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20 Attorneys for Receiver  
21 KRISTA FREITAG

22 UNITED STATES DISTRICT COURT  
23 SOUTHERN DISTRICT OF CALIFORNIA

24 SECURITIES AND EXCHANGE  
25 COMMISSION,

26 Plaintiff,

27 v.

28 GINA CHAMPION-CAIN and ANI  
DEVELOPMENT, LLC,

Defendants.

AMERICAN NATIONAL  
INVESTMENTS, INC.,

Relief Defendant.

Case No. 3:19-cv-01628-LAB-AHG

Ctrm: 14A  
Judge Hon. Larry Alan Burns

**DECLARATION OF KRISTA L.  
FREITAG IN SUPPORT OF  
RECEIVER'S MOTION FOR  
APPROVAL OF SETTLEMENT  
AGREEMENT WITH CON & COOP  
BEACH RENTALS, LLC**

Date: August 9, 2021  
Time: 11:30 a.m.  
Courtroom: 14A  
Judge: Hon. Larry Alan Burns

**DECLARATION OF KRISTA FREITAG**

I, Krista Freitag, declare:

1. I am the Court-appointed permanent receiver for Defendant ANI Development, LLC, Relief Defendant American National Investments, Inc., and their subsidiaries and affiliates ("Receivership Entities"). I make this declaration in support of my Motion for Approval of Settlement Agreement with Con & Coop Beach Rentals, LLC ("Motion"). I have personal knowledge of the facts stated herein, and if called upon to do so, I could and would personally and competently testify to them.

2. On August 28, 2019, the Securities and Exchange Commission ("SEC") filed this action against Defendants Gina Champion-Cain and ANI Development, LLC, and Relief Defendant American National Investments, Inc. The SEC and Champion-Cain simultaneously stipulated to the entry of preliminary injunction and the appointment of me as receiver for ANI Development, LLC, American National Investments, Inc., and their subsidiaries and affiliates ("Receivership Entities"). The preliminary injunction and receivership order was entered on September 3, 2019 ("Receivership Order").

3. Prior to entry of the Receivership Order, James and Suzanne Lance made certain real estate investments with and loans to certain Receivership Entities. In total, the Lances transferred \$437,000, some of which went to escrow for the purchase of real property and some of which went to the Receivership Entities. Specifically, \$200,000 of the Lances' funds was ultimately allocated to the purchase of the property located at 809 San Rafael Place, San Diego, California, which is a vacation rental property. In exchange, the Lances held a 50% tenant-in-common ownership interest in the property, which they initially took as husband and wife, and then transferred by Quitclaim Deed to an entity they owned, Con & Coop Beach Rentals, LLC ("CCBR").

1           4.     The other \$237,000 transferred by the Lances was allocated to a  
2 promissory note in favor of CCBR and an option for CCBR to acquire a 50%  
3 ownership interest in the property located at 812 San Rafael Place, San Diego,  
4 California. CCBR had not exercised the option as of the date the Receivership  
5 Order was entered. CCBR then exercised the option after entry of the Receivership  
6 Order, but it is disputed whether such exercise was proper or had any effect due to  
7 the freeze on title to all receivership real properties contained in the Receivership  
8 Order.

9           5.     CCBR, by and through James Lance, has asserted claims against the  
10 receivership estate relating to its interest in the 809 San Rafael Place property, as  
11 well as the promissory note/option regarding the 812 San Rafael Place property (the  
12 "CCBR Claims"). I have disputed the CCBR Claims. In the meantime, CCBR and I  
13 agreed that 809 San Rafael Place and 812 San Rafael Place would be sold by me,  
14 with approval from the Court, and that \$635,000 in net sale proceeds ("Net Sale  
15 Proceeds Reserve") would be set aside by me and not distributed or otherwise used  
16 until such time as the CCBR Claims have been resolved, either by settlement or  
17 Court order. The properties were sold with Court approval.

