

KINNIE MA INDIVIDUAL RETIREMENT ACCOUNT, *et al.*,

Plaintiffs,

v.

ASCENDANT CAPITAL, LLC, *et al.*,

Defendants.

Case No. 1:19-CV-1050-RP (W.D. Tex.)

BARBARA DELUCA, *et al.*,

Plaintiffs,

v.

GPB HOLDINGS, LP, *et al.*,

Defendants.

Case No. 1:19-cv-10498-LAK-JW (S.D.N.Y)

STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement (the “Stipulation”), dated as of December 3, 2024, is made and entered into by and among: (a) (i) Plaintiffs in the consolidated action pending in the Western District of Texas captioned *Kinnie Ma Individual Retirement Account, et al. v. Ascendant Capital, LLC, et al.*, No. 1:19-CV-1050-RP (W.D. Tex.) (the “*Kinnie Ma* Plaintiffs”) and (ii) Plaintiffs in the action pending in the Southern District of New York captioned *DeLuca, et al. v. GPB Holdings, LP, et al.*, No. 1:19-CV-10498-LAK-JW (S.D.N.Y.) (the “*DeLuca* Plaintiffs”), in each case on behalf of themselves and the Settlement Class defined herein (collectively, “Plaintiffs”); and (b) Defendants CohnReznick LLP; Crowe LLP; Margolin, Winer & Evens LLP; RSM US LLP; and WithumSmith+Brown, PC (collectively, the “Settling Defendants”). The parties are hereinafter collectively referred to as the “Parties.”

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RECITALS

(a) On October 25, 2019, the putative class action captioned *Kinnie Ma Individual Retirement Account., et al. v. Ascendant Capital, LLC, et al.*, No. 1:19-CV-1050-RP was filed, as later amended, against the Settling Defendants and others, and later consolidated with *Barasch v. GPB Capital Holdings, LLC, et al.*, No. 1:19-cv-01079-RP, in the United States District Court for the Western District of Texas (collectively, the “*Kinnie Ma Action*”);

(b) On November 12, 2019, the putative class action captioned *DeLuca, et al. v. GPB Holdings, LP, et al.*, No. 1:19-cv-10498-LAK-JW was filed in the United States District Court for the Southern District of New York and later amended to include as defendants all of the Settling Defendants, except WithumSmith+Brown, PC (the “*DeLuca Action*” and, together with the *Kinnie Ma Action*, the “*Actions*”);

(c) On June 13 and 14, 2024, the Parties participated in a mediation conducted by Retired United States District Judge Layn Phillips, and through that mediation the Parties reached an agreement to resolve the claims in the Actions against the Settling Defendants;

(d) The Parties wish to settle all claims that have been brought or could have been brought against the Settling Defendants in the Actions;

(e) The Settlement Class Representatives¹ believe that their claims against the Settling Defendants have substantial merit but have agreed to settle the Actions with respect to the Settling Defendants to avoid further risk of litigation;

¹ Any capitalized terms used but not defined in these Recitals shall have the meanings assigned to them in Section I of this Stipulation.

(f) The Settlement Class Representatives and Settlement Class Counsel believe that the Settlement Amount is fair, adequate, and in the best interests of the Settlement Class Members (which include the Settlement Class Representatives), and that it is reasonable to pursue Court approval of the Stipulation based upon the terms and procedures outlined herein;

(g) The Settling Defendants deny that they have committed any wrongdoing or that they are liable to the Settlement Class Members but have agreed to settle the Actions with respect to the Settling Defendants to avoid further costs and the risk of litigation; and

(h) There has been no admission or finding of facts or liability by or against any of the Parties, and nothing herein should be construed as such.

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, it is hereby agreed by and among the Parties that, subject to the approval of the Court in the *Kinnie Ma* Action pursuant to Rule 23 of the Federal Rules of Civil Procedure, the claims in the Actions, as between each of the Settlement Class Representatives and the other Settlement Class Members who are not Settlement Class Opt-Outs, on the one hand, and the Settling Defendants, on the other hand, be forever resolved, settled, compromised, and dismissed with prejudice on the following terms and conditions:

I. DEFINITIONS

1. Capitalized terms not defined elsewhere in this Stipulation shall have the following meanings:

- (a) “**Administration of the Settlement**” means providing the Notice to the Settlement Class Members; assisting with providing the CAFA Notice to appropriate State and Federal officials, as set forth in 28 U.S.C. § 1715(b); and allocating and distributing the Net Settlement Fund; and may also include such

activities as the determination, calculation, processing, or payment of claims to the Net Settlement Fund; the review and approval or rejection of Claim Forms; processing and implementing the Plan of Allocation; and the determination, payment, or withholding of Taxes or any loss incurred in connection therewith.

- (b) **“Authorized Claimant”** means a Settlement Class Member who (i) is not a Settlement Class Opt-Out; (ii) submitted a complete, timely, and valid Claim Form; and (iii) suffered a Net Loss.
- (c) **“CAFA Notice”** means the notices required by the Class Action Fairness Act, 28 U.S.C. § 1715(b).
- (d) **“Claims Administrator”** means Epiq Class Action & Claims Solutions, Inc., designated by Settlement Class Counsel to administer the Settlement, subject to the approval of the Court, or such other administrator who is approved by the Court to perform Administration of the Settlement activities.
- (e) **“Claim Form”** means the Proof of Claim and Release Form substantially in the form attached hereto as Exhibit A, that a Settlement Class Member, who is not a Settlement Class Opt-Out, must complete and submit to qualify as an Authorized Claimant.
- (f) **“Class Period”** means January 1, 2013 through December 31, 2018, inclusive.
- (g) **“Court”** means the United States District Court for the Western District of Texas.
- (h) **“Defendants”** means Advisory Group Equity Services, Ltd; Aegis Capital Corp.; Aeon Capital Inc.; American Capital Partners, LLC; Arete Wealth Management, LLC; Arkadios Capital; Ascendant Alternative Strategies, LLC; Ascendant Capital, LLC; Ausdal Financial Partners, Inc.; Austin Lake Technologies, LLC;

Axiom Capital Management, Inc.; B. Riley Financial, Inc.; B. Riley Principal Merger Corp. III; BCG Securities Inc.; Dotty J. Bollinger; Bradley Wealth Management LLC; CKGF Holding LLC; Cabot Lodge Securities LLC; Calton & Associates, Inc.; Capital Investment Group, Inc.; Cascade Financial Management, Inc.; Center Street Securities, Inc.; Rina Chernaya; Coastal Equities, Inc.; CohnReznick LLP; Colorado Financial Service Corporation; Concorde Investment Services, LLC; Crowe, LLP; Crown Capital Securities, LP; DFIG Investments, Inc.; DJ Partners LLC; David A. Noyes & Company; Dawson James Securities, Inc.; Deloitte Transactions and Business Analytics LLP; Dempsey Lord Smith, LLC; Detalus Securities, LLC; EisnerAmper LLP; Emerson Equity LLC; FSC Securities Corporation; Gerald Francese; Michael Frost; GPB Automotive Portfolio, LP; GPB Capital Holdings, LLC; GPB Cold Storage, LP; GPB Holdings II, LP; GPB Holdings III, LP; GPB Holdings Qualified, LP; GPB Holdings, LP; GPB Managed IT Fund; GPB NYC Development, LP; GPB Waste Management, LP a/k/a Armada Waste Management LP; Geneos Wealth Management, Inc.; David Gentile; Gentile Pismeny & Brengel LLP n/k/a Gentile Brengel & Lin, LLP; Great Point Capital LLC; HighTower Advisors, LLC; HighTower Securities, LLC; Highline Management, Inc.; IBN Financial Services, Inc.; Innovation Partners LLC; International Assets Advisory, LLC; Kalos Capital, Inc.; Robert Kessler; Minchung Kgil; Kingsbury Capital, Inc.; Landolt Securities, Inc.; Lewis Financial Group n/k/a DAI Securities, LLC; Lion Street Financial LLC; Lowell & Company, Inc.; Lucia Securities LLC; MR Ranger LLC; MSC-BD, LLC; Madison Avenue Securities, LLC; Margolin Winer &

