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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 CHICAGO
TITLE COMPANY AND CHICAGO
TITLE INSURANCE COMPANY**

Date: TBD
Time: TBD
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 Chicago Title Company and Chicago Title Insurance Company ("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. As documented in my quarterly reports, since my appointment, among other things, I have worked to marshal assets, sell real and personal property, eliminate secured debt (in some cases, at considerable discounts), and pursue claims to recover from third parties, including clawback claims. This extensive work, some of which is ongoing (including some active clawback actions), has generated a considerable sum for the receivership estate. The estate currently holds approximately \$27.9 million. I am in the process of wrapping up the Court-approved claims process and, by May 31, 2022, will file a motion to approve recommended claim amounts, resolve disputed claims, and approve a proposed plan for making distributions ("Claims Allowance and Plan Motion").

The State Court Actions

3. In December 2021, this Court authorized me to file an action in state court on behalf of the receivership estate against Chicago Title Company and Chicago Title Insurance Company (together "CTC"). I filed the complaint in January 2022 and the case was related with the other pending actions brought by investors before Judge Medel ("State Court Actions"). Through the action against CTC, I'm seeking to recover, on behalf of the receivership estate, (a) the amounts for which the receivership estate is liable to investors who have not settled with CTC, (b) amounts the Receivership Entities paid to CTC for escrow services relating to

1 the Ponzi scheme, (c) the administrative fees and costs of the receivership,
 2 (d) interest and (e) punitive damages. A trial date in December 2022 has been set in
 3 the State Court Actions, but it has not yet been determined which case(s) will be
 4 tried first and which will be deferred to one or more later trial dates.

5 **Prior Investor Settlements with CTC**

6 4. I'm informed that, in total, more than 300 losing investors¹ have settled
 7 their claims against CTC. In nearly all of these settlements,² CTC settled with the
 8 investors for a percentage of their reported MIMO net losses, ranging between 50%
 9 and 75%,³ with various investor groups reportedly settling for 65%, 70%, and 75%
 10 of MIMO net losses. The proposed Settlement Agreement (as defined below)
 11 contemplates payment to the investors with pending actions against CTC ("Plaintiff
 12 Investors"), including those who have declined to join the proposed Settlement
 13 Agreement ("Non-Joining Plaintiffs"), of 100% of their MIMO net losses – a much
 14 higher settlement percentage than nearly all but two investors have obtained from
 15 CTC.

16 5. The two largest losing investors, Ovation Finance Holdings 2, LLC
 17 ("Ovation") and Banc of California, N.A. ("BOC") reportedly settled with CTC for
 18 amounts well in excess of their MIMO net losses. The facts supporting the claims
 19 of Ovation and BOC against CTC, however, distinguish their claims from those of
 20

21 ¹ The number of unique investors with whom CTC has reportedly settled does not
 22 necessarily tie to my number of previously reported unique losing investors or
 23 those with proposed allowed claims in the forthcoming Claims Allowance and
 Plan Motion due to the aggregation of investments/accounts with the same
 beneficial owners during the receivership claims process.

24 ² Two of these settlements were knowingly for over 100% of MIMO net losses
 (Ovation and BOC, as discussed in Paragraph 5). There were, however, some
 25 investors whose MIMO net losses were later determined through my accounting
 to be different than what CTC believed them to be at the time the settlements
 26 occurred, meaning that, based on my MIMO net loss calculations, CTC settled
 with some investors at percentages that were higher and lower than the reported
 settlement percentages.

27 ³ Due to allocations of the settlement funds within one investor group, some
 28 investors in the group received just over 80% of their MIMO net losses, and
 others in the group received 67% of their MIMO net losses, but the overall
 settlement was 75% of the aggregate MIMO net losses for the entire group.

1 other plaintiffs. Specifically, Ovation and BOC contacted CTC directly and
2 received falsified audit reports signed by an employee of CTC.⁴

3 6. For years, Ovation and BOC took the lead role for all plaintiffs in the
4 State Court Actions, including preparing what became the "model complaint" for the
5 plaintiffs, propounding numerous discovery requests, and taking numerous
6 depositions of CTC witnesses. While the Non-Joining Plaintiffs took an active role
7 in their own State Court Actions, I believe that most of the work to develop the
8 claims and evidence against CTC was performed by counsel to Ovation and BOC.

9 **The MIMO Net Loss Claims of Plaintiff Investors**

10 7. Through my forensic accounting performed pursuant to the Court's
11 orders (*See* Dkt. 659), I calculated the total money received from each Plaintiff
12 Investor and the total money paid to each Plaintiff Investor. The applicable
13 transactions, the MIMO net loss calculation, as well as the "prior recovery rate" (the
14 aggregate money out divided by aggregate money in, which is used for the rising
15 tide distribution method), were all laid out in the claim forms sent to the Plaintiff
16 Investors in November 2021.

17 8. The Plaintiff Investors' MIMO net losses are as follows:

Plaintiff Investor	Represented By	MIMO Net Loss
Shelley Lynn Tarditi Trust	Jeffrey Zinder	\$285,994.89
Stevens & Kapur Trust		\$351,780.91
Heller Fenley Trust & IRA		\$5,891,813.71
"Zinder Group" subtotal		\$6,529,589.51
Wakefield Capital LLC	James Armstrong	\$3,625,000.00
Wakefield Investments LLC		\$2,000,000.00
2Budz Holding LLC		\$79,204.00
"Armstrong Group" subtotal		\$5,704,204.00

28 ⁴ CTC disputed whether the false reports BOC received from Cain were signed by
CTC or forged by Cain.

Doug and Kristine Heidrich	Justin Shrenger ⁵	\$215,260.00
Living at the Next Level LLC		\$140,000.00
Heidi and Jeffrey Orr		\$150,000.00
"Shrenger Group" subtotal		\$505,260.00
CalPrivate Bank	O'Melveny & Myers	\$9,520,080.13
Total		\$22,259,133.64

9. Under the proposed Settlement Agreement, the amount to be paid to the receivership estate includes the full \$22,259,133.64 in MIMO net losses of the Plaintiff Investors, which will then be distributed to them in full satisfaction of their claims against the receivership estate.⁶ The Plaintiff Investors have all returned their signed claim forms to my office, and with one exception, have not disputed my MIMO transactions and resulting net loss calculation. The same applies to the four unrepresented investors; none of them has disputed my MIMO net loss calculations. The unrepresented investors will receive 70% of their MIMO net losses under the proposed Settlement Agreement. All four of them have joined the Settlement Agreement by signing the Joinder Agreement attached thereto.

10. The claim of Non-Joining Plaintiff 2Budz Holding, LLC ("2Budz") is disputed. 2Budz disputes whether \$750,000 it received from the Receivership Entities should be considered "money-out" under MIMO, and therefore contends that its claim should be \$750,000 greater than my calculation. After analyzing the facts and consulting with counsel, my position is that the \$750,000 at issue came directly from the Ponzi scheme, went directly to 2Budz, is clearly linked to 2Budz's investments in the Ponzi scheme, and therefore must be treated as "money-out" for purposes of 2Budz's claim.

⁵ The investors represented by Justin Shrenger were part of the Armstrong Group. They then joined the proposed Settlement Agreement and filed Substitutions of Counsel in their State Court Action, replacing Mr. Armstrong with Mr. Shrenger.

⁶ The Shrenger Group of Plaintiff Investors and the four remaining unrepresented investors will receive their portions of the settlement amount directly from CTC because they have joined the Settlement Agreement.

11. Non-Joining Plaintiff CalPrivate Bank ("CalPrivate"), which does not dispute its MIMO transactions, has asserted that MIMO does not apply to its claim because the bank has a security interest in certain receivership assets that it contends gives it the right to recover *all amounts* owed under its fraudulently-procured loan documents *ahead of all other investors*. After analyzing the facts and consulting with counsel, my position is that CalPrivate does not have a valid security interest in any receivership assets, is not entitled to priority treatment and should be treated like every other losing investor. The disputed claims of CalPrivate and 2Budz will be addressed in my Claims Allowance and Plan Motion, which will be filed by May 31, 2022.

The Proposed Settlement and Bar Order

12. On September 16, 2021, the Hon. Judge Allison H. Goddard set a Mandatory Settlement Conference ("MSC") in January 2022 for CTC and me to attend, and invited the plaintiffs in the State Court Actions to attend. The Court, however, was open to the parties engaging in private mediation as an alternative. The parties subsequently agreed to attend mediation with the Hon. Steven R. Denton (Ret.) of Judicate West. The mediation was scheduled for January 24-25, 2022.