18           6.     Under the proposed Settlement Agreement and Mutual Release,  
19 ("Settlement Agreement"), a copy of which is attached hereto as Exhibit A, the sum  
20 of \$150,000 shall be paid from the receivership estate to CCBR in full satisfaction  
21 of all claims, interests, and rights regarding the property located at 809 San Rafael  
22 Place. Payment to CCBR will be made within seven (7) business days of entry of  
23 the order approving this Motion. CCBR shall also have an allowed unsecured  
24 creditor claim against the receivership estate in the amount of \$237,000 ("CCBR  
25 Allowed Claim"). The CCBR Allowed Claim shall be subject to whatever orders  
26 regarding priority, treatment, and/or distribution rights are entered by the Court  
27 regarding unsecured creditor claims. CCBR reserves the right to dispute the  
28 priority, treatment and/or rights to distributions from the receivership estate that may

1 be proposed by me or other interested parties, but forever waives and releases any  
 2 and all rights to dispute the amount of the CCBR Allowed Claim or its status as an  
 3 unsecured creditor claim.

4       7.       Subsequent to the approval and payment to CCBR, the Net Sale  
 5 Proceeds Reserve balance (\$485,000) shall be released and there shall no longer be  
 6 any restriction on the use or distribution of such funds, other than as provided in the  
 7 Receivership Order and subsequent orders of the Court applicable to the use and/or  
 8 distribution of receivership estate funds generally.

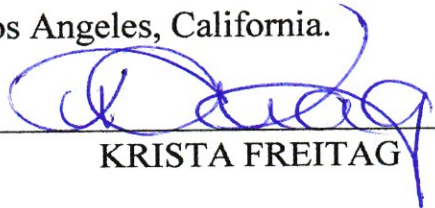
9       8.       I believe the Settlement Agreement, which is the product of extensive  
 10 analysis and negotiations, with assistance of counsel, is a reasonable and fair  
 11 compromise of the CCBR Claims and is in the best interests of the receivership  
 12 estate and all claimants. I therefore request that it be approved.

13       9.       I have considered the legal issues relating to the CCBR Claims.  
 14 Considering that CCBR funded a total of \$437,000, \$200,000 of which was  
 15 ultimately allocated toward the purchase of 809 San Rafael Place and was a 50%  
 16 owner on title to the 809 San Rafael Place property, I believe CCBR would likely be  
 17 able to establish a 50% tenant-in-common ownership interest in the property. I have  
 18 done a preliminary analysis of the overall economic effect of the 809 San Rafael  
 19 Place property on the Receivership Entities, including the purchase price/down  
 20 payment, rental revenue, mortgage expenses, operating expenses, tax expenses,  
 21 insurance expenses, etc., as well as the net proceeds from the sale of the property in  
 22 relation to the portfolio loan release prices assigned each asset originally  
 23 encumbered by the portfolio loan. Based on that analysis, I believe \$150,000 is a  
 24 reasonable and fair estimate of what CCBR would be entitled to as a 50% tenant-in-  
 25 common owner, *i.e.* 50% of a modified net sale proceed calculation after the  
 26 Receivership Entities are credited for the net operating loss incurred in connection  
 27 with the property.  
 28

1           10. Once the CCBR Claim as to 809 San Rafael Place is resolved, what  
 2 remains is the \$237,000 transferred to the Receivership Entities by the Lances and  
 3 the promissory note and option agreement issued in favor of CCBR relating to 812  
 4 San Rafael Place. I have confirmed that the full \$237,000 was received by/benefited  
 5 the Receivership Entities, but, in light of the freeze on title provided in the  
 6 Receivership Order, I do not believe CCBR would be able to establish a 50%  
 7 ownership interest in the 812 San Rafael Place property. Therefore, the Settlement  
 8 Agreement simply provides that CCBR will have an allowed general unsecured  
 9 creditor claim in the amount of \$237,000. Consistent with how I have proposed  
 10 investor and other claims be calculated in my pending motion for approval of  
 11 procedures for the administration of claims (Dkt. 681), no interest is included in the  
 12 proposed CCBR Allowed Claim. Accordingly, not only is the Settlement  
 13 Agreement a reasonable and fair compromise of the CCBR Claims and in the best  
 14 interests of the estate and all claimants, but it also frees up \$485,000 of Receivership  
 15 Estate funds (the balance of the Net Sale Proceeds Reserve initially set aside for the  
 16 resolution of this matter).

17           I declare under penalty of perjury under the laws of the United States of  
 18 America that the foregoing is true and correct.