Evens LLP; Mark D Martino; McAnna, LP; McDonald Partners LLC; McNally Financial Services Corporation; Moloney Securities Co., Inc.; Money Concepts Capital Corp.; Morrison, Brown, Argiz & Ferra, LLC; Evan Myrianthopoulos; National Holdings Corporation; National Securities Corporation; Scott Naugle; Newbridge Securities Corporation; Orchard Securities, LLC; Phoenix American Financial Services, Inc.; Purshe Kaplan Sterling Investments, Inc.; RSM US LLP f/k/a McGladrey LLP; Royal Alliance Associates, Inc.; SCF Securities, Inc.; SagePoint Financial, Inc.; Jeffrey Schneider; Sentinus Securities LLC n/k/a Sentinus-Halo Securities, LLC; Stephen A. Kohn & Associates, Ltd.; Titan Securities; Triad Advisors, LLC; Uhlmann Price Securities, LLC; United Planners' Financial Services of America, LP; Vanderbilt Securities, LLC; Vestech Securities, Inc.; WestPark Capital Inc.; Western International Securities, Inc.; Whitehall-Parker Securities, Inc.; Withum Smith+Brown, PC; and Woodbury Financial Services, Inc.

- (i) **“Effective Date”** means the date upon which the Settlement in the Actions shall become effective and final, as set forth in Paragraph 34.
- (j) **“Escrow Account”** means the separate interest-bearing Qualified Settlement Fund (“QSF”), to be held by the Escrow Agent, which shall be held in an escrow account at a federally insured banking institution designated by Settlement Class Counsel, into which the Settlement Amount is to be deposited and invested for the benefit of Authorized Claimants. The Escrow Account shall be administered consistent with the terms of this Settlement and shall be subject to the supervision of Settlement Class Counsel.

- (k) “**Escrow Agent**” means Huntington National Bank (a federally insured banking institution) or such other federally insured banking institution approved by the Court to serve as agent for the Escrow Account.
- (l) “**Fee and Expense Application**” means an application filed by Settlement Class Counsel for an award from the Gross Settlement Fund of (i) attorneys’ fees, not to exceed one-third of the Settlement Amount, plus any interest, beginning thirty (30) days from entry of the Preliminary Approval Order, at the same rate that funds in the Escrow Account have earned during such period; (ii) reimbursement of out-of-pocket expenses incurred in prosecuting the Actions, plus any interest, beginning thirty (30) days from entry of the Preliminary Approval Order, at the same rate funds in the Escrow Account have earned during such period; and (iii) service awards to the Settlement Class Representatives on account of their contribution to the litigation and the results achieved in this Settlement.
- (m) “**Final**”, with respect to a court order, means the latest of (i) the date after which the time for noticing any request for rehearing, request for reconsideration, or appeal has expired, without any such request or appeal having been filed; (ii) if a motion for rehearing or reconsideration has been filed, the date after which such motion has been denied or adjudicated with affirmance of the order, and the time for appeal has expired, without any appeal having been filed; and (iii) if an appeal has been filed, the date after which the order has been affirmed and the time for seeking rehearing or reconsideration on appeal or petitioning for writ of certiorari has expired, without any request or petition having been filed; (iv) if a motion for rehearing or reconsideration on appeal has been filed, the date after which the

motion has been denied or adjudicated with an affirmance of the order and the time for petitioning for writ of certiorari has expired, without any petition having been filed; and (v) if a petition for writ of certiorari has been filed, the date after which the writ has been denied or, if the writ is granted, the order has been affirmed.

- (n) “**Finality**” means the state of being Final.
- (o) “**Final Approval Hearing**” means a hearing held by the Court to determine whether to enter the Final Settlement Approval and Bar Order.
- (p) “**Final Approval Motion**” means a motion and accompanying memorandum of law, as well as any other papers in support thereof, to be filed by Settlement Class Counsel on behalf of the Settlement Class Representatives in the *Kinnie Ma* Action, responding to any objections to the Settlement, seeking entry of the Final Settlement Approval and Bar Order, and seeking entry of a Final Judgment that is a separate document from the Final Settlement Approval and Bar Order.
- (q) “**Final Settlement Approval and Bar Order**” means an order, entered by the Court, substantially in the form of Exhibit B hereto, that (i) finally approves the Settlement as fair, reasonable, and adequate, and contains findings of fact and conclusions of law, including consideration of the factors set forth in Federal Rule of Civil Procedure 23(e)(2)(A)–(D), to support approval of the Settlement and bar order; (ii) certifies the Settlement Class for purposes of settlement only under Federal Rule of Civil Procedure 23; (iii) orders the releases by the Releasing Parties of the Settling Defendants from the Released Claims; and (iv) releases, discharges, and enjoins any claims by any Person against any of the Settling

Defendants arising out of or related to the claims or allegations that have been or could have been asserted by Plaintiffs or any other Settlement Class Member in the Actions or claiming any liability to any Plaintiff or any other Settlement Class Member.

- (r) “**Final Judgment**” means the entry of a final judgment pursuant to Federal Rule of Civil Procedure 54(b) in the *Kinnie Ma* Action, substantially in the form of Exhibit C hereto, that dismisses all claims against the Settling Defendants with prejudice and without costs, and denies as moot any pending motions between the *Kinnie Ma* Plaintiffs and the Settling Defendants.
- (s) “**GPB Capital**” means GPB Capital Holdings, LLC, the general partner of each of the GPB Funds, and each of its predecessors, successors, subsidiaries, and affiliates.
- (t) “**GPB Funds**” means GPB Holdings, LP; GPB Holdings Qualified, LP; GPB Automotive Portfolio, LP; GPB Holdings II, LP; GPB Waste Management, LP (also known as Armada Waste Management LP); GPB Cold Storage, LP; GPB NYC Development, LP; GPB Holdings III, LP; and each of their predecessors, successors, subsidiaries, and affiliates.
- (u) “**Gross Settlement Fund**” means the Settlement Amount and all earnings and interest accrued with respect to the Settlement Amount (if any) while it is held in the Escrow Account.
- (v) “**Net Loss**” means the total principal amount that a Settlement Class Member invested in any GPB Funds during the Class Period, minus any prior amounts received by that Settlement Class Member on account of his or her investment(s)

(including any amounts previously received as redemptions, dividends, or from any other source as a result of any actual or threatened litigation or arbitration concerning the GPB Funds). Settlement Class Members who have received amounts (through redemptions, dividends, sales, or any other sources) greater than the total principal amount that the Settlement Class Member invested in any GPB Funds have not suffered a Net Loss and will not receive any payment from the Net Settlement Fund or otherwise in connection with this Settlement.