13. Prior to the mediation, the other plaintiffs and I, through our respective counsel, discussed whether to present a global settlement demand to CTC. I was advised that the plaintiffs, including the Non-Joining Plaintiffs, rejected the concept of a global settlement demand. A substantial number of the investors who had not settled with CTC then reached settlements shortly before and shortly after the January 24-25 mediation. These settlements were all for 70% of the investors' MIMO net losses (with the exception of the Ovation settlement and later the BOC settlement, as discussed above).

14. In March 2022, again through counsel, CTC and I discussed the structure of the settlement proposed herein, which CTC was unwilling to do without a Bar Order that would end all litigation against it arising from the Ponzi scheme,

1 and which I hoped the remaining Plaintiff Investors and unrepresented investors
 2 would accept. Another mediation with Judge Denton was then held on April 13,
 3 2022. The Non-Joining Plaintiffs did not accept the settlement terms, and, through
 4 my counsel, I informed them I would accept the settlement because it is in the best
 5 interests of the receivership estate and all investors as a whole. The Settlement
 6 Agreement was then executed by me and CTC, with a Joinder Agreement attached
 7 as Exhibit B that gave the Plaintiff Investors (and four remaining unrepresented
 8 investors) the option to join and receive payment directly from CTC, rather than the
 9 settlement funds going through the receivership. A true and correct copy of the
 10 Settlement Agreement is attached hereto as **Exhibit A**. The Plaintiff Investors and
 11 four remaining unrepresented investors were promptly noticed and given until May
 12 10, 2022 to sign the Joinder Agreement. Although the three Shrenger Group
 13 investors and all four remaining unrepresented investors joined, the seven Non-
 14 Joining Plaintiffs (three of which are affiliated) declined to do so.

15 **15. Settlement Payment.** Within 30 days of Court approval of the
 16 Settlement Agreement, CTC will pay \$24,359,133.64 to the receivership estate, less
 17 the \$505,260.00 that will be paid directly to the Shrenger Group investors and the
 18 \$48,578.60 that will be paid directly to the four remaining unrepresented investors.⁷
 19 The settlement amount includes (a) 100% of ANI's liability for the \$22,259,133.64
 20 in MIMO net losses of the Plaintiff Investors, (b) 70% of ANI's liability to the four
 21 remaining unrepresented investors who have not settled with CTC (\$48,578.60),
 22 (c) the full amount of the receivership estate's fraudulent transfer claim against CTC
 23 (\$383,000.00), and (d) \$1,668,421.40 for the receivership estate's claim for the fees
 24 and costs of the receivership. I will pay the MIMO net loss amounts (as reflected in
 25
 26

27 ⁷ Because the Shrenger Group investors and the four unrepresented investors
 28 joined the Settlement Agreement, they will each receive settlement payments
 directly from CTC within 30 days of Court approval of the Settlement
 Agreement, including the Bar Order.

the table above) to the Non-Joining Plaintiffs upon approval of the Claims Allowance and Plan Motion.

16. **Participation Right.** If approved, CTC will have the right to share in distributions from the receivership estate (not including amounts paid to the receivership under the Settlement Agreement) in place of the Plaintiff Investors as though the Plaintiff Investors received a payment of 70% of their MIMO net losses from CTC.⁸ The MIMO net loss amounts (column "G") and prior recovery rates (column "H") to be used in the rising tide distribution calculation for each Plaintiff Investor after the deemed 70% payment are reflected on Exhibit A to the Settlement Agreement. Subject to the appeal and holdback provisions discussed below as well as the final amount of funds available for distribution from the receivership estate, if the Court approves the Settlement Agreement and upcoming Claims Allowance and Plan Motion, I estimate CTC could receive between \$2.5 million and \$3.8 million from the receivership estate on account of its Participation Right.

17. **Mutual Releases and Bar Order.** CTC and I, in my capacity as Receiver, fully release one another, including the receivership estate's claims against CTC in State Court and CTC's indemnity claims against the receivership estate. The Settlement Agreement is also conditioned on a Bar Order that permanently enjoins all claims by anyone against CTC (including its existing and former employees and agents) that arise from the Ponzi scheme. CTC will also release its claims against the Peterson Parties, which release is effective upon the Bar Order becoming final.

18. **Appeal.** In the event of an appeal by a Non-Joining Plaintiff, the portion of the settlement payment that represents the receivership estate's liability for 100% of that Non-Joining Plaintiff's MIMO net loss will be held back by me

⁸ For avoidance of doubt, the CTC deemed payment will be calculated at 70% of each Plaintiff Investor's MIMO net loss; however, the Participation Right will result from a calculation of rising tide distributions using each Plaintiff Investor's Prior Recovery Rate, which for some Plaintiff Investors will be significantly higher than the 70% deemed payment.

1 pending resolution of the appeal. Likewise, the amount that would be distributed to
 2 CTC pursuant to its Participation Right for the appealing Non-Joining Plaintiff will
 3 also be held back. If the Bar Order is affirmed or the appeal is otherwise dismissed,
 4 the respective amounts held back will be released to the appealing Non-Joining
 5 Plaintiff and CTC. If the appeal is successful and the Non-Joining Plaintiff is
 6 allowed to continue to sue CTC, the amount held back for the appealing Non-
 7 Joining Plaintiff will be returned to CTC, the amount held back on account of CTC's
 8 Participation Right for that Non-Joining Plaintiff will be treated as general
 9 receivership funds and distributed pursuant to terms of the distribution plan, and the
 10 appealing Non-Joining Plaintiff will no longer have a claim in the receivership
 11 (having turned down 100% of its MIMO net loss and chosen instead to take their
 12 case against CTC to trial).

13 19. During the past 32 plus months since my appointment, my counsel and
 14 I have gathered and reviewed thousands of documents relating to the Ponzi scheme,
 15 claims against CTC, claims against the Peterson Parties, and claims against other
 16 third parties. My staff and I also analyzed thousands of financial transactions to and
 17 from the Receivership Entities, CTC, feeder fund entities, investors, and others in
 18 connection with my forensic accounting. Through counsel, I have also monitored
 19 the extensive discovery conducted in the State Court Actions, including more than
 20 40 witness depositions. Based on this extensive investigation and analysis, I believe
 21 the Settlement Agreement, which is the product of extensive negotiations between
 22 CTC and me, through our respective counsel, is reasonable and fair and in the best
 23 interests of the receivership estate and all its claimants. I, therefore, request that it
 24 be approved.

25 **Claims Involving the Peterson Parties**

26 20. Pursuant to the Court's order authorizing me to pursue clawback
 27 claims, I filed a clawback action against Kim Peterson and his entities ("Peterson
 28 Parties") on September 15, 2021. Prior to this filing, during a MSC with Judge

1 Goddard on May 10, 2021, and in subsequent meetings to discuss settlement, my
2 counsel and I discussed with Judge Goddard the receivership estate's substantial
3 claims against the Peterson Parties, which collectively received more than
4 \$12.7 million in profits from the Ponzi scheme.

5 21. Judge Goddard held several settlement conferences with Mr. Peterson
6 and me. The conferences that occurred after the filing of the complaint made
7 considerable progress in terms of the informal production of documents and
8 information by the Peterson Parties that would potentially assist in settlement.
9 Unfortunately, however, the settlement discussions through Judge Goddard ended in
10 February 2022 without a settlement having been reached.

11 22. Considering that, if this settlement is approved, the litigation landscape
12 would be significantly changed (the Peterson Parties' claims against CTC would be
13 barred and CTC would release its claims against the Peterson Parties), once the
14 Settlement Agreement was executed, through counsel, I contacted Judge Goddard's
15 chambers to request another settlement conference with the Peterson Parties. Judge
16 Goddard then set a settlement conference for June 1, 2022.

