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12 KRISTA FREITAG

13 UNITED STATES DISTRICT COURT  
14 SOUTHERN DISTRICT OF CALIFORNIA

15  
16 SECURITIES AND EXCHANGE  
COMMISSION,  
17 Plaintiff,  
18  
19 v.  
20 GINA CHAMPION-CAIN and ANI  
DEVELOPMENT, LLC,  
21 Defendants.  
22 AMERICAN NATIONAL  
INVESTMENTS, INC.,  
23 Relief Defendant.  
24  
25  
26  
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Case No. 3:19-cv-01628-LAB-AHG

Ctrm: 14A  
Judge Hon. Larry Alan Burns

**DECLARATION OF KRISTA L. FREITAG IN SUPPORT OF MOTION FOR APPROVAL OF SETTLEMENT AGREEMENTS WITH:**

- 1) MERIT FINANCIAL, INC. AND ILAN AWERBUCH;
- 2) RANDOLPH C. HOUTS, THE LAW OFFICES OF RANDOLPH C. HOUTS, AND POWER PROCESS INC.

Date: TBD  
Time: TBD  
Courtroom: 14A  
Judge: Hon. Larry Alan Burns

1 I, Krista Freitag, declare:

2 1. I am the Court-appointed permanent receiver for Defendant ANI  
3 Development, LLC, Relief Defendant American National Investments, Inc., and  
4 their subsidiaries and affiliates (“Receivership Entities”). I make this declaration in  
5 support of my Motion for Approval of Settlement Agreements with: 1) Merit  
6 Financial, Inc. and Ilan Awerbuch; 2) Randolph C. Houts, the Law Offices of  
7 Randolph C. Houts, and Power Process Inc. (“Motion”). I have personal knowledge  
8 of the facts stated herein, and if called upon to do so, I could and would personally  
9 and competently testify to them.

10 **Merit Settlement**

11 2. This Motion seeks approval of a Clawback settlement agreement with  
12 Merit Financial and Ilan Awerbuch (“Merit Settlement Agreement”). A true and  
13 correct copy of the Merit Settlement Agreement is attached hereto as Exhibit 1.  
14 Through my accounting, I have determined that Merit Financial received  
15 \$1,335,479.75 (“Profit Amount”) from the Receivership Entities and Mr. Awerbuch  
16 (as Merit Financial’s principal) received a substantial portion of that sum in  
17 payments from Merit Financial to him or for his personal benefit. Mr. Awerbuch  
18 also had a MIMO net loss of \$277,800 from investments he and his wife made in the  
19 Ponzi scheme,<sup>1</sup> which losses have been considered in assessing the likely amount  
20 that would be recoverable from Mr. Awerbuch through the Clawback case. The  
21 payments from ANI to Merit Financial were in the nature of fees/commissions –  
22 Merit Financial co-managed one of the Receivership Entities (CA Opportunity  
23 License Fund, LLC) with ANI.

24 3. Through counsel, I contacted Merit Financial and Mr. Awerbuch  
25 (“Merit Parties”) and asserted the receivership estate’s Clawback Claim for return of  
26

27 \_\_\_\_\_  
28 <sup>1</sup> Mr. Awerbuch and his wife do not have claims in the receivership for their  
MIMO net losses from their investments due to the substantially greater amount  
of net profits they received from the Ponzi scheme through Merit Financial.

1 the Profit Amount as representing a series of voidable transactions under the  
2 California Uniform Voidable Transactions Act. I also offered to settle the Clawback  
3 Claim pursuant to the pre-approved settlement parameters.

4 4. The Merit Parties did not accept the pre-approved settlement offer or  
5 respond in a substantive way to the letter from my counsel. Accordingly, through  
6 counsel, I filed a Clawback complaint on behalf of the receivership estate on  
7 September 16, 2021, Case No. 21-cv-01633-LAB-AHG (“Merit Clawback Action”).