- (w) **“Net Settlement Fund”** means the balance of the Gross Settlement Fund available to be distributed to Authorized Claimants, after subtracting the amounts paid or owing in connection with the Settlement, as set forth in this Stipulation, including amounts for the payment of (1) any and all Taxes, as defined herein; (2) any and all costs of Administration of the Settlement, including all fees and costs paid or owing to the Settlement Administrator; (3) any and all costs of maintaining the Escrow Account, including all fees and costs paid or owing to the Escrow Agent; (4) any and all attorneys fees’ and costs awarded by the Court to Plaintiffs’ Counsel in the Actions; and (5) any service awards awarded by the Court to the Settlement Class Representatives.
- (x) **“Notice”** means the Detailed Notice of (I) Pendency of Class Actions and Proposed Settlement with Certain Defendants; (II) Final Approval Hearing; and (III) Motion for Attorneys’ Fees and Litigation Expenses” substantially in the form of Exhibit D hereto, which is to be sent to the Settlement Class Members following entry by the Court of the Preliminary Approval Order.

- (y) **“Notice of Dismissal”** means a notice, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and substantially in the form of Exhibit E hereto, to be filed by the *DeLuca* Plaintiffs in the *DeLuca* Action, dismissing with prejudice and without costs all claims against CohnReznick LLP; Crowe LLP; Margolin, Winer & Evens LLP; and RSM US LLP.
- (z) **“Person”** means any natural person, entity, governmental authority, agency or quasi-governmental person or entity, worldwide and of any type, including, without limitation, any individual, partnership, corporation, limited liability company, estate, trust, committee, fiduciary, association, proprietorship, organization, or business, regardless of location, residence, or nationality.
- (aa) **“Plaintiffs’ Counsel”** means Stoll Stoll Berne Lokting & Shlachter, P.C.; Kaplan Fox & Kilsheimer LLP; Law Offices of Richard L. Stone, PLLC; Grant & Eisenhofer P.A.; and Dilworth Paxson LLP.
- (bb) **“Plan of Allocation”** means the plan, as approved by the Court, substantially in the form of Exhibit F hereto, to distribute the Net Settlement Fund to each Authorized Claimant.
- (cc) **“Preliminary Approval Motion”** means a motion and accompanying memorandum of law, as well as any other papers in support thereof, to be filed by the Settlement Class Counsel on behalf of the Settlement Class Representatives in the *Kinnie Ma* Action, seeking preliminary approval of the Settlement; the entry of findings that the Court will likely be able to certify the Settlement Class pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3) for purposes of the Settlement only; appointment of Plaintiffs as Settlement Class Representatives

for purposes of Settlement only; appointment of Settlement Class Counsel as counsel for the Settlement Class for purposes of Settlement only; approval of the form and manner of distribution of the Notice to the Settlement Class Members; setting of a date and time for the Final Approval Hearing; setting of a method and deadline for objections to the Settlement; and setting of a method and deadline for Settlement Class Members to exclude themselves from the Settlement Class, in each case by and through entry of the Preliminary Approval Order.

- (dd) “**Preliminary Approval Order**” means the order, entered by the Court, substantially in the form of Exhibit G hereto, that (i) provides preliminary approval of the Settlement; (ii) makes findings pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) that the Court will likely be able to certify the Settlement Class for purposes of the Settlement only; (iii) appoints Plaintiffs as Settlement Class Representatives for purposes of Settlement only; (iv) appoints Settlement Class Counsel as counsel for the Settlement Class for purposes of Settlement only; (v) directs notice, pursuant to Federal Rule of Procedure 23(e), to the Settlement Class Members; (vi) approves the form and manner of distribution of the Notice; (vii) sets a date and time for the Final Approval Hearing; (viii) sets a method and deadline for objections to the Settlement; (ix) sets a method and deadline for Settlement Class Members to exclude themselves from the Settlement Class; and (x) makes preliminary findings of fact and conclusions of law to support the relief set forth therein.
- (ee) “**Released Claims**” means, to the fullest extent that the law permits their release, all past, present, and future claims against any and all of the Released Parties of

any nature whatsoever in any way relating, arising from, or based upon either of the Actions, the allegations made or that could have been made in either of the Actions, the GPB Funds or GPB Capital, any investment in the GPB Funds, or any work performed by any Settling Defendant for or relating to any of the GPB Funds or GPB Capital including, without limitation, all claims, suits, actions, allegations, damages (including, without limitation, compensatory, punitive, exemplary, rescissory, direct, consequential or special damages, restitution, and disgorgement), liabilities, causes of action, complaints, lawsuits, responsibilities, demands, rights, debts, penalties, costs, expenses, fees, injunctive relief, attorney's fees, expert or consulting fees, prejudgment interest, indemnities, duties, losses, and obligations of any kind, known or unknown, foreseen or unforeseen, whether apparent or concealed, asserted or unasserted, existing or contingent, direct or indirect, anticipated or unanticipated, asserted or that could have been asserted by, on behalf of, for the benefit of, or in the name of any Settlement Class Members who are not Settlement Class Opt-Outs, whether legal, contractual, rescissory, statutory, or equitable in nature, whether arising under federal, state, common, or foreign law, that now exist or have ever existed from the beginning of time until the date of this Stipulation.

- (ff) “**Released Parties**” means (i) each of the Settling Defendants; (ii) the predecessors, successors, assigns, direct or indirect parents, direct or indirect subsidiaries, and affiliates of each of the Settling Defendants (including, without limitation, current or former member firms or correspondent firms within the same network as a Settling Defendant, all entities that manage the network in

which any Settling Defendant is a member, and Baker Tilly US, LLP and Baker Tilly Advisory Group, LP); and (iii) each of the foregoing's current and former partners, limited partners, general partners, officers, directors, employees, legal and equitable owners, trustees, shareholders, members, managers, principals, agents, attorneys, legal representatives, affiliated persons or entities, predecessors, successors, assigns, direct or indirect parents, direct or indirect subsidiaries, affiliates, beneficiaries, assigns, heirs, executors, administrators, lenders, indemnitors, and insurers.

- (gg) “**Releasing Parties**” means (1) all Settlement Class Members (including the Settlement Class Representatives) except for the Settlement Class Opt-Outs and (2) each of such Settlement Class Members' agents, representatives, attorneys, heirs, administrators, executors, beneficiaries, assigns, transferees, predecessors and successors in interest, and any other Person claiming by, through, on behalf of, or for the benefit of any of them.
- (hh) “**Settling Defendants' Released Claims**” means all claims and causes of action of every nature and description, whether known or unknown, whether arising under federal, state, common, or foreign law, that arise out of or relate in any way to the institution or prosecution of the claims asserted in the Actions against the Settling Defendants.
- (ii) “**Settlement**” means the settlement set forth in this Stipulation to be proposed for approval by the Court.
- (jj) “**Settlement Amount**” means forty-six million United States dollars (\$46,000,000). The Settlement Amount will be non-recapture, meaning that it is

not a claims-made settlement and, provided there is no Termination Event as defined in Paragraph 38, there will be no reversion of the Settlement Amount to the Settling Defendants of any amounts not claimed or distributed pursuant to the Plan of Allocation. For avoidance of doubt, nothing in this definition impacts the right of the Settling Defendants to the return of the Gross Settlement Fund in the event of a Termination Event pursuant to the provisions of Paragraph 38.