17 **Conclusion**

18 23. The proposed Settlement Agreement and Bar Order provide for a
19 settlement of the receivership estate's claims against CTC on terms very favorable to
20 the estate and the investors as a whole. If approved, the settlement represents a big
21 step forward towards bringing all litigation associated with the Ponzi scheme to an
22 end, being able to distribute a substantial amount of the receivership funds in the
23 coming months, and making progress toward the ultimate conclusion of the
24 receivership. If the Settlement Agreement is approved, the only litigation remaining
25 will be clawback actions (including the expanded claims against the Peterson
26 Parties), of which seven active cases remain that my counsel and I are working to
27 resolve or bring to judgment. If the Settlement Agreement is approved, these
28 clawback actions, however, should not delay making a substantial interim

1 distribution of receivership funds upon receipt of Court approval of the Claims
2 Allowance and Plan Motion, which will be filed by May 31, 2022.

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

5 Executed this 23rd day of May 2022, at Los Angeles, California.

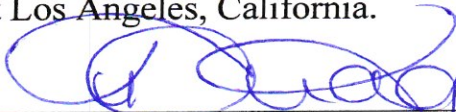
6 
7 KRISTA FREITAG

EXHIBIT INDEX

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EXHIBIT A

EXHIBIT A

SETTLEMENT AND MUTUAL RELEASE AGREEMENT

This Settlement and Mutual Release Agreement (the “**Agreement**”) is entered into effective April 26, 2022 (the “**Effective Date**”) amongst the following:

Chicago Title Company (“**CTC**”) and Chicago Title Insurance Company (“**CTIC**”), inclusive of each’s past, present and/or future parents, including but not limited to Fidelity National Financial, Inc., subsidiaries, affiliates, officers, directors, agents, employees, including but not limited to Adelle (Della) DuCharme, Betty Elixman, Thomas Schwiebert, and their heirs, executors, representatives, and/or trusts, if any, predecessors, successors, assigns, sureties, insurers, excess insurers, reinsurers, and any and all of their respective shareholders, owners, and/or partners, limited or general (collectively, the “**Chicago Title Parties**”);

Krista L. Freitag (“**Receiver**”), in her capacity as court-appointed receiver for ANI Development, LLC, American National Investments, Inc., and their subsidiaries and affiliates, (the “**Receivership Entities**” or “**ANI**”).

Each of the above may be referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

WHEREAS, in August 2019, the Securities and Exchange Commission brought suit against Gina Champion-Cain (“**Cain**”) and the Receivership Entities in the matter styled as *SEC v. Gina Champion-Cain, et al.*, Case No. 19-cv-1628-LAB-AHG (S.D. Cal.) (“**SEC v. Cain**”) in connection with a liquor license loan program (the “**Program**”);

WHEREAS, in *SEC v. Cain*, the federal court (the “**Federal Court**”) entered an order appointing the Receiver as a federal equity, court-appointed receiver for the Receivership Entities (the “**Receivership**”);

WHEREAS, there is other currently pending litigation, in the California Superior Court for San Diego County (“**State Court**”), relating to the Program and styled as *Ovation Finance Holdings 2 LLC, Ovation Fund Management II, LLC, and Banc of California, N.A. v. Chicago Title Insurance Company, et al.*, Case No. 37-2020-00034947-CU-FR-CTL (the “**Ovation/BoC Action**”); *Banc of California, N.A. v. Laurie Peterson, et al.*, Case No. 37-2019-00060809 (the “**BoC Action**”); *CalPrivate Bank v. Chicago Title Company, et al.*, Case No. 37-2020-00039790-CU-FR-CTL (“**CalPrivate Action I**”); *CalPrivate Bank v. Kim H. Peterson, Trustee of the Peterson Family Trust dated April 14, 1992*, Case No. 37-2019-00058664-CU-BC-CTL (“**CalPrivate Action II**”); *Kim Funding, LLC, et al. v. Chicago Title Company, et al.*, Case No. 37-2019-00066633-CU-FR-CTL (the “**Kim Funding Action**”); *Krista Freitag, Court-appointed permanent receiver for ANI Development, LLC, American National Investments, Inc., and their subsidiaries and affiliates v. Chicago Title Company, et al.*, Case No. 37-2022-00000818-CU-FR-CTL (the “**Receiver/CTC Action**”); *Susan Heller Fenley Separate Property Trust, DTD 03/04/2010, et al. v. Chicago Title Company, et al.*, Case No. 37-2020-00022394 (the “**Heller-Fenley Action**”); and *Wakefield Capital LLC, Wakefield Investments, LLC, 2Budz Holdings, LLC, Doug and Kristine Heidrich,*

and *Jeff and Heidi Orr v. Chicago Title Company, et al.*, Case No. 37-2020-00012568-CU-FR-CTL (the “**Wakefield Action**”), collectively referred to herein as “**the State Court Actions**”;

WHEREAS, the Receiver has calculated the net money-in, net money-out (“MIMO”) for all investors in the Program and has determined ANI’s alleged MIMO liability with respect to the following individuals and entities: the Shelley Lynn Tarditi Trust (the “**Tarditi Claimant**”); the Payson R. Stevens & Kamaljit Kaur Kapur Trust Dated March 28, 2014; Payson R. Stevens; and Kamalji K. Kapur (the “**Stevens/Kapur Claimants**”); the Susan Heller Fenley Property Trust, DTD 03/04/2010 and the Susan Heller Fenley Inherited ROTH IRA (the “**Heller-Fenley Claimants**”); Wakefield Capital LLC; Wakefield Investments, LLC; 2Budz Holding LLC; Doug Heidrich; Kristine Heidrich; Living at the Next Level, LLC; Heidi Orr; and Jeffrey Orr (collectively, the “**Wakefield Related Claimants**”); CalPrivate Bank (f/k/a San Diego Private Bank) and inclusive of C3 Bank (f/k/a First National Bank of Southern California) (the “**CalPrivate Claimant**”) (collectively the Tarditi Claimant, the Stevens/Kapur Claimants, the Heller-Fenley Claimants, the Wakefield-Related Claimants, and the CalPrivate Claimant shall be collectively referred to as the “**Plaintiff Claimants**”); the Babette Newman Trust, Anthony D. Radojevich, Eugene Shapiro, and Robert McArdle (collectively “**Non-Plaintiff Claimants**”); Plaintiff Claimants and Non-Plaintiff Claimants together are referred to herein as “**Claimants**”;

WHEREAS, the Receiver has brought suit against Kim H. Peterson, Kim Funding, LLC, the Peterson Family Trust dated 4/14/1992; the Peterson Family Trust dated 9/29/1983; ABC Funding Strategies, LLC, ABC Funding Strategies Management, LLC, Kim Media, LLC, Kim Management, Inc., Kim Aviation, LLC, Aero Drive, LLC, Aero Drive Three, LLC, Baltimore Drive, LLC, George Palmer Corporation, and Kim Funding LLC Defined Benefit Pension in the Federal District Court for the Southern District of California, in the currently pending matter styled as *Krista Freitag, Court-appointed permanent receiver for ANI Development, LLC, American National Investments, Inc., and their subsidiaries and affiliates v. Kim H. Peterson, et al.*, Case No. 21-cv-1620 (the “**Receiver/Peterson Action**”);

WHEREAS, CTC and CTIC have also brought cross-claims for equitable indemnity in the State Court Actions against Kim H. Peterson, Joseph Cohen, Kim Funding, LLC, ANI License Fund, LLC, ABC Funding Strategies, LLC, and ABC Funding Strategies Funding Management, LLC, as applicable (the “**Peterson Crossclaims**”), (the Receiver/Peterson Action and the Peterson Crossclaims collectively referred to as the “**Peterson Actions**”);

WHEREAS, CTC and CTIC have also brought cross-claims for equitable indemnity in the State Court Actions against certain parties, including but not limited to Marco Costales and Nossaman LLP (together, the “**Nossaman Parties**”) (the “**Nossaman Crossclaims**”);

WHEREAS, the Federal Court has, at various times, ordered the Parties and other interested parties, including the plaintiffs in the State Court Actions, to participate in Mandatory Settlement Conferences and/or private mediation, with the goal of bringing about a global and final resolution;

WHEREAS, the Parties, Plaintiff Claimants and Nossaman Parties participated in confidential, arms-length, settlement discussions subject to the mediation privilege and facilitated by the

Honorable Judge Steven R. Denton (the “*Mediator*”) regarding the claims and/or crossclaims asserted in the Receivership and the State Court Actions;

