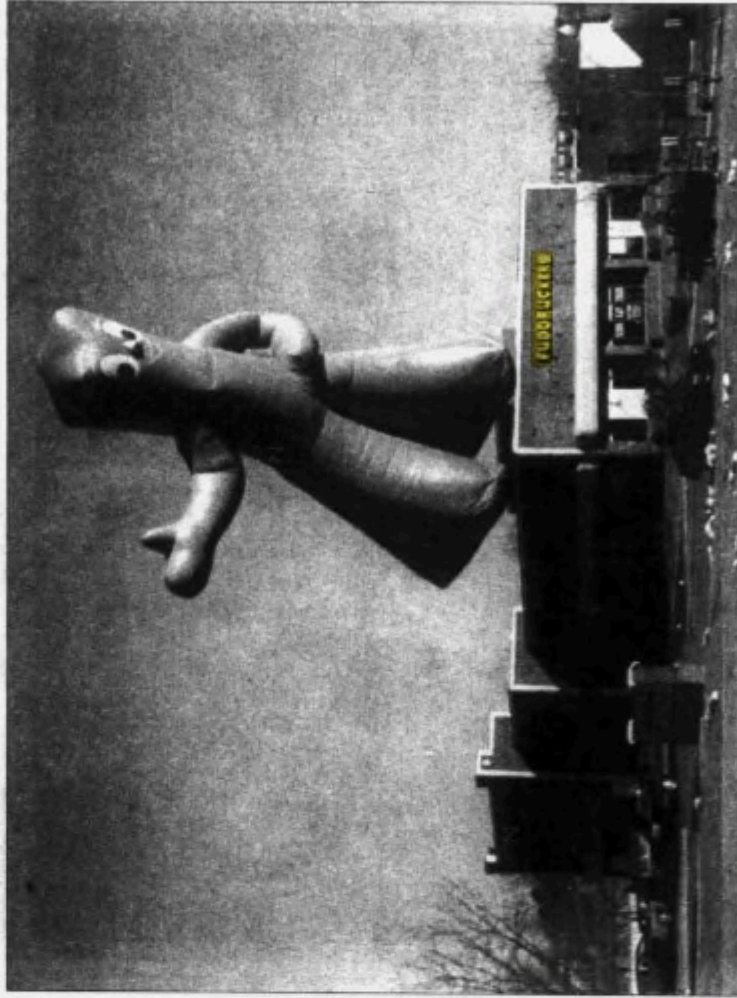
If you've driven down Metcalf Avenue the past week, you've probably noticed a jolly green giant standing in front of Fuddrucker's Restaurant. No, not a large leafy man hocking vegetables, it's a huge blow-up Gummy doll in honor of Kansas City's first Gummy's Pizza, to be located under Fuddrucker's roof at 8725 Metcalf Ave.

The new Gummy's represents a new concept in fast food — incorporating two eateries into one family restaurant. According to spokeswoman Susan McCabe, the national pizza chain has long been a staple in college towns and recently chose Overland Park as its first entry into a major market.

Gummy's opened to the public Feb. 5, with Gummy creator Art Clokey on hand to cut the ribbon.

After 13 years, the Jovaras family will move its Mr. Gyro's Greek Food and Pastries to a building across the street at the corner of 83rd Street and Metcalf Avenue. Adorned with Ionic columns, the 2,500-square-foot building with additional dining space for 80 people will open Thursday, restaurant owner Chris Jovaras said.

The new building was formerly the site of an Amoco gas station



STEPHEN ROTH/The Star

Huge blow-up Gummy doll calls attention to the site of Kansas City's first Gummy's Pizza.

Thursday ribbon cutting at the grand opening of Edward D. Jones and Co. office at 6005 Johnson Drive in Mission. and was the lead investigator in the FBI's post-assassination investigation of Oswald. Refreshments will be served. For more information, call the store at 384-3176.

# **Exhibit “B”**

## Re: Gumby's New Home

1. **Chance** Jeff Ken Manney**jeff o'brien** <gumbys2@yahoo.com>

to brett.coker@bentoboxent.com, me, jeff



Tue, May 3, 2022, 1:54 PM



Mr. Coker,

I wanted to introduce myself to you. I am Chance Hippler, co-founder with Jeff O'Brien of Gumby's Pizza. The reason that I am writing to you is to inform you that we sent the 2022 first quarter royalty payment, which was delivered to your office yesterday.

Please find attached a copy of the cover letter that was sent with the royalty check in the event that you have not yet received it. We are looking forward to resolving this apparent misunderstanding and having a great business relationship with FOX in the future. My cell phone is 352-219-0692. Feel free to reach out to me anytime.

I would appreciate your copying me on all future email communications at [chance352@gmail.com](mailto:chance352@gmail.com), in addition to also copying Mr. O'Brien at [gumbys2@yahoo.com](mailto:gumbys2@yahoo.com).