(kk) **“Settlement Class”** means a class to be certified for purposes of this Settlement consisting of all Persons who, directly or through an intermediary, purchased or otherwise acquired limited partnership units in any of GPB Holdings, LP; GPB Holdings Qualified, LP; GPB Automotive Portfolio, LP; GPB Holdings II, LP; GPB Waste Management, LP (also known as Armada Waste Management LP); GPB Cold Storage, LP; GPB NYC Development, LP; GPB Holdings III, LP; and each of their predecessors, successors, subsidiaries, and affiliates (collectively, the “GPB Funds”) during the period of January 1, 2013 through December 31, 2018 (the “Class Period”) and suffered a loss thereby, as well as any Persons who are transferees of such limited partnership units (except for certain individuals and entities that have been excluded from the Settlement Class as follows). The Settlement Class does not include: (a) Defendants in the Actions or their affiliates; (b) present or former executive directors or officers of GPB Capital Holdings, LLC, the GPB Funds, Ascendant Capital, LLC, Ascendant Alternative Strategies, LLC, or Axiom Capital Management, Inc.; (c) the legal representatives, heirs, successors-in-interest, or assigns of any Person within subsection (a) or (b) of this Paragraph; (d) members of the immediate family of any natural Person within

subsection (a) or (b) of this Paragraph; (e) any entity in which any Person within subsection (a) or (b) of this Paragraph has, or had during the Class Period, a controlling interest; and (f) any affiliate of GPB Capital Holdings, LLC. For purposes of this definition, “immediate family” means a natural Person’s parent, sibling, spouse, or child.

- (ll) “**Settlement Class Counsel**” means Timothy S. DeJong of Stoll Stoll Berne Lokting & Shlachter, P.C.; Daniel L. Berger of Grant & Eisenhofer P.A.; Catherine Pratsinakis of Dilworth Paxson LLP, Peter S. Linden of Kaplan Fox & Kilsheimer LLP; and Richard L. Stone of the Law Offices of Richard L. Stone, PLLC;.
- (mm) “**Settlement Class Member**” means any Person who falls within the definition of the Settlement Class.
- (nn) “**Settlement Class Opt-Out**” means any Settlement Class Member who has completed the required procedures set forth in the Preliminary Approval Order and the Notice to exclude themselves from the Settlement Class.
- (oo) “**Settlement Class Representatives**” means each and all of Kinnie Ma IRA; Jeffery S. Gramm IRA; Stacy Greasor IRA; Victor Wade IRA; Kazue Bell; Dean Crooks; Corri Rene Eden; Catherine Kominos; Karen Loch; Robert A. Stone Living Trust; Shirley Stone Living Trust; Stanley S. and Millicent R. Barasch Living Trust; Loretta Dehay; Barbara DeLuca; Drew R. Naylor; Peggy Rollo; Peter Beddia; Michael Oles; Robert (Bob) Ricci; and James Staples, as Trustee of the 616 Moved Trust.

- (pp) “**Settling Defendants**” means CohnReznick LLP; Crowe LLP (f/k/a Crowe Horwath LLP); Margolin, Winer & Evens LLP; RSM US LLP; and WithumSmith+Brown, PC.
- (qq) “**Summary Notice**” means the notice, substantially in the form of Exhibit H hereto, which the Claims Administrator will publish in Investor’s Business Daily and release over the PR Newswire following entry by the Court of the Preliminary Approval Order.

II. CERTIFICATION OF THE SETTLEMENT CLASS

2. The Settling Defendants shall, subject to and following their review of the Preliminary Approval Motion, provide their consent to the Preliminary Approval Motion, including its requests for certification of the Settlement Class pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3) for purposes of the Settlement only, appointment of Plaintiffs as Settlement Class Representatives for purposes of Settlement only, and appointment of Settlement Class Counsel as counsel for the Settlement Class for purposes of Settlement only; and the Preliminary Approval Motion shall reflect their consent.

III. THE SETTLEMENT AMOUNT AND THE SETTLEMENT FUND

3. The Parties enter into this Stipulation in order to avoid the expense and risk of further litigation. Neither this Stipulation nor the fact of the Settlement constitutes an admission or acknowledgment of liability or wrongdoing on the part of any of the Settling Defendants, each of which expressly denies any liability or wrongdoing.

4. In connection with the execution of this Stipulation, Settlement Class Counsel shall, subject to and following review by the Settling Defendants, execute a confidential escrow agreement (the “**Escrow Agreement**”) with the Escrow Agent to establish the Escrow Account using conventional escrow terms provided by the Escrow Agent. The Escrow Agreement shall

contain terms protecting the confidentiality of the amount of each Settling Defendant's share of the Settlement Amount. Together with its delivery of the executed copy of this Stipulation, Settlement Class Counsel shall provide to each Settling Defendant (i) a copy of the executed Escrow Agreement and any other documents establishing and governing the Escrow Account; and (ii) a completed and executed wire instruction form, containing the Escrow Account information and wire transfer instructions for wiring the Settlement Amount to the Escrow Account.

5. Each Settling Defendant shall pay or cause to be paid its share of the Settlement Amount into the Escrow Account no later than thirty (30) calendar days after the entry of the Preliminary Approval Order. Each Settling Defendant's share of the Settlement Amount shall be and remain confidential. Settlement Class Counsel shall make themselves available to counsel for the Settling Defendants to confirm telephonically the account information and wire transfer instructions for the Escrow Account in the wire instruction form. The payment of the Settlement Amount is in full satisfaction of the Released Claims, including all claims for attorneys' fees, costs, and expenses. The Settling Defendants' monetary liability is fixed under this Stipulation. In no event shall the total amount of monetary consideration paid by the Settling Defendants under this Stipulation exceed the Settlement Amount. The Settling Defendants shall have no obligation to pay the Settlement Class Representatives, Settlement Class Counsel, any member of the Settlement Class, counsel for any Plaintiff in the Actions, or anyone else any other monetary consideration.

6. Each Settling Defendant shall fund its confidential share of the Settlement Amount in the amount specified by a confidential agreement among the Settling Defendants (the "Confidential Allocation Agreement"), the terms of which shall not be disclosed to the

Settlement Class Representatives, Settlement Class Counsel, or to any other Person. Each Settling Defendant is responsible only for its share of the Settlement Amount, and shall have no joint or several responsibility or liability for the payment of remaining portions of the Settlement Amount. In no event shall the total amount of monetary consideration paid by each Settling Defendant under this Stipulation exceed such Settling Defendant's share of the Settlement Amount specified in the Confidential Allocation Agreement; however, for the avoidance of doubt, Settling Defendants failure to make a total combined payment of forty-six million United States dollars (\$46,000,000) renders this Stipulation null and void.