WHEREAS, with the assistance of the Mediator, the Parties agreed that a complete and final resolution of their respective differences, claims, defenses, and/or crossclaims in the Receiver/CTC Action, avoiding competing claims in the Peterson Actions, and resolution of the claims against the Chicago Title Parties in the State Court Actions and any cross-claims that may be brought against the Receiver and/or the Receivership Entities by the Chicago Title Parties in the State Court Actions, would benefit all Parties and the Receivership, including investors in the Program who previously settled their claims against the Chicago Title Parties and who may stand to recover additional losses in the Program from the Receivership;

WHEREAS, the Parties reached agreement on all material terms, including the entry of a Bar Order in favor of the Chicago Title Parties, as more fully described below, without which agreement would not have been reached;

NOW, THEREFORE, to memorialize the complete and final resolution, and in consideration of the foregoing Recitals which are hereby incorporated into this Agreement, and the mutual promises and covenants contained herein, and for good and valuable consideration, the sufficiency of which is acknowledged, and intending to be legally bound, it is hereby agreed amongst the Parties as follows:

1. Settlement Payment. Within thirty (30) calendar days of the satisfaction of, and in consideration of, all conditions set forth in Paragraph 7 herein and receipt of a completed IRS W-9 and appropriate wire instructions, and with the understanding and agreement that the Chicago Title Parties have made and make no representation regarding the federal or state tax consequences of any settlement payment, or any portion thereof, and that the Receiver will hold the Chicago Title Parties harmless for any tax consequences and shall bear sole responsibility for any allocation and/or distribution of same, CTC, not CTIC, will pay the Receiver the single gross sum of \$24,359,133.64 (the “*Settlement Payment*”). It is understood and agreed that the Settlement Payment represents the aggregate of the following items:

- a. ANI’s alleged liability with respect to the \$285,994.89 of MIMO loss the Receiver calculated with regard to the Tarditi Claimant;
- b. ANI’s alleged liability with respect to the \$351,780.91 of MIMO loss the Receiver collectively calculated with regard the Stevens/Kapur Claimants;
- c. ANI’s alleged liability with respect to the \$5,891,813.71 of MIMO loss the Receiver collectively calculated with respect to the Heller-Fenley Claimants;
- d. ANI’s alleged liability with respect to the \$6,209,464 of MIMO loss the Receiver collectively calculated with respect to the Wakefield Related Claimants;
- e. ANI’s alleged liability with respect to the \$9,520,080.13 of the MIMO loss the Receiver calculated with regard to the CalPrivate Claimant;

- f. \$48,578.60 of collective MIMO loss claims of the Non-Plaintiff Claimants, asserted as part the Receiver/CTC Action, which represents 70% of the Non-Plaintiff Claimants collective MIMO loss;
- g. \$383,000 for the claim asserted against CTC and CTIC in the Receiver/CTC Action for past escrow/service fees charged by CTC to ANI in connection with certain holding funds escrow accounts; and
- h. \$1,668,421.40 for the Receiver's additional claim asserted against CTC and CTIC in the Receiver/CTC Action for the fees and costs of the Receivership.

2. Unless Claimants join the Agreement pursuant to Paragraph 14 below, distributions by the Receiver to the Claimants in amounts corresponding to the allocation of the Settlement Payment above shall be processed pursuant to the Federal Court's order approving this Agreement in SEC v. Cain, but only upon expiration of such Claimant's time period to appeal the Federal Court's approval order. If a Claimant, or anyone affiliated with a Claimant, appeals the Federal Court's approval order, such appeal shall only pertain to that particular Claimant and the portion of the Settlement Payment associated with that Claimant shall be handled as provided in Paragraph 15 below.

3. **Attorneys' Fees.** Except as otherwise provided and limited in Paragraph 1(h), each party shall bear its own costs and expenses, including, without limitation, attorneys' fees, incurred in connection with the subject matter of the Receiver/CTC Action, the Receivership and/or this Agreement.

4. **Participation Right.** As partial consideration for the Settlement Payment, CTC shall receive the right to participate in a distribution from the receivership estate (in substitution for the respective Plaintiff Claimants) from the funds collected, recouped, or recovered by the Receiver from any sources, including those funds CTC previously turned over pursuant to Docket No. 127 in SEC v. Cain, but not including the amount of the Settlement Payment set forth above in Paragraph 1(f)-(h) (the "**Participation Right**"). CTC's Participation Right will be the same right to participate in receivership distributions as each Plaintiff Claimant would have had under the "rising tide" distribution model or netting / pro rata distribution model, depending on which model is approved by the Federal Court in SEC v. Cain; except that the Participation Right will be treated as though the Plaintiff Claimant received 70% of MIMO loss instead of 100% of MIMO loss as provided for under Paragraph 1 above. CTC shall not dispute the resulting (post CTC settlement payment) MIMO loss amounts or prior recovery rates (columns G and H on Exhibit A) of Plaintiff Claimants' claims in the Receivership and shall not oppose the Receiver's proposal in her distribution plan to use the rising tide distribution method. A table showing, among other things, each Claimant's pre-settlement MIMO loss claim amount, the Settlement Payments, as well as numbers governing CTC's Participation Right relating to each Plaintiff Claimant is attached hereto as **Exhibit A**.

5. **Mutual Releases.** The Parties' agreements regarding the Settlement Payment and the Participation Right are also in consideration of mutual releases, the specifics of which are as

follows and as set forth in Paragraph 6. The Parties, including their principals, agents, employees and attorneys, hereby generally and completely release any and all actions, causes of action, claims, suits, demands, debts, rents, liens, sums of money, accounts, compensation, contracts, controversies, promises, damages, costs, losses and expenses of any nature whatsoever, liquidated or unliquidated, known or unknown, fixed or contingent, existing or arising hereafter, of whatsoever nature at common law, statutory, legal, equitable, or otherwise, including through any assignments of claims from others, from the beginning of time forward, that they have against any other Party hereto relating in any way, directly or indirectly, to the subject matter of SEC v. Cain, including but not limited to any and all claims and/or causes of actions that were asserted or could have been asserted in the Receivership/CTC Action (collectively, the “**Mutually Released Claims**”). For avoidance of any doubt, the Mutually Released Claims do not apply to and shall not void or release: (a) any Party’s right to bring an action to enforce the terms of this Agreement; and (b) the Participation Right set forth above.¹ Except for these limited exceptions, the Parties hereby represent and warrant to each other that they are not aware of any actions, causes of action, claims, suits, demands, debts, rents, liens, sums of money, accounts, compensation, contracts, controversies, promises, damages, costs, losses and expenses of any nature whatsoever, liquidated or unliquidated, known or unknown, fixed or contingent, existing or arising hereafter, of whatsoever nature at common law, statutory, legal, equitable, or otherwise, including through any assignments of claims from others, they have or might have against any other Party that are not included within the Mutually Released Claims, that they have not previously transferred or assigned any such actions, causes of action, claims, suits, demands, debts, rents, liens, sums of money, accounts, compensation, contracts, controversies, promises, damages, costs, losses and expenses of any nature whatsoever, liquidated or unliquidated, known or unknown, fixed or contingent, existing or arising hereafter, of whatsoever nature at common law, statutory, legal, equitable, or otherwise, including through any assignments of claims from others, in whole or in part, to any individual or entity, relating in any way, whether directly or indirectly, to the subject matter of SEC v. Cain and/or the Receiver/CTC Action.

6. Waiver of Civil Code section 1542. In granting the Mutual Releases herein, the Parties hereby acknowledge that they have read and understand Section 1542 of the California Civil Code, which states: “**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.**” The Parties hereby expressly waive and relinquish all rights and benefits under that section and any law of any jurisdiction of similar effect with respect to the

¹ The Mutually Released Claims exclude the following, which are not claims between the Parties: a) any rights of the Babette Newman Trust, Anthony D. Radojevich, Eugene Shapiro, and Robert McArdle to participate in and receive distributions to be made by the Receiver; (b) the Receiver’s claims or causes of actions in the Receiver/Peterson Action and in the Receiver’s pending actions to recover sums from other profiting investors and third parties, including any claims or causes of action that may be added to such pending actions; (c) other claims or causes of action the Receiver may pursue or seek authority to pursue to recover sums for the receivership estate against persons or entities other than the Chicago Title Parties; and (d) the Chicago Title Parties’ cross-claims in the State Court Action against the Nossaman Parties, and Marco Costales and Nossaman LLP are not included in the term “agents,” “employees,” or “attorneys” above.