Thank you,  
Chance Hippler



## Royalties Gumby's Pizza

1. Chance



**Chance Hippler** <chance352@gmail.com>

to me, bcc: brett.coker, bcc: Jeff 



Jul 17, 2023, 11:18 AM



Hello Brett, great to finally talk to you on Friday.

I attached 3 items. 2 were from USPS.com and the third was a photo of the actual envelope that was returned to me.

We mailed 2 envelopes certified mail. One envelope on June 9th and one on June 12th. It looks like June 12th was delivered and June 9th was returned to me. I will get the returned envelope in the mail today.

My cell is 352-219-0692.

Thanks,

# Royalty Check Returned

Inbox

Return to Inbox? the day before **Tue Mar 10 2026** Confirm Add event



**Chance Hippler** <chance352@gmail.com>  
to Brett, Chance

Fri, Mar 28, 12:41 PM



Brett, the 4th quarter royalty check was sent certified to the Pico Blvd address. It was returned to us about a month later as undeliverable. We sent it off again on March 10th(see attached). It hasn't given us an update in 10 days but I'm concerned the 2nd attempt may come back to us too. I was wondering if it was maybe an issue with the fires.

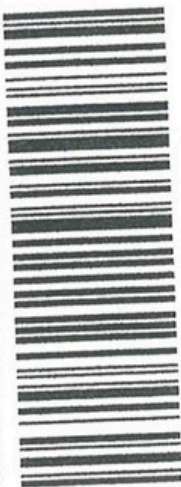
Please advise assuming the 2nd check comes back to us.

Thanks

**One attachment** • Scanned by Gmail



Gumby's Pizza  
PO Box 142622  
Gainesville, FL 32614



7022 3330 0000 9749 8452

JACK  
9 JUL



HDC 99



91601

U.S. POSTAGE PAID  
FCM LETTER  
GAINESVILLE, FL  
32605  
JUN 09, 23  
AMOUNT  
**\$4.78**  
R2305P150140-06

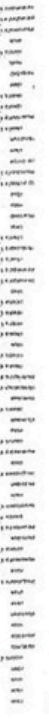
*Beats Box Bl*  
*Prcms Toy Co*  
*Attn Beeth Coker*  
*5161 Lanbershim Bl*  
*North Holly wood*

9160134564 UNCL  
1637543222

NIXIE 911 DE 1 0007/07/23

RETURN TO SENDER  
UNCLAIMED  
UNABLE TO FORWARD

BC: 3261426222 \*1638-00622-09-46



*2/1*

Gumby's Pizza  
PO Box 142622  
Gainesville, FL 32614

JACKSONVILLE FL 320  
31 JAN 2025 PM 1 L

U.S. POSTAGE PAID  
FCM LETTER  
GAINESVILLE, FL 32605  
JAN 21 2025



Retail

Prem's Toy Co  
10201 w Pico Blvd  
Los Angeles, CA 90064

JACKSONVILLE FL 320  
31 JAN 2025 PM 4 L

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

**CERTIFIED MAIL**



NIXIE

911 CC 1

RETURN TO SENDER  
NOT DELIVERABLE AS ADD  
UNABLE TO FORWARD

BC: 32614262222

\*2152

70

Gumby's Pizza  
PO Box 142622  
Gainesville, FL 32614



7022 2410 0001 5077

RETURN TO  
SENDER

*RK*

~~Prem Toy Comp,  
Attn Brett Cook  
10201 West Pico  
Los Angeles, CA~~

95054-2501

# **Exhibit “C”**

# CHUCK E. CHEESE®

## PEPPERONI PIZZA



Good source of calcium

Made with 100% real mozzarella

**1,000 BONUS E-Tickets**  
See back for details.\*

U.S. #1  
AND RALLELLED BY  
INTERNATIONAL  
FRANCHISES

KEEP FROZEN  
NOT READY TO EAT  
COOK THOROUGHLY

PER 1/4 PIZZA

320	CALORIES
7g	SAT FAT
35% DV	
710mg	SODIUM
31% DV	
7g	TOTAL SUGARS
16g	PROTEIN
210mg	CALCIUM
15% DV	

NET WT 17.95 OZ (508g)

SEE NUTRITION INFORMATION FOR SATURATED FAT AND SODIUM CONTENT

# **Exhibit “D”**

# Art Clokey (Gumby Creator)

Art Clokey was an American animator, director, producer, screenwriter, and voice actor, known for pioneering the popularization of stop-motion clay animation.<sup>2</sup> He was the creator of the character Gumby and the original voice of Gumby's sidekick, Pokey. Art Clokey loved Gumby's Pizza & Subs. His most cherished items we serve are the "Gumby's Favorite Vegetarian Pizza" & the "Gumby's Favorite Vegetarian Submarine". Be sure to order these delicious menu items on your future trips to your local Gumby's Pizza"