7. The Escrow Agreement shall require the Escrow Agent to maintain the Settlement Amount in the Escrow Account consistent with the terms of this Stipulation, under the exclusive supervision of Settlement Class Counsel and subject to the oversight of the Court. The Escrow Agreement shall require the Escrow Agent to invest the Settlement Amount exclusively in: instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, or money market funds invested solely in such investments. The Escrow Agreement shall require that the Escrow Agent reinvest any income from these instruments and the proceeds of these instruments as they mature in similar instruments. In all events, the Settling Defendants shall have no responsibility or liability whatsoever with respect to any investment of any funds in the Escrow Account or any investment losses or other losses of funds in the Escrow Account.

8. All funds held in the Escrow Account shall be deemed and considered to be in *custodia legis* of the Court and shall remain subject to the exclusive jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Final Settlement Approval and Bar Order and/or further order(s) of the Court.

9. After the Settlement Amount has been paid into the Escrow Account in accordance with Paragraph 5, the Parties agree to treat the Escrow Account as a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B-1. In addition, Settlement Class Counsel shall timely make, or cause to be made, such elections as necessary or advisable to carry out the provisions of this Paragraph, including the “relation-back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such election shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Settlement Class Counsel to timely and properly prepare and deliver, or cause to be prepared and delivered, the necessary documentation for such elections for signature by all necessary parties, and thereafter take all such actions as may be necessary or appropriate to cause the appropriate filing(s) to occur. In all events, the Settling Defendants shall have no responsibility or liability whatsoever with respect to any filings or elections made under this Paragraph.

10. For the purposes of Section 468B of the Internal Revenue Code of 1986, as amended, and Treas. Reg. § 1.468B promulgated thereunder, the “administrator” shall be Settlement Class Counsel or their successors, who shall timely and properly file, or cause to be filed, all informational and other tax returns necessary or advisable with respect to the interest earned on the funds deposited in the Escrow Account (including without limitation the returns described in Treas. Reg. § 1.468B-2(k)). Such returns (as well as the election described above) shall be consistent with this subparagraph, and Section 468B of the Internal Revenue Code of 1986, as amended, and Treas. Reg. § 1.468B, and in all events shall reflect that all taxes (including any estimated taxes, interest, or penalties) on the income earned on the funds deposited in the Escrow Account shall be paid out of such funds as provided in Paragraphs 11, 12, 14, and 15. In all events, the Settling Defendants shall have no responsibility or liability

whatsoever with respect to any filings or elections made under this Paragraph.

11. Taxes on the income of the Settlement Amount and expenses and costs incurred in connection with the taxation of the Settlement Amount (including, without limitation, interest, penalties, and the fees and expenses of tax attorneys and accountants) (collectively “Taxes”) shall be paid solely out of the Escrow Account. In all events, the Settling Defendants shall have no responsibility or liability whatsoever for the Taxes or the filing of any tax returns or other documents with the Internal Revenue Service or any other state or local taxing authority.

12. Taxes shall be treated as, and considered to be, a cost of Administration of the Settlement and shall be timely paid, or caused to be paid, by Settlement Class Counsel out of the Escrow Account without prior order from the Court, and Settlement Class Counsel shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(l)(2)). The Parties agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Paragraph.

13. The Escrow Agreement shall forbid the Escrow Agent from disbursing any funds from the Escrow Account except as provided in this Stipulation (including Paragraph 15) or by an order of the Court, or by the written and signed authorization of Settlement Class Counsel and each of the Settling Defendants. Once each Settling Defendant has deposited its confidential share of the Settlement Amount into the Escrow Account, in the event of any unauthorized disbursement or other loss of funds from the Escrow Account, whether resulting from mistake, inadvertence, wrongful conduct of any Person, or any other cause, such Settling Defendant shall have no further liability to pay its share of the Settlement Amount and shall remain entitled to the

release of all Released Claims, the entry of the bar order, and all other relief and consideration provided to the Settling Defendants under this Stipulation, notwithstanding such unauthorized disbursement or loss of funds from the Escrow Account.

14. The Gross Settlement Fund shall be used only for the following purposes: (i) to compensate the Authorized Claimants, as approved by the Court; (ii) to pay any and all Taxes; (iii) to pay the reasonable costs of Administration of the Settlement, as approved by the Court; (iv) to pay attorneys' fees and reimburse expenses, as awarded by the Court; and (v) to pay service awards to Plaintiffs, as awarded by the Court.

15. No money may be paid out of the Gross Settlement Fund before the Effective Date of the Settlement, except as follows: (i) Taxes may be paid out of the Gross Settlement Fund, as they come due and owing; (ii) up to three-hundred thousand United States dollars (\$300,000) for the costs of Notice and other reasonable costs of Administration of the Settlement may be paid out of the Gross Settlement Fund, as they come due and owing; (iii) attorneys' fees and expenses awarded by the Court, as more fully set forth in and subject to the provisions in Section VII; and (iv) in the event of a Termination Event, the Gross Settlement Fund, less the deductions specified in Paragraph 38 herein, shall be returned to the Settling Defendants, in accordance with the provisions of Paragraph 38 herein.

IV. RELEASES AND COVENANT NOT TO SUE

16. The obligations incurred pursuant to this Stipulation shall be in full and final disposition of the Actions as against the Settling Defendants.

17. Upon the Effective Date, and without any further action, each of the Releasing Parties fully, finally, and forever releases, covenants not to sue, and discharges each of the Released Parties from any and all Released Claims and shall forever be barred and enjoined from commencing, instituting, prosecuting, maintaining, or seeking monetary or other relief respecting

any and all of the Released Claims. The Released Parties may plead this Stipulation as a complete defense to any Released Claims brought in contravention hereof.

18. Upon the Effective Date, and without any further action, each Settling Defendant, on behalf of itself, and its heirs, executors, trustees, administrators, predecessors, successors, and assigns, for good and valuable consideration the receipt and adequacy of which is hereby acknowledged, shall fully, finally, and forever release, covenant not to sue, and discharge any and all Settling Defendants' Released Claims against each and every one of the Settlement Class Members (other than the Settlement Class Opt-Outs) and shall forever be barred and enjoined from commencing, instituting, prosecuting, maintaining or seeking monetary or other relief respecting any and all of the Settling Defendants' Released Claims against any and all of the Settlement Class Members (other than the Settlement Class Opt-Outs).

19. For clarity, the releases set forth in Paragraphs 17 and 18 shall not apply to any claims that arise out of any breaches of the obligations of this Stipulation. Moreover, nothing in this Stipulation shall be construed to constitute a release by any Plaintiff or Settlement Class Member of any claims they have against any specifically named Defendant in the Actions other than the Settling Defendants.