Mutually Released Claims. In connection with such waiver and relinquishment, the Parties acknowledge that they are aware that after executing this Agreement, they or their attorneys or agents may discover claims or facts in addition to, or different from, those which they now know to believe to exist with respect to the subject matter of this Agreement, which, if known by them, would have materially affected their decision to enter into this Agreement, but that it is their intention hereby to fully, finally, and forever settle and release all of any and all claims, whether known or unknown, suspected or unsuspected, which now exist, may exist, or heretofore have existed. Further to this intent, the Mutual Releases herein given shall be, and remain in effect as, full and complete releases notwithstanding the discovery or existence of any additional or different claim or fact.

7. Settlement Conditions. This Agreement, the Settlement Payment, Participation Right, Mutually Released Claims, and all other agreements and understanding reflected in the Agreement, are all conditioned on:

a. **The Federal Court's entry of an order approving this Agreement.** This Agreement is subject to approval by the Federal Court. The Receiver shall file a noticed motion in the Federal Court seeking approval of the Agreement (including the order provided in subsection 7.b.) within thirty (30) calendar days of execution hereof and the Chicago Title Parties shall promptly file a joinder to the Receiver's motion.

b. **The Federal Court's approval of the Agreement shall include an order in favor of the Chicago Title Parties** permanently barring and enjoining all persons and entities whatsoever, including but not limited to the Claimants; Susan Heller Fenley; Shelley Lynn Tarditi; ROJ, LLC; John Milito; Wade Wakefield; Stacy Wakefield, Greg Glassberg;; Joseph J. Cohen, ABC Funding Strategies, LLC, ABC Funding Strategies Management, LLC, Laurie Peterson, Kim H. Peterson, Kim Funding, LLC, the Peterson Family Trust dated 4/14/1992; the Peterson Family Trust dated 9/29/1983; Kim Media, LLC, Kim Management, Inc., Kim Aviation, LLC, Aero Drive, LLC, Aero Drive Three, LLC, Baltimore Drive, LLC, George Palmer Corporation, Kim Funding LLC Defined Benefit Pension Plan, ANI License Fund, LLC, Gina Champion-Cain, Nossaman LLP, Marco Costales, the Receiver and the Receivership Entities, any and all persons or entities who have been, are, or will be subject to any fraudulent transfer claim brought by the Receiver, any and all persons or entities who previously received a settlement payment from CTC, and any and all persons or entities who have submitted investor claim forms with the Receiver, or anyone else whomsoever that has a claim arising from the Program, from commencing, instituting, prosecuting, maintaining, or continuing, directly or indirectly, any lawsuit, action, cause of action, claim, cross-claim, third-party claim, demand, controversy, claim over, appeal (except for an appeal from the Federal Court as it pertains to its approval of this Agreement) or other action, of whatsoever nature at common law, statutory, legal, or equitable, or otherwise, including but not limited to any claim seeking damages, indemnity, contribution, or otherwise, in any forum against the Chicago Title Parties related to or arising from, directly or indirectly any damages, injuries, or losses allegedly sustained by, or related directly or indirectly, to the subject matter of SEC v. Cain, the Receiver/CTC Action, the Receiver/Peterson Action, and/or the State Court Actions, thereby immediately enjoining any and all actions to the extent those actions bring claims against the Chicago Title Parties (the "**Bar Order**"). As additional consideration

for the Agreement and Bar Order, when the Federal Court's orders become final, meaning the time for appeal of the Agreement and Bar Order passes without appeal by the parties named in this sentence, or if there is an appeal by those parties, only on affirmance of the approval of the Agreement and Bar Order after exhaustion of all possible appeals, CTC and CTIC will dismiss the Peterson Crossclaims with prejudice and release Kim H. Peterson, Kim Funding, LLC, the Peterson Family Trust dated 4/14/1992; the Peterson Family Trust dated 9/29/1983; Kim Media, LLC, Kim Management, Inc., Kim Aviation, LLC, Aero Drive, LLC, Aero Drive Three, LLC, Baltimore Drive, LLC, George Palmer Corporation, Kim Funding LLC Defined Benefit Pension Plan, Joseph J. Cohen, ABC Funding Strategies, LLC, ABC Funding Strategies Management, LLC, and Laurie Peterson.

8. Dismissal of Receiver/CTC Action. Within five (5) business days of receipt of the full Settlement Payment, the Receiver shall dismiss the Receiver/CTC Action with prejudice.

9. Stay of Litigation. The Parties agree that pending satisfaction of the Settlement Conditions set forth in Paragraph 7 above, the Parties shall agree and stipulate to a stay of all proceedings in the Receiver/CTC Action. With respect to the State Court Actions, CTC shall move, as expeditiously as possible, in the State Court, to stay the actions which have not settled and where plaintiffs continue to assert claims against the Chicago Title Parties, the Kim Funding Action, the Peterson Crossclaims and the Nossaman Crossclaims (pending approval of the Agreement by the Federal Court) and the Receiver shall file a joinder to such stay motion as expeditiously as possible thereafter. The stay as to the Peterson Crossclaims shall last until the finality of the Bar Order, as referenced in Paragraph 7.b. above, and the stay of the Nossaman Crossclaims shall expire upon approval by the Federal Court of the Agreement and Bar Order.

10. Nossaman Crossclaims. CTC and CTIC have filed the only crossclaims against the Nossaman Parties (i.e. the "Nossaman Crossclaims"), and the Parties herein agree that CTC and CTIC have the exclusive right to enter into a settlement with the Nossaman Parties. If CTC and CTIC and the Nossaman Parties are able to negotiate a resolution of the Nossaman Crossclaims prior to the filing of the Receiver's noticed motion for approval of this Agreement, then CTC and CTIC may request entry of a Bar Order in favor of the Nossaman Parties and the Receiver will support such request. The Bar Order for the Nossaman Parties is conditioned on the performance of all conditions described herein at Paragraph 7.

11. Non-Disparagement. The Parties agree not to disparage one another in any manner likely to be harmful to their business, business reputation, or personal reputation, on any matter relating to the Mutually Released Claims. This provision shall not prohibit the Parties from testifying truthfully under subpoena or in connection with a government investigation. This provision shall not prohibit the Receiver and/or the Chicago Title Parties from giving their honest and complete assessment of the relevant facts and legal issues to the Federal Court or State Court in seeking approval of this Agreement or otherwise.

12. Cooperation. The Parties agree to cooperate to effectuate the purposes and intent of this Agreement, any documents or materials reasonably necessary to do so and/or by obtaining agreements or approvals of the Federal Court, the State Court and, if necessary, any other court.

13. Other Representations and Warranties.

a. Subject to entry of the Federal Court approval order provided above with respect to the Receiver's power and authority, the Parties represent and warrant that they have all the necessary power and authority to execute, deliver, perform, and comply with all of the terms of this Agreement.

b. The Receiver represents and warrants that in connection with the insurance payment received from the Receivership Entities' insurer, the insurer does not have any subrogation rights against the Chicago Title Parties.

c. The Chicago Title Parties represent and warrant that in connection with any insurance payments it received from their respective insurers, such insurers have consented to the Mutually Released Claims set forth herein and, for avoidance of doubt, agree that such release includes the waiver of any subrogation rights any such insurer might otherwise have against the Receiver, her agents, employees, and attorneys, the Receivership Entities or those persons or entities referred to in Paragraph 1(a)-(f) above.

d. CTC and CTIC represent and warrant that (a) with the exception of the Claimants, they have settled with all lenders / investors known to them to have had a net loss from the Program, and (b) all settlement payments required from CTC or CTIC under settlement agreements previously executed with lenders or investors in the Program have been or are in the process of being made in full, with the exception of the two settlement agreements which are pending District Court approval and three settlements which are pending entry of an order, consistent with the State Court's tentative ruling, that the settlements are made in Good Faith pursuant to California Code of Civil Procedure section 877.6, and CTC and CTIC represent and warrant that those settlement payments will be timely made in full upon District Court approval or entry of the State Court orders (as applicable) and as required under the applicable settlement agreements.