19           Executed this 15<sup>th</sup> day of June 2021, at Los Angeles, California.

20  
 21   
 KRISTA FREITAG

**EXHIBIT INDEX**

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# EXHIBIT A

# EXHIBIT A



### **SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

1374 This Settlement Agreement and Mutual Release (the "Agreement") is made as of June 13, 2021 (the "Effective Date"), by and between Krista L. Freitag, in her capacity as court-appointed federal equity receiver (the "Receiver") for ANI Development, LLC, American National Investments, Inc., and their subsidiaries and affiliates ("Receivership Entities"), on the one hand, and Con & Coop Beach Rentals, LLC ("CCBR"), a California limited liability company, on the other hand. The Receiver and CCBR may be referred to hereinafter, collectively, as the "Parties," or, individually, as a "Party."

#### **Recitals**

A. On August 28, 2019, the U.S. Securities and Exchange Commission ("SEC") filed an action in United States District Court for the Southern District of California against Defendants Gina Champion-Cain ("Champion-Cain") and ANI Development, LLC (collectively, "Receivership Defendants"), and Relief Defendant American National Investments, Inc. ("Receivership Relief Defendant") (the "SEC Action"). The SEC and Champion-Cain simultaneously stipulated to the entry of preliminary injunction and the appointment of Krista L. Freitag as receiver for ANI Development, LLC, American National Investments, Inc., and their subsidiaries and affiliates. The preliminary injunction and receivership order was entered on September 3, 2019 ("Receivership Order").

B. Prior to entry of the Receivership Order, James and Suzanne Lance made certain real estate investments with and loans to certain Receivership Entities. In total, the Lances transferred \$437,000, some of which went to escrow for the purchase of real property and some of which went to the Receivership Entities. Specifically, \$200,000 of the Lances' funds was allocated to the purchase of the property located at 809 San Rafael Place, San Diego, California. In exchange, the Lances obtained a 50% tenant-in-common ownership interest in the property as members of CCBR. The other \$237,000 was allocated to a promissory note in favor of CCBR and an option for CCBR to acquire a 50% ownership interest in the property located at 812 San Rafael Place, San Diego, California. CCBR had not exercised the option as of the date the Receivership Order was entered. CCBR then exercised the option after entry of the Receivership Order, but it is disputed whether such exercise was proper or had any effect due to the freeze on title to all receivership real properties contained in the Receivership Order.

C. CCBR, by and through James Lance, has asserted claims against the receivership estate relating to its interest in the 809 San Rafael Place property, as well as the promissory note/option regarding the 812 San Rafael Place property (collectively, the "CCBR Claims"). The Receiver has disputed the CCBR Claims. In the meantime, the Parties agreed that the 809 San Rafael Property and the 812 San Rafael Property would be sold by the Receiver, with approval from the Court, and that \$635,000 in net sale proceeds ("Net Sale Proceeds Reserve") would be set aside by the Receiver and not distributed or otherwise used until such time as the CCBR Claims have been resolved, either by settlement or Court order. The properties were then sold by the Receiver with Court approval.



WHEREAS, the Parties have negotiated and now desire to resolve all disputes and disagreements between them relating to the CCBR Claims.

NOW, THEREFORE, for good and valuable consideration, including the mutual promises herein, it is hereby stipulated, consented, and agreed to by and between the Parties as follows:

**Agreement**

1. **Representations and Acknowledgments.** Each party to this Agreement represents and acknowledges that each of the following is true:

a. *True and Correct Recitals.* The above Recitals are true, correct, and accurate, and are incorporated within this Agreement as if fully rewritten herein.

b. *Good Faith.* The Parties have acted in good faith in connection with their negotiation and preparation of this Agreement. Subject to approval by the Court in the SEC Action, each Party represents and warrants that it has the legal capacity to be bound by and sign this Agreement and is authorized to do so. The execution and consummation of this Agreement by each Party was and is its respective free and voluntary act and deed, without any misapprehension as to the effect thereof, and without any coercion, duress, overreaching, or any other misconduct by any other Party.

c. *Legal Counsel.* Each Party has had the benefit, or full opportunity to avail itself, of legal counsel to inform and advise such Party throughout the negotiation of this Agreement and in connection with the meaning, intent, effect, execution, and delivery of this Agreement.

2. **Condition Precedent.** This Agreement is conditioned upon the entry of an order by the Court in the SEC Action approving the Agreement ("Approval Order") and shall have no final force and effect unless and until the Approval Order has been entered. The Receiver shall promptly file a motion for approval of the Agreement (the "Approval Motion") in the SEC Action. In the event the Court denies the Approval Motion, this Agreement shall have no further force and effect except as expressly set forth herein.