20. The releases in Paragraphs 17 and 18 include an express, informed, knowing, and voluntary waiver and relinquishment of any and all Released Claims and Settling Defendants' Released Claims to the fullest extent permitted by law, including claims that are unknown and unsuspected. The Settling Defendants and the Settlement Class Members (other than the Settlement Class Opt-Outs) acknowledge that they may have sustained damages, losses, costs, or expenses that are presently unknown and unsuspected and that such damages, losses, costs, or expenses as may have been sustained may give rise to additional damages, losses, costs, or

expenses in the future. The Settling Defendants and the Settlement Class Members (other than the Settlement Class Opt-Outs) further acknowledge that they have negotiated this Stipulation taking into account presently unsuspected and unknown claims, counterclaims, causes of action, damages, losses, costs, and expenses, and they voluntarily and with full knowledge of their significance, expressly waive and relinquish any and all rights they may have under any state or federal statute, rule or common law principle, in law or equity, relating to limitations on general releases. Specifically, each of the Settling Defendants and the Settlement Class Members (other than the Settlement Class Opt-Outs) expressly waives any rights it may have under California Civil Code § 1542 (or any other similar law in any jurisdiction) which provides that:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

21. The Settlement Class Representatives and other Settlement Class Members represent and warrant that they are the owner of the Released Claims that they are releasing under this Stipulation and that they have not, in whole or in part, assigned, encumbered, sold, pledged as a security, or in any manner transferred or compromised any Released Claims. The Settlement Class Representatives and other Settlement Class Members further represent and warrant that they do not know of, and have not filed or asserted, any claim or potential claim against any of the Settling Defendants that is not being released pursuant to the Stipulation.

22. As a condition of this Stipulation and of the Settlement, the Final Settlement and Bar Order shall contain a bar order, substantially in the form of the bar order set forth in Exhibit B hereto, that bars all past, present, and future claims against any of the Released Parties by any Person of any nature whatsoever in any way arising out of or related to the claims or allegations

that have been or could have been asserted by Plaintiffs or any Settlement Class Member in either of the Actions or claiming any liability to any Plaintiff or any Settlement Class Member, including, without limitation, all claims, suits, actions, allegations, damages (including, without limitation, compensatory, punitive, exemplary, rescissory, direct, consequential or special damages, restitution, and disgorgement), liabilities, causes of action, complaints, lawsuits, responsibilities, demands, rights, debts, penalties, costs, expenses, fees, injunctive relief, attorney's fees, expert or consulting fees, prejudgment interest, indemnities, duties, losses, and obligations of any kind, known or unknown, foreseen or unforeseen, whether or apparent or concealed, asserted or unasserted, existing or contingent, direct or indirect, anticipated or unanticipated, asserted or that could have been asserted by, on behalf of, for the benefit of, or in the name of any Settlement Class Member, whether legal, contractual, rescissory, statutory, or equitable in nature, whether arising under federal, state, common, or foreign law, that now exist or have ever existed from the beginning of time until the date of this Stipulation.

23. As a condition of the Stipulation and this Settlement, the Final Approval and Bar Order shall also provide that any final verdict or judgment on any claims under Texas law obtained by or on behalf of any Settlement Class Member, excluding Settlement Class Opt-Outs, against any Person subject to the bar order described in Paragraph 22 shall be reduced by the Settlement Amount or the portion thereof attributable to such Settlement Class Member (that is, *pro tanto* or dollar-for-dollar).

V. ADMINISTRATION OF THE SETTLEMENT

24. The Claims Administrator shall provide the Notice to the Settlement Class Members in accordance with the terms of the Preliminary Approval Order and be responsible for Administration of the Settlement, under Settlement Class Counsel's supervision and subject to the exclusive jurisdiction of the Court.

25. Upon request, the Claims Administrator shall provide information to the Settling Defendants' counsel to assist in their preparation of the CAFA Notice but shall otherwise keep all Settlement Class Member information confidential and secure.

26. Other than with respect to the CAFA Notice, the Settling Defendants shall have no role in, or responsibility for, the Administration of the Settlement. In all events, the Settling Defendants shall have no responsibility or liability whatsoever to any Person, including, but not limited to, Plaintiffs, the Settlement Class Representatives, Settlement Class Counsel, or Settlement Class Members, with respect to the Administration of the Settlement.

27. Except as provided in the Stipulation, all reasonable costs of Administration of the Settlement, including the fees and expenses of the Claims Administrator, shall be paid from the Gross Settlement Fund. In the event of a Termination Event, prior to the return to Settling Defendants of the Gross Settlement Fund from the Escrow Account, Settlement Class Counsel shall first be reimbursed from the Gross Settlement Fund for the actual costs of Administration of Settlement incurred as of the date of termination, in an amount up to three-hundred thousand United States dollars (\$300,000).

28. Except as provided in Paragraph 27, the Settling Defendants will not have any responsibility for, involvement in, or liability for the payment of any monies from the Gross Settlement Fund in connection with the Administration of the Settlement.

VI. COURT APPROVAL OF SETTLEMENT

29. This Stipulation and the Settlement, including payment of the Settlement Amount, are expressly contingent on the Court's entry of the Final Settlement Approval and Bar Order, substantially in the form of Exhibit B and containing the releases and bar order described in this Stipulation, and such order becoming Final; the Court's entry of the Final Judgment, substantially in the form of Exhibit C and dismissing all claims against the Settling Defendants

with prejudice, and such judgment becoming Final; the entry in the *DeLuca* Action of the Notice of Dismissal, substantially in the form of Exhibit E; and the Effective Date coming to pass.

A. Stay and Dismissal of the *DeLuca* Action

30. The Court in the *DeLuca* Action entered an order on June 24, 2024 providing that the *DeLuca* Action is stayed pending further notice of the Court. Upon entry of the Preliminary Approval Order, the *DeLuca* Plaintiffs shall request that the *DeLuca* Court continue the stay of the *DeLuca* Action as against the Settling Defendants who are party to the *DeLuca* Action through and until the filing of the Notice of Dismissal.

31. Within three (3) business days of the Final Judgment becoming Final, the *DeLuca* Plaintiffs shall seek to dismiss the *DeLuca* Action in its entirety and will file the Notice of Dismissal.

B. Preliminary Approval of the Settlement

32. Within twenty-one (21) calendar days following execution of this Stipulation, Settlement Class Counsel shall file the Preliminary Approval Motion with the Court.

C. Final Approval of Settlement, Entry of Bar Order, and Entry of Final Judgment

33. At the time provided for in the Preliminary Approval Order, Settlement Class Counsel shall file the Final Approval Motion with the Court. Provided that the Settling Defendants have not exercised their rights to withdraw or terminate as set forth in Paragraphs 35 and 37 herein, the Settling Defendants shall provide their consent to the Final Approval Motion and the motion shall reflect their consent.

D. Effective Date of Settlement, Waiver, and Rights to Termination

34. The Effective Date of Settlement shall be the date when all the following have occurred:

- (a) the Court has entered the Preliminary Approval Order in the Action, substantially in the form of Exhibit G hereto;
- (b) the entire Settlement Amount has been deposited into the Escrow Account;
- (c) the Court has entered the Final Settlement Approval and Bar Order in the Action, substantially in the form of Exhibit B hereto;
- (d) the Court has entered the Final Judgment, as a separate document from the Final Settlement Approval and Bar Order and substantially in the form of Exhibit C hereto;
- (e) the Final Settlement Approval and Bar Order has become Final;
- (f) the Final Judgment has become Final; and
- (g) the *DeLuca* Plaintiffs have filed the Notice of Dismissal in the *DeLuca* Action.