14. Claimant's Joinder. Upon execution of this Agreement by the Receiver, CTC and CTIC, the Receiver's counsel will provide the Agreement to the Non-Plaintiff Claimants (through their last known e-mail address and physical address) and the Parties will provide the Agreement to counsel for the Plaintiff Claimants for their review and consideration, and provide them with a right, for a period of ten (10) business days following such execution, to join this Agreement pursuant to the terms of the Joinder Agreement attached hereto as Exhibit B. The Parties agree that if one or more Claimants wish to join in the Agreement, on the same terms and conditions contained herein, including by agreeing to accept payment directly from CTC in amounts corresponding to the respective portions of the Settlement Payment set forth on Exhibit A (Column D for Plaintiff Claimants and Column F for Non Plaintiff Claimants), by agreeing not to oppose the entry of the Bar Order, providing full releases of their claims against the Chicago Title Parties as described in Exhibit B, assignment of any right to participate in receivership distributions as described in Paragraph 4 (for Plaintiff Claimants only), and agreeing to dismiss their claims against any of the Chicago Title Parties with prejudice (for Plaintiff Claimants only), they may do so by timely executing the Joinder Agreement within the ten (10) business day period. If any Claimants

join the Agreement, the portion of the Settlement Payment set forth on Exhibit A will be made by CTC directly to their counsel for the Plaintiff Claimants, or directly to the Non Plaintiff Claimants, instead of to the Receiver as a “Joinder Settlement Payment” as defined in the Joinder Agreement attached as Exhibit B and the Settlement Payment to the Receiver under Section 1 above shall be reduced by the amount of all Joinder Settlement Payments.

15. Appeal. If a Claimant, or anyone affiliated with a Claimant, timely files an appeal of the Federal Court’s approval of this Agreement, or any portion thereof, the Receiver shall hold back that portion of the Settlement Payment representing ANI’s alleged liability to that particular Claimant (as reflected in Column D on Exhibit A for Plaintiff Claimants and Column F for Non-Plaintiff Claimants) until appeal is concluded. The Receiver shall also hold back the amount of CTC’s distribution from the Receivership pursuant to its Participation Right for an appealing Plaintiff Claimant. The appealing Claimant’s claim in the receivership shall then be limited to the Settlement Payment amount held by the Receiver in reserve on account of the appeal. If the Federal Court’s approval of the Agreement, including the Bar Order, is upheld on appeal, the appealing Claimant shall promptly receive the held back portion of the Settlement Payment and, as to a Plaintiff Claimant, CTC shall receive the held back Participation Right amount. If the appealing Claimant is permitted to bring suit against any Chicago Title Parties as a result of the appeal, the applicable Claimant’s Settlement Payment funds held back by the Receiver shall be returned to CTC, CTC’s Participation Right for that Claimant (if applicable) will be automatically terminated, and the Claimant shall have no claim against the receivership estate or right to participate in any distributions from the receivership estate. In that event, the amount held back pursuant to CTC’s Participation Right for an appealing Plaintiff Claimant shall be released from the hold back and distributed pursuant to the distribution plan to be approved by the Federal Court. Except as provided for in this Paragraph, no other portions of the Settlement Payment shall be held back by the Receiver or returned to CTC. All interest earned on Settlement Payment funds shall belong to the Receivership and shall not be included in any funds held back or returned to CTC. For the avoidance of doubt, an appeal of the Federal Court’s approval of this Agreement by any individual or entity is solely applicable to that individual or entity, and the Agreement and Bar Order shall otherwise remain enforceable against any non-appealing individual or entity.

16. No Admission of Liability. The Parties understand and agree that this Agreement is not an admission by any Party or any of its agents, of any liability or wrongful or unlawful conduct. This Agreement, whether made ineffective for any reason, and any proceedings related to this settlement and any discussions relating thereto, shall be inadmissible as evidence of any liability or wrongdoing whatsoever and shall not be offered as evidence of any liability or wrongdoing in any court or other tribunal in any state, territory, or jurisdiction, or in any manner whatsoever.

17. Governing Law and Venue. This Agreement shall be governed by federal law relating to receivership matters and California law. Any and all disputes arising from this Agreement shall be subject to the exclusive jurisdiction of the Federal Court.

18. Fully Integrated Agreement; Modifications. The Agreement contains the entire agreement among the Parties and supersedes all prior proposals, negotiations, letters, conversations, agreements, term sheets, and understandings, whether written or oral, relating to the subject matter of this Agreement. It may not be modified or amended except in a writing signed by all Parties. This requirement of a writing may not be waived except in writing.

19. **Mutual Drafting.** This Agreement has been mutually drafted, such that any rule that construes ambiguities against the drafter will have no force or effect.

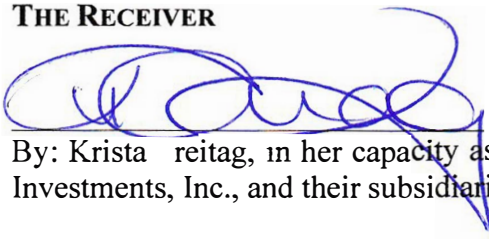
20. **Headings.** The various headings used in this Agreement are solely for the Parties' convenience and may not be used to interpret this Agreement. The headings do not define, limit, extend, or describe the Parties' intent or the scope of this Agreement.

21. **Further Assurances.** The Parties must execute and deliver any additional papers, documents, and other assurances, and must do any other acts reasonably necessary to perform their obligations under this Agreement and to carry out its expressed intent.

22. **Severability.** If any provision of this Agreement is declared by any court to be invalid, void, or unenforceable, the remaining provisions of this Agreement will continue in full force and effect, unless the provision declared to be invalid, void, or unenforceable renders unachievable the primary purpose of the Agreement, at which point the Parties shall attempt to renegotiate the Agreement or, if such efforts prove unavailing, any Party can terminate the Agreement without prejudice to any other Party.

23. **Counterparts.** This Agreement may be executed by ink, by electronic signature, by facsimile, or by email, in any number of counterparts and by different parties on separate pages or counterparts, each of which, when executed and delivered, shall be deemed and treated as an original, and all such counterparts shall together constitute one and the same instrument.

THE RECEIVER



By: Krista reitag, in her capacity as Receiver for ANI Development, LLC, American National Investments, Inc., and their subsidiaries and affiliates

EXHIBIT A

	A	B	C = (A+B)	D = (negative of C)	E = (70% of D)	F = ((negative) 70% of C)	G = (C+E)	H = (B+E)/A	I = (B+F)/A
	Money In (pre-CTC Settlement Payment)	Money Out (pre-CTC Settlement Payment)	Net MIMO Loss (pre-CTC Settlement Payment)	CTC Settlement Payment	Deemed 70% Payment for CTC Participation Right	CTC's 70% Payment for Non-Plaintiff Claimants	Deemed Net MIMO Loss Amount for CTC Participation Right	Prior Recovery Rate for CTC Participation Right after Deemed 70% Payment	Prior Recovery Rate after CTC's 70% Payment for Non-Plaintiff Claimants
Shelley Lynn Tarditi Trust	400,000.00	(114,005.11)	285,994.89	(285,994.89)	(200,196.42)		85,798.47	78.55%	
Payson R. Stevens & Kamaljit Kaur Kapur Trust Dated March 28, 2014	500,000.00	(148,219.09)	351,780.91	(351,780.91)	(246,246.64)		105,534.27	78.89%	
Susan Heller Fenley Property Trust, DTD 03/04/2010 and the Susan Heller Fenley Inherited ROTH IRA	6,000,000.00	(108,186.29)	5,891,813.71	(5,891,813.71)	(4,124,269.60)		1,767,544.11	70.54%	
Wakefield Capital LLC	3,625,000.00	-	3,625,000.00	(3,625,000.00)	(2,537,500.00)		1,087,500.00	70.00%	
Wakefield Investments, LLC	2,000,000.00	-	2,000,000.00	(2,000,000.00)	(1,400,000.00)		600,000.00	70.00%	
2Budz Holding LLC	1,512,454.00	(1,433,250.00)	79,204.00	(79,204.00)	(55,442.80)		23,761.20	98.43%	
Doug Heidrich and Kristine Heidrich	419,500.00	(204,240.00)	215,260.00	(215,260.00)	(150,682.00)		64,578.00	84.61%	
Living at the Next Level, LLC	140,000.00	-	140,000.00	(140,000.00)	(98,000.00)		42,000.00	70.00%	
Heidi Orr and Jeffrey Orr	150,000.00	-	150,000.00	(150,000.00)	(105,000.00)		45,000.00	70.00%	
SubTotal of Wakefield Related Claimants	7,846,954.00	(1,637,490.00)	6,209,464.00	(6,209,464.00)	(4,346,624.80)		1,862,839.20		
CalPrivate Bank	43,595,880.00	(34,075,799.87)	9,520,080.13	(9,520,080.13)	(6,664,056.09)		2,856,024.04	93.45%	
Babette Newman Trust	65,000.00	(48,750.00)	16,250.00			(11,375.00)			92.50%
Anthony D. Radojevich	20,398.00	-	20,398.00			(14,278.60)			70.00%
Eugene Shapiro	15,000.00	-	15,000.00			(10,500.00)			70.00%
Robert McArdle	35,000.00	(17,250.00)	17,750.00			(12,425.00)			84.79%
SubTotal of Non-Plaintiff Claimants	135,398.00	(66,000.00)	69,398.00			(48,578.60)			

Exhibit B

This is an agreement to join the Settlement and Mutual Release Agreement (“Agreement”) between the Chicago Title Parties and the Receiver dated April 26, 2022 (“**Joinder Agreement**”). The Joinder Agreement incorporates all definitions, recitals, terms and conditions of the Agreement and is made between the Plaintiff Claimants who execute this Joinder Agreement (“**Joinder Claimants**”) and CTC and CTIC (collectively the “**Joinder Parties**” or individually “**Joinder Party**”).