3. **Terms of Settlement.** Subject to Section 2 above, the Parties hereby agree to the following terms of settlement:

a. *Payment to CCBR.* Within seven (7) business days of entry of the Approval Order, the Receiver shall pay from the receivership estate the sum of \$150,000 to CCBR in full satisfaction of all claims, interests, and rights regarding the property located at 809 San Rafael Place.

b. *Allowed Claim of CCBR.* CCBR shall have an allowed unsecured creditor claim against the receivership estate in the amount of \$237,000 ("CCBR Allowed Claim"). The CCBR Allowed Claim shall be subject to whatever orders regarding priority, treatment, and/or distribution rights are entered by the Court in the SEC Action regarding unsecured creditor claims. CCBR reserves the right to dispute the priority, treatment and/or rights to distributions

from the receivership estate that may be proposed by the Receiver or other interested parties, but forever waives and releases any and all rights to dispute the amount of the CCBR Allowed Claim or its status as an unsecured creditor claim.

c. *Net Sale Proceeds Reserve.* Subsequent to the payment to CCBR set forth in section 3a. above, the Net Sale Proceeds Reserve shall be released and there shall no longer be any restriction on the use or distribution of such funds, other than as provided in the Receivership Order and subsequent orders of the Court applicable to the use and/or distribution of receivership estate funds generally.


4. Mutual Releases. Except for the obligations and rights set forth in this Agreement, including the CCBR Allowed Claim, and subject to the Approval Order, the Parties, and each of them, on his, her, or its own behalf and on behalf of any relatives, representatives, brokers, predecessors, successors, direct and indirect parent companies, direct and indirect subsidiary companies, companies under common control with any of the foregoing, affiliates and assigns and its and their past, present, and future officers, directors, shareholders, interest holders, members (including James and Suzanne Lance), partners, attorneys, agents, employees, managers, representatives, assigns and successors in interest, and all individuals acting by, through, under or in concert with them, including, specifically, the Receivership Entities, and any subsequent trustee and/or receiver who may be appointed over same, hereby fully release and discharge each other and all of their predecessors, successors, direct and indirect parent companies, direct and indirect subsidiary companies, companies under common control with any of the foregoing, affiliates and assigns and its and their past, present, and future officers, directors, shareholders, interest holders, members, partners, attorneys, agents, employees, managers, representatives, assigns and successors in interest, and all individuals acting by, through, under or in concert with them ("Related Parties"), from all direct, indirect, or successor claims, complaints, grievances, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, emotional distress, expenses (including attorneys' fees and costs), and damages, of any nature whatsoever no matter how characterized, whether arising in tort, contract, equity, statute, or otherwise, whether known or unknown, choate or inchoate, liquidated or contingent, whether or not apparent or yet to be discovered, or which may hereafter develop, arising out of or relating in any way to the Receivership Entities, the SEC Action, and/or the CCBR Claims.

a. It is the express and knowing intention of the Parties that the foregoing releases shall be effective as a bar to any and all actions, fees, damages, losses, claims, liabilities and demands of whatsoever character, nature and kind, known or unknown, suspected or unsuspected. In furtherance of this intention, each of the Parties knowingly, expressly, and irrevocably waives any and all rights and benefits conferred upon it, her or him by the provisions of Section 1542 of the California Civil Code or similar provisions of applicable law, which are as follows:

"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

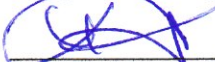
MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

  
\_\_\_\_\_  
CCBR Initials

  
\_\_\_\_\_  
Receiver's Initials

“The Parties acknowledge that the foregoing waiver of the provisions of Section 1542 of the California Civil Code was bargained for separately.”

  
\_\_\_\_\_  
CCBR Initials

  
\_\_\_\_\_  
Receiver's Initials

b. Thus, despite the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of the Released Parties, each of the Parties expressly acknowledges that their respective agreements under this Section 4 are intended to include, without limitation, all of the claims, causes of action, and liabilities which each of the Parties does not know or suspect to exist in its, her or his favor at the time of execution of this Agreement, and this Section 4 contemplates extinguishment of all such claims, causes of action, and liabilities.

c. The Parties agree they have made such investigation of the facts pertaining to this Agreement and of all the matters pertaining thereto, as each Party deems necessary. The Parties warrant to each other that they are not relying upon any representation or statement outside of the language of this Agreement made by any of the other Parties and/or by any of their respective agents, attorneys, officers, directors, employees, shareholders, representatives, partners or affiliated corporations or entities, or any of them, with respect to any aspect of this Agreement, the facts and disputes described herein or the rights or asserted rights released by this Agreement.