35. Any Party shall have the right to terminate the Settlement and the Stipulation by providing written notice of its election to do so to all other Parties within thirty (30) calendar days of (a) the Court's decision not to enter the Preliminary Approval Order; (b) the Court's entry of a Preliminary Approval Order that differs in any material respect from the form of Exhibit G hereto; (c) the Court's decision not to enter the Final Settlement Approval and Bar Order or the Final Judgment; (d) the Court's entry of a Final Settlement Approval and Bar Order that differs in any material respect from the form of Exhibit B hereto, including, without limitation, because it alters the terms of the release or the bar order set forth in Exhibit B; (e) the Court's entry of a Final Judgment that differs in any material respect from the form of Exhibit C hereto; (f) the modification, vacatur, or reversal of the Final Settlement Approval and Bar Order or Final Judgment in any material respect by the United States Court of Appeals or the United States Supreme Court; or (g) the failure of any of the events described in subparagraphs (a)–(g)

of Paragraph 34.

36. The Parties acknowledge that Settlement Class Members have the right and ability to exclude themselves from the Settlement Class prior to the Final Approval Hearing, pursuant to the procedures set forth in the Preliminary Approval Order and the Notice. The Claims Administrator shall provide copies of any request for exclusion to Settlement Class Counsel and counsel for each of Settling Defendants via electronic mail as such requests are received (and no later than two (2) business days from receipt). No later than ten (10) calendar days after the postmark deadline for requests for exclusion, Settlement Class Counsel shall provide counsel for each of Settling Defendants via electronic mail a complete and final list of each Person that has submitted a request for exclusion, along with the number of units that each such Person purchased in any of the GPB Funds.

37. The Settling Defendants collectively shall have the right and option to withdraw from the Settlement in the event that valid exclusions from the Settlement Class exceed a specified threshold. The specified threshold and the withdraw option are contained in the Confidential Supplemental Agreement between the Parties, which shall not be filed with the Court unless the Court so orders, and which shall not be disclosed to Settlement Class Members or any Person other than the Settlement Class Representatives. Notwithstanding the foregoing, the contents of the Confidential Supplemental Agreement may be disclosed to the Court if so requested by the Court or if a dispute arises among the Parties concerning the Confidential Supplemental Agreement's interpretation or application. The Parties will keep the terms of the Confidential Supplemental Agreement confidential, subject to any exceptions set out therein and unless compelled to disclose them by the Court. In the event valid exclusions from the Settlement Class exceed the threshold specified in the Confidential Supplemental Agreement, not

later than ten (10) calendar days after receipt of the complete and final list of each Person that has submitted a request for exclusion, along with the amount(s) that each such Person invested in any of the GPB Funds, the Settling Defendants shall notify Settlement Class Counsel whether the Settling Defendants elect to withdraw from the Settlement. For the avoidance of any doubt, in order to withdraw from the Settlement in the event that valid exclusions from the Settlement Class exceed a specified threshold, Settling Defendants must do so collectively and in writing signed by each Settling Defendant and their counsel.

38. A “Termination Event” has occurred if (i) the Effective Date does not occur; (ii) any Party terminates the Stipulation or Settlement pursuant to Paragraph 35; (iii) the Settling Defendants withdraw from the Settlement pursuant to Paragraph 37; (iv) the Court terminates the Settlement or modifies it in any material respect; (v) the Settlement fails to become effective for any other reason. In the event of a Termination Event:

- (a) the Parties shall be deemed to have reverted to their respective status in the Actions as of the date and time immediately prior to the execution of this Stipulation and, except as otherwise expressly provided, the Parties shall proceed in all respects as if this Stipulation and any related orders had not been entered;
- (b) within seven (7) business days of the Termination Event, Plaintiffs’ Counsel in the Action shall return to the Escrow Account all attorneys’ fees and expenses distributed from the Gross Settlement Fund;
- (c) within ten (10) business days of the Termination Event, Settlement Class Counsel shall direct the Escrow Agent to return the Gross Settlement Fund (less the actual costs of Administration of Settlement incurred as of the date of termination, in an amount up to three-hundred thousand United States dollars (\$300,000), as

provided for in Paragraphs 15 and 27) to the Settling Defendants, including all amounts returned to the Escrow Account by Plaintiffs' Counsel pursuant to subsection (b). In connection with such return of the Gross Settlement Fund, within seven (7) business days of the Termination Event, the Settling Defendants shall notify the Escrow Agent in writing of the percentage share of the distribution of the Gross Settlement Fund to which each Settling Defendant is entitled, and the Escrow Agent shall distribute the Gross Settlement Fund to each Settling Defendant in accordance with such percentages. The Escrow Agent shall maintain the confidentiality of the percentage shares and, except (a) as required by applicable laws or regulations or (b) for the purposes of making Escrow Account statements and other account information available to Class Counsel (as that term is defined in the Escrow Agreement) in the ordinary course of business, shall not disclose this information to any Person, including to Settlement Class Counsel, the Settlement Class Representatives, or any Settlement Class Member.

VII. ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS

39. Settlement Class Counsel, on behalf of all Plaintiffs' Counsel in the Actions, will file with the Court the Fee and Expense Application. All attorneys' fees, expenses, and service awards shall be paid exclusively from the Gross Settlement Fund. The Settling Defendants shall take no position with respect to the Fee and Expense Application, other than to advocate that the Fee and Expense Application comply with the procedures and terms set forth in this Stipulation.

40. The Settlement is not contingent on the Court's award of any attorneys' fees, expenses, or service awards. The Fee and Expense Application shall be considered separately from the Settlement and any decision by the Court concerning attorneys' fees, or expenses, or service awards shall not affect the validity or Finality of the Settlement.

41. Any attorneys' fees awarded and reimbursement of expenses awarded by the Court shall be paid to Settlement Class Counsel within three (3) business days of entry of the Final Judgment, notwithstanding the pendency of any appeal, but subject to the Settling Defendants' right of return set forth in Paragraph 38. Settlement Class Counsel shall be responsible for allocating the attorneys' fees and expenses awarded by the Court among all Plaintiffs' Counsel in the Actions, and the Settling Defendants shall have no responsibility or liability whatsoever to any Person, including, but not limited to, Settlement Class Counsel or Plaintiffs' Counsel, with respect to this allocation or the distribution of the award from the Escrow Account. Any service awards awarded by the Court shall be paid to the Settlement Class Representatives within three (3) business days of the Effective Date. Settlement Class Counsel shall be responsible for directing the Escrow Agent with respect to distribution of such awards to the Settlement Class Representatives, and the Settling Defendants shall have no responsibility or liability whatsoever to any Person, including, but not limited to, the Settlement Representatives, with respect to this allocation or the distribution of the service awards from the Escrow Account.

VIII. COOPERATION IN IMPLEMENTATION OF STIPULATION

42. The Parties agree that implementation of this Stipulation will require the execution of additional, mutually agreed upon documents, including documents that will need to be filed and/or entered in the Actions. Moreover, as reflected herein, the Stipulation itself contains contingencies, including court approvals, that must be met before the terms of the Settlement become effective. The Parties agree to work together and use reasonable efforts to attempt to execute the documents necessary to implement this Stipulation and satisfy the contingencies contained in this Stipulation within a reasonable time frame.