1. Joinder Settlement Payment. Within thirty (30) calendar days of satisfaction of, and in consideration of, all conditions set forth in Paragraph 7 of the Agreement and Paragraph 6 of the Joinder Agreement, and receipt of a completed IRS W-9 and appropriate wire instructions, and with the understanding and agreement that the Chicago Title Parties have made and make no representation regarding the federal or state tax consequences of any settlement payment, or any portion thereof, and that the Joinder Claimants will hold the Chicago Title Parties harmless for any tax consequences and shall bear sole responsibility for any allocation and/or distribution of same, CTC, not CTIC, will pay to the respective counsel for the Joinder Claimants, as applicable, the amounts corresponding to such Joinder Claimants set forth on Exhibit A to the Agreement, instead of to the Receiver (the “**Joinder Settlement Payment**”).

2. Attorneys’ Fees. The Joinder Parties shall bear their own costs and expenses, including, without limitation, attorneys’ fees, incurred in connection with the State Court Actions, the Receivership, and/or this settlement.

3. Assignments by Plaintiff Claimants. The Joinder Claimants, if and only if they are Plaintiff Claimants, hereby assign to CTC their rights to participate in and receive distributions to be made by the Receiver in the Receivership from the funds collected, recouped, or recovered by the Receiver from any sources, including those funds CTC previously turned over pursuant to Docket No. 127 in SEC v. Cain but not including the settlement payments set forth in the Agreement at Paragraph 1(f)-(h) (the “**Participation Assignments**”). These assignments are total, absolute, unconditional, and effective upon Federal Court approval of the Agreement, including this Joinder Agreement, and payment of the Joinder Settlement Payment.

4. Mutual Releases. The Joinder Parties’ agreements regarding the Joinder Settlement Payment and the Participation Assignments in this Joinder Agreement are also in consideration of mutual releases, the specifics of which are as follows and as set forth in Paragraph 5 of this Joinder Agreement: The Joinder Parties hereby generally and completely release any and all actions, causes of action, claims, suits, demands, debts, rents, liens, sums of money, accounts, compensation, contracts, controversies, promises, damages, costs, losses and expenses of any nature whatsoever, liquidated or unliquidated, known or unknown, fixed or contingent, existing or arising hereafter, of whatsoever nature at common law, statutory, legal, equitable, or otherwise, including through any assignments of claims from others, from the beginning of time forward, that they have against any Joinder Party, inclusive of the Chicago Title Parties, as defined in the Agreement, hereto relating in any way, directly or indirectly, to the subject matter of SEC v. Cain, including but not limited to any and all claims and/or causes of actions that were asserted or could have been asserted in the State Court Actions, and for the Joinder Claimants, this release is inclusive of each’s past, present and/or future parents, subsidiaries, affiliates, officers, directors,

agents, servicers, professional corporations, employees, heirs, executors, representatives, trusts, beneficiaries, investors, lenders, equity holders, shareholders, members, attorneys, predecessors, successors, assigns, sureties, insurers, excess insurers, reinsurers, principals, beneficiaries, unit holders, all persons and/or entities acting through or in concert with any of them, and any and all of their respective shareholders, owners, and/or partners, limited or general, heirs and spouses (collectively, the “**Joinder Party Mutually Released Claims**”); provided however, that the Joinder Party Mutually Released Claims do not apply to and shall not void or release: (a) any Joinder Parties’ right to bring an action to enforce the terms of this Joinder Agreement and the Agreement; and (b) the Participation Right set forth in the Agreement. Except for these limited exceptions, the Joinder Parties hereby represent and warrant to each other that they are not aware of any actions, causes of action, claims, suits, demands, debts, rents, liens, sums of money, accounts, compensation, contracts, controversies, promises, damages, costs, losses and expenses of any nature whatsoever, liquidated or unliquidated, known or unknown, fixed or contingent, existing or arising hereafter, of whatsoever nature at common law, statutory, legal, equitable, or otherwise, including through any assignments of claims from others, they have or might have against any Joinder Party that are not included within the Joinder Party Mutually Released Claims, that they have not previously transferred or assigned any such actions, causes of action, claims, suits, demands, debts, rents, liens, sums of money, accounts, compensation, contracts, controversies, promises, damages, costs, losses and expenses of any nature whatsoever, liquidated or unliquidated, known or unknown, fixed or contingent, existing or arising hereafter, of whatsoever nature at common law, statutory, legal, equitable, or otherwise, including through any assignments of claims from others, in whole or in part, to any individual or entity, and that they have not asserted any governmental or administrative claims against any Joinder Party relating in any way, whether directly or indirectly, to the subject matter of SEC v. Cain and/or the State Court Actions. For avoidance of doubt, the Chicago Title Parties’ Joinder Party Mutually Released Claims shall not apply to the Nossaman Crossclaims as defined in the Agreement.

5. Waiver of Civil Code section 1542. In granting the Joinder Party Mutually Released Claims herein, the Joinder Parties hereby acknowledge that they have read and understand Section 1542 of the California Civil Code, which states: “**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.**” The Joinder Parties hereby expressly waive and relinquish all rights and benefits under that section and any law of any jurisdiction of similar effect with respect to the Joinder Party Mutually Released Claims. In connection with such waiver and relinquishment, the Joinder Parties acknowledge that they are aware that after executing this Joinder Agreement, they or their attorneys or agents may discover claims or facts in addition to, or different from, those which they now know to believe to exist with respect to the subject matter of this Joinder Agreement, which, if known by them, would have materially affected their decision to enter into this Joinder Agreement, but that it is their intention hereby to fully, finally, and forever settle and release all of any and all claims, whether known or unknown, suspected or unsuspected, which now exist, may exist, or heretofore have existed. Further to this intent, the Joinder Party Mutually Released Claims herein given shall be, and remain in effect as, full and complete releases notwithstanding the discovery or existence of any additional or different claim or fact.

6. **Settlement Conditions.** In addition to the conditions described in Paragraph 7 of the Agreement, this Joinder Agreement, the Joinder Settlement Payment, Assignments, Mutual Releases, and all other agreements and understanding reflected herein or in the Agreement, are all conditioned on:

a. **Dismissals, with prejudice, of the Claims by the Joinder Claimants in the State Court Actions,** which dismissals shall be filed within thirty (30) calendar days of entry of the Bar Order and the approval by the Federal Court described in Paragraph 7 of the Agreement. This condition shall not apply to Joinder Claimants who are Non-Plaintiff Claimants.

7. **Stay of Litigation, Pending Satisfaction of Conditions Precedent.** The Joinder Parties agree that pending satisfaction of the Settlement Conditions set forth in Paragraph 7 of the Agreement and Paragraph 6 of the Joinder Agreement, the Joinder Parties shall not pursue any discovery or litigation filing in the State Court Actions or otherwise and the Joinder Claimants who are Plaintiff Claimants shall jointly file, together with CTC and CTIC, a stipulation to stay the applicable State Court Action. If a Joinder Claimant is a Plaintiff Claimant in a State Court Action with other Plaintiff Claimants who are not Joinder Claimants, that Joinder Claimant shall not oppose a motion by the Chicago Title Parties to stay the State Court Actions, as provided for in Paragraph 9 of the Agreement.