5. Further Assurances. The Parties shall promptly execute and deliver any and all agreements, instruments, and documents, and shall take such further actions, as may be necessary to fully effectuate and implement the terms of this Agreement.

6. Additional Terms and Conditions.

a. *Denial of Liability.* It is understood and agreed by the Parties to this Agreement that this settlement does not constitute and shall not be construed as an admission of liability by any Party and that the Parties expressly deny any liability or wrongdoing. The Parties acknowledge that this Agreement is made as a compromise of disputed claims without adjudication of any issue of fact or law. The Parties further acknowledge and agree that this Agreement, and all negotiations, discussions, and proceedings in connection with same, shall not be deemed to constitute an admission of fault by any Party as to any facts or claims alleged or asserted in this proceeding, and shall not be received in evidence in any other action or proceeding, for any purpose, except in connection with a proceeding to enforce this Agreement.

b. *Severability.* Should any provision or paragraph of this Agreement be held invalid or illegal, that invalidity or illegality shall not invalidate the whole of the Agreement, but rather, the Agreement shall be construed as if it did not contain the invalid or



illegal part, and the rights and obligations of the parties shall be construed and enforced accordingly in light of the purposes and objectives of this Agreement, as expressed herein.

c. *Entire Agreement.* This Agreement, including all recitals, numbered paragraphs, and other language contained herein, constitutes a single, integrated, written contract expressing the entire Agreement between the Parties hereto. It supersedes any prior understandings and Agreements among the Parties with respect to its subject matter.

d. *Applicable Law and Continuing Jurisdiction.* This Agreement shall be construed and enforced according to the laws of the State of California, without regard to its choice-of-law principles. The Parties agree that the United States District Court for the Southern District of California shall retain continuing and exclusive jurisdiction, pursuant to Fed. Rules Civ. Proc. §41(a), over the Parties and all disputes related to this Settlement Agreement, including but not limited to the administration, interpretation, enforcement, and resolving disputes arising from this Settlement Agreement.

e. *Attorney Fees.* The prevailing party in any action brought between or among the Parties hereto shall be entitled to payment of all attorneys' fees, costs, and any other expenses from the non-prevailing parties, including on appeal and in any insolvency proceeding.

f. *Construction.* All Parties to this Agreement, having had the opportunity to consult with legal counsel in the course of its negotiation and drafting, agree that the language of each and every paragraph, term, and provision of this Agreement shall be construed according to its fair meaning taken as a whole, and not strictly for or against any Party, and without regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

g. *Counterparts.* This Agreement may be executed in multiple counterparts, one or more of which may be a facsimile or .pdf counterpart, which together shall constitute a single, enforceable Agreement, and each of which shall be original for all purposes.

h. *Notices.* Any notices, documents, or correspondence of any nature required to be sent pursuant to this Agreement shall be transmitted by both e-mail and overnight delivery to the following recipients, and will be deemed transmitted upon receipt by the overnight delivery service:

For CCBR:

James Lance, 701 Island Avenue, Suite 400, San Diego, CA 92101

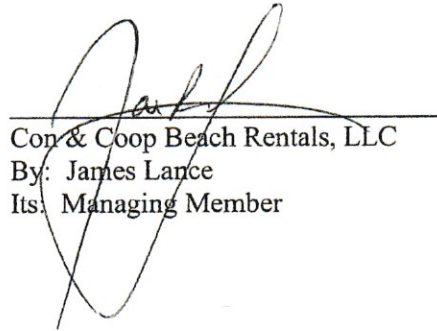
For the Receiver, Krista Freitag:

Ted Fates, Allen Matkins, 600 West Broadway, 27th Floor, San Diego, CA  
92101-0903

IN WITNESS WHEREOF, the Parties to this Agreement have affixed their names hereto as of the Effective Date first above written.



Krista L. Freitag, solely in her capacity  
as Receiver for ANI Development, LLC,  
American National Investments, Inc., and  
their subsidiaries and affiliates



Con & Coop Beach Rentals, LLC  
By: James Lance  
Its: Managing Member