43. Counsel for all Parties agree to recommend approval of the Stipulation by the Court and to undertake their best efforts and cooperate fully with one another in seeking

approval of the Settlement, entry of the Preliminary Approval Order, entry of the Final Settlement Approval and Bar Order, and entry of the Final Judgment, and filing of the Notice of Dismissal; and to promptly agree upon and execute all such other documentation as may be reasonably required to obtain entry of the Preliminary Approval Order, the Final Settlement Approval and Bar Order, and the Final Judgment, and to file the Notice of Dismissal. All Parties agree to take all reasonable actions necessary to effectuate the performance of, and uphold the validity and enforceability of, this Stipulation, subject to their rights of termination under Paragraph 35 and the Settling Defendants' right of withdrawal under Paragraph 37. Each of the Parties also agrees to cooperate with one another in responding to objections or oppositions to this Settlement or regarding said motions, with each Party bearing its own costs and attorneys' fees.

44. Each Party shall bear its own costs and attorneys' fees in connection with implementing this Stipulation, including in connection with obtaining entry of the Preliminary Approval Order, the Final Settlement Approval and Bar Order, and the Final Judgment, and with filing the Notice of Dismissal. For avoidance of doubt, Settlement Class Counsel shall be responsible for filing the Preliminary Approval Motion, the Final Approval Motion, and the Notice of Dismissal.

45. To the extent permitted by the Court, Settlement Class Counsel agrees to take reasonable steps to prevent the Settling Defendants from having to incur incremental litigation expenses.

IX. MISCELLANEOUS PROVISIONS

46. Recitals. The Recitals set forth are incorporated herein by reference.

47. Headings. All headings in this Stipulation are included solely for convenient reference, are not intended to be full and accurate descriptions of the contents of this Stipulation,

and shall not affect the meaning or interpretation of this Stipulation.

48. Confidentiality. Other than disclosures required by law and as necessary for obtaining Court approval of the Settlement and entry of the Preliminary Approval Order, Final Settlement Approval and Bar Order, and Final Judgment, and making other filings in the Actions necessary to effectuate the Settlement, neither the Parties nor their counsel shall make, or direct or encourage the making by any other Person, any public comment regarding the claims against the Settling Defendants or the Settlement, other than to indicate that the Parties have reached a mutually acceptable resolution of the Actions with respect to Settling Defendants by way of a mediated settlement.

49. Third-Party Beneficiaries. Each of the Released Parties who is not a Party shall be a third-party beneficiary of this Stipulation. No other Person shall be a third-party beneficiary to this Stipulation.

50. No Oral Modification. This Stipulation may not be amended, modified, or revoked except by means of a supplemental writing that is signed by each Party.

51. No Waiver. Nothing in this Stipulation or in the negotiation or proceedings related hereto is intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, the attorney-client privilege, joint-defense privilege, or work product immunity. Any failure by any Party to insist upon the strict performance by any other Party of any of the provisions of this Stipulation shall not be deemed a waiver of any of the provisions hereof, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Stipulation to be performed by such other Party. No waiver, express or implied, by any Party of any breach or default in the performance by the other Party of its obligations under this Stipulation shall be deemed or construed to be a waiver of any other breach, whether prior, subsequent, or contemporaneous, under this Stipulation.

52. Binding on Successors. This Stipulation is binding on and shall inure to the benefit of the Parties and their respective successors and legal representatives, including executors, administrators, and heirs.

53. Parties to Bear Own Fees and Costs. Each Party shall bear its own costs for the negotiation of this Stipulation and the legal work required by this Stipulation.

54. Governing Law and Venue. This Stipulation has been executed under and shall be construed in accordance with the laws of the State of Texas and federal statutory and common law regarding class actions. If there is any litigation or other proceeding to enforce or interpret any provision of this Stipulation, jurisdiction and venue shall be exclusively in the United States District Court for the Western District of Texas. These choice of law and venue provisions apply only to the Stipulation and the Settlement. Nothing in this Paragraph shall affect the law applicable to the Actions or any other action or any choice of law analysis in the Actions or any

other action. Further, no Person shall use this Paragraph in any way to draw any inferences or otherwise advocate regarding choice of law or venue in the Actions or any other action.

55. Construction. The rule of construction that an agreement is to be construed against the drafting Party is not to be applied in interpreting this Stipulation. The Parties acknowledge that they have each read this Stipulation, that they understand its meaning and intent, and that this Stipulation has been executed voluntarily.

56. Entire Agreement; Integration. This Stipulation, the Confidential Allocation Agreement, and the Confidential Supplemental Agreement Regarding Requests for Exclusion constitute the full and complete expression of the Parties' agreement with regard to the Settlement. This Stipulation and these agreements supersede any prior agreements, promises, negotiations, representations, inducements, settlements, compromises, or understandings, written or oral, among the Parties concerning resolution of the Actions.

57. Counterparts. This Stipulation may be executed in one or more counterparts, each of which is to be deemed an original. All counterparts may be consolidated into one agreement, binding on all the Parties.


58. Rule 11. The Parties intend this Stipulation and Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by Plaintiffs or the other Settlement Class Members against the Settling Defendants with respect to the Released Claims. No Party shall assert any claims of any violation of Rule 11 of the Federal Rules of Civil Procedure relating to the institution, prosecution, defense, or settlement of the Actions, and any arguments in support of, assertions, or requests for sanctions are hereby withdrawn. The Parties agree that the Settlement Amount and the other terms of the Stipulation were negotiated at arm's length and in good faith by the Parties, including through a mediation process supervised and

conducted by Retired United States District Judge Layn Phillips, and that the Settlement that was reached voluntarily after extensive negotiations and consultation with experienced legal counsel, who were fully competent to assess the strengths and weaknesses of their respective clients' claims or defenses.

59. Notices. All notices required by this Stipulation shall be in writing and delivered by e-mail to each of the counsel for Plaintiffs and the Settling Defendants who are registered to receive ECF e-mail notices in either of the Actions, at the e-mails listed on the ECF docket in the Actions.

60. Representation Regarding Authority to Execute Stipulation. This Stipulation is being executed by counsel of record for the Parties in the Actions, each of whom represents and warrants that he or she has the authority from his or her clients to enter into this Stipulation, which has full force and effect as a binding obligation of such clients.

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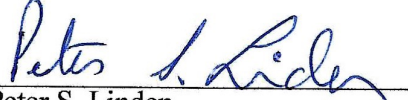
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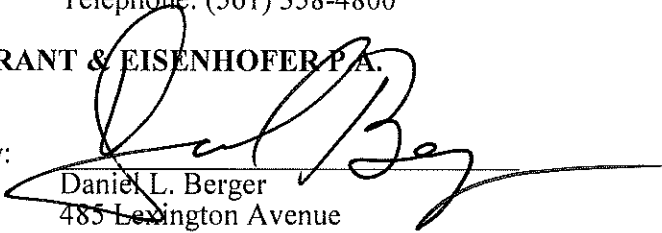
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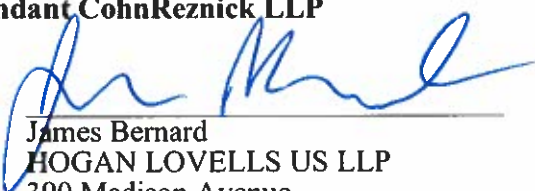
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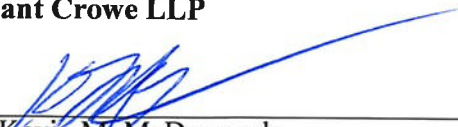
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