8. **Non-Disparagement.** The Joinder Parties agree not to disparage one another in any manner likely to be harmful to their business, business reputation, or personal reputation, on any matter relating to the Joinder Party Mutually Released Claims. This provision shall not prohibit the Joinder Parties from testifying truthfully under subpoena or in connection with a government investigation.

9. **Cooperation.** The Joinder Parties agree to cooperate to effectuate the purposes and intent of this Joinder Agreement and the Agreement, including any documents or materials reasonably necessary to do so and/or by obtaining agreements or approvals of the Federal Court and, if necessary, any other court.

10. **Other Representations and Warranties.**

a. The Joinder Claimants represent and warrant that they have all the necessary power and authority to execute, deliver, perform, and comply with all of the terms of this Joinder Agreement, including but not limited to the legal authority to settle claims on behalf of all persons or entities included in the Joinder Party Mutually Released Claims.

b. The Joinder Claimants each represent and warrant that as of the effective date of this Joinder Agreement, none of them have received from any source any payments, including any payments under any of their own insurance policies, for, with respect to, arising out of, based upon, or attributable to, directly or indirectly, the Joinder Party Mutually Released Claims.

11. **No Admission of Liability.** The Joinder Parties understand and agree that this Joinder Agreement is not an admission by any Joinder Party or any of its agents, of any liability or wrongful or unlawful conduct. This Joinder Agreement, whether made ineffective for any reason,

and any proceedings related to this settlement and any discussions relating thereto, shall be inadmissible as evidence of any liability or wrongdoing whatsoever and shall not be offered as evidence of any liability or wrongdoing in any court or other tribunal in any state, territory, or jurisdiction, or in any manner whatsoever.

12. Governing Law and Venue. This Joinder Agreement shall be governed by federal law relating to receivership matters and California law. Any and all disputes arising from this Joinder Agreement shall be subject to the exclusive jurisdiction of the Federal Court.

13. Fully Integrated Agreement; Modifications. The Joinder Agreement contains the entire agreement among the Joinder Parties and supersedes all prior proposals, negotiations, letters, conversations, agreements, term sheets, and understandings, whether written or oral, relating to the subject matter of this Joinder Agreement. It may not be modified or amended except in a writing signed by all Joinder Parties. This requirement of a writing may not be waived except in writing.

14. Mutual Drafting. No Joinder Party nor any of the Joinder Parties' counsel will be deemed the drafter of this Joinder Agreement for purposes of interpreting any provision in this Joinder Agreement in any judicial or other proceeding that may arise between them. This Joinder Agreement has been, and must be construed to have been, drafted by all the Joinder Parties to it, so that any rule that construes ambiguities against the drafter will have no force or effect.

15. Headings. The various headings used in this Joinder Agreement are solely for the Joinder Parties' convenience and may not be used to interpret this Joinder Agreement. The headings do not define, limit, extend, or describe the Joinder Parties' intent or the scope of this Joinder Agreement.

16. Further Assurances. The Joinder Parties must execute and deliver any additional papers, documents, and other assurances, and must do any other acts reasonably necessary to perform their obligations under this Joinder Agreement and to carry out its expressed intent.

17. Severability. If any provision of this Joinder Agreement is declared by any court to be invalid, void, or unenforceable, the remaining provisions of this Joinder Agreement will continue in full force and effect, unless the provision declared to be invalid, void, or unenforceable renders unachievable the primary purpose of the Joinder Agreement, at which point the Joinder Parties shall attempt to renegotiate the Joinder Agreement or, if such efforts prove unavailing, any Joinder Party can terminate the Joinder Agreement without prejudice to any other Joinder Party.

18. Counterparts. This Joinder Agreement may be executed by ink, by electronic signature, by facsimile, or by email, in any number of counterparts and by different parties on separate pages or counterparts, each of which, when executed and delivered, shall be deemed and treated as an original, and all such counterparts shall together constitute one and the same instrument.

CHICAGO TITLE COMPANY & CHICAGO TITLE INSURANCE COMPANY

By: Mark Schiffman, Deputy Chief Legal Officer

THE JOINDER CLAIMANTS

PLAINTIFF CLAIMANTS:

By: Susan Heller Fenley, as an individual, and as Trustee for the Susan Heller Fenley Property Trust, DTD 03/04/2020 and as Trustee for the Susan Heller Fenley Inherited ROTH IRA

By: Shelley Lynn Tarditi, as an individual, and as Trustee for the Shelley Lynn Tarditi Trust

By: John Milito, as an individual, and as Manager for ROJ, LLC

By: Payson R. Stevens, as an individual and as Trustee for The Payson R. Stevens & Kamaljit Kaur Kapur Trust Dated March 28, 2014

By: Kamaljit K. Kapur, as an individual and as Trustee for The Payson R. Stevens & Kamaljit Kaur Kapur Trust Dated March 28, 2014

By: CalPrivate Bank (f/k/a San Diego Private Bank)

Its:

By: Wakefield Capital LLC

Its:

By: Wakefield Investments, LLC

Its:

By: 2Budz Holding LLC

Its:

By: Wade Wakefield, as an individual

By: Greg Glassberg, as an individual

By: Doug Heidrich, as an individual

By: Kristine Heidrich, as an individual

By: Living at the Next Level, LLC

Its:

By: Heidi Orr, as an individual

By: Jeffrey Orr, as an individual

NON-PLAINTIFF CLAIMANTS:

By: Babette Newman, as Trustee of the Babette Newman Trust

By: Anthony D. Radojevich, as an individual

By: Eugene Shapiro, as an individual

By: Robert McArdle, as an individual

By: Wade Wakefield, as an individual

By: Greg Glassberg, as an individual

Douglas Brian Heidrich

By: Doug Heidrich, as an individual

Kristine Heidrich

By: Kristine Heidrich, as an individual

Kristine Heidrich

By: Living at the Next Level, LLC

Its:

Heidi Orr

By: Heidi Orr, as an individual

Jeffrey Orr

By: Jeffrey Orr, as an individual

NON-PLAINTIFF CLAIMANTS:

By: Babette Newman, as Trustee of the Babette Newman Trust

By: Anthony D. Radojevich, as an individual

By: Eugene Shapiro, as an individual

By: Robert McArdle, as an individual

By: Wade Wakefield, as an individual

By: Greg Glassberg, as an individual

By: Doug Heidrich, as an individual

By: Kristine Heidrich, as an individual


By: Living at the Next Level, LLC

Its:

By: Heidi Orr, as an individual

By: Jeffrey Orr, as an individual

NON-PLAINTIFF CLAIMANTS:

DocuSigned by:
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CC20F5E7E5E045E...
By: ~~Babette Newman~~, as Trustee of the Babette Newman Trust
LEVI SELIGMAN

By: Anthony D. Radojevich, as an individual

By: Eugene Shapiro, as an individual

By: Robert McArdle, as an individual

By: Wade Wakefield, as an individual

By: Greg Glassberg, as an individual

By: Doug Heidrich, as an individual

By: Kristine Heidrich, as an individual

By: Living at the Next Level, LLC


Its:

By: Heidi Orr, as an individual

By: Jeffrey Orr, as an individual

NON-PLAINTIFF CLAIMANTS:

By: Babette Newman, as Trustee of the Babette Newman Trust



By: Anthony D. Radojevich, as an individual

By: Eugene Shapiro, as an individual

By: Robert McArdle, as an individual

By: Wade Wakefield, as an individual

By: Greg Glassberg, as an individual

By: Doug Heidrich, as an individual

By: Kristine Heidrich, as an individual

By: Living at the Next Level, LLC

Its:

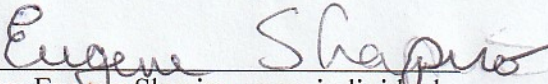
By: Heidi Orr, as an individual

By: Jeffrey Orr, as an individual

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By: Robert McArdle, as an individual

By: Wade Wakefield, as an individual

By: Greg Glassberg, as an individual

By: Doug Heidrich, as an individual

By: Kristine Heidrich, as an individual

By: Living at the Next Level, LLC

Its:

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By: Jeffrey Orr, as an individual

NON-PLAINTIFF CLAIMANTS:

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By: Anthony D. Radojevich, as an individual

By: Eugene Shapiro, as an individual



By: Robert McArdle, as an individual