8 5. Shortly after the Merit Clawback Action was filed, Magistrate Judge  
9 Goddard scheduled an Early Neutral Evaluation in the case. Several ENE sessions  
10 were held by Judge Goddard between January and June 2022, and the Merit Parties  
11 ultimately produced their financial records that allowed me to verify representations  
12 they had made, including bank account activity and status, assets, liabilities, and  
13 ultimately net worth. During this time, the Merit Parties were contacted by a group  
14 of investors with MIMO net losses who, through their counsel, asserted claims  
15 against the Merit Parties for their MIMO net losses plus consequential damages,  
16 totaling more than \$300,000. Given the Merit Parties’ limited assets, the negotiated  
17 settlement with the Merit Parties also addresses these claims (on a MIMO basis).

18 6. The Merit Parties and I ultimately negotiated a settlement that provided  
19 for a total payment by the Merit Parties of \$569,487.18, of which amount a  
20 minimum of \$400,000 would be paid to the receivership estate and up to  
21 \$169,487.18 would be paid directly to the aforementioned group of investors with  
22 MIMO net losses if all of them joined the settlement agreement (or, alternatively,  
23 part of the \$169,487.18 would be paid to the losing investors who joined if less than  
24 all of them joined, as provided in the schedule attached to the Merit Settlement  
25 Agreement as Exhibit A). The Merit Settlement Agreement included a Joinder  
26 Agreement as Exhibit B, which allowed those four investors to join the settlement  
27 and receive their portion of the \$169,487.18 directly from the Merit Parties, which  
28

1 payment would get each of the losing investors to a 100% recovery on their MIMO  
2 net losses.

3 7. Once the Merit Settlement Agreement was signed by the Merit Parties  
4 and me, it was presented to the four losing investors, through their counsel. The  
5 four losing investors then all decided to join the Merit Settlement Agreement and  
6 provided their signatures, through their counsel.

7 **Houts Settlement**

8 8. This Motion also seeks approval of a settlement agreement with the  
9 Randolph C. Houts, The Law Offices of Randolph C. Houts, and Power Process Inc.  
10 (“Houts Settlement Agreement”). A true and correct copy of the Houts Settlement  
11 Agreement is attached hereto as Exhibit 2. Attorney Randolph Houts, through his  
12 firm, provided legal services to Cain and the Receivership Entities prior to my  
13 appointment. Much of the legal services related to setting up entities, acting as  
14 registered agent for those entities (through Power Process Inc.), and handling other  
15 straight forward corporate matters. From his various interactions and written  
16 communications with Cain, Houts became aware of the liquor license lending  
17 program, including that Cain was running the program through escrows at Chicago  
18 Title. Most importantly, Houts became aware that Cain had set up an entity called  
19 Chicago Escrows and T. Cain told Houts not to speak to anyone about the entity, to  
20 which he agreed.

21 9. Houts also assisted Cain in setting up CA Opportunity License  
22 Fund, LLC. In fact, Houts agreed to jointly represent ANI and Merit Financial in  
23 setting up the entity, through which millions of dollars was then raised from  
24 investors for the liquor license loan program. Despite knowing about the liquor  
25 license loan program, that Cain was raising money from investors for the program,  
26 that the program was run through escrows at Chicago Title, and that Cain had set up  
27 a secret entity with a name strikingly similar to Chicago Title, the Houts Parties did  
28 nothing to alert anyone at ANI, Merit Financial, or otherwise about Cain’s highly

1 suspicious secret entity. Accordingly, after conferring with counsel, I believe the  
2 receivership estate has strong claims that the Houts Parties committed malpractice  
3 and breached their fiduciary duties to ANI.

4 10. I believe the challenge with these claims, however, is with causation  
5 and damages. Although Houts, at a minimum, ignored significant conflicts of  
6 interest between and among Cain, ANI and Merit Financial, due to the obligation to  
7 preserve client confidences, it is not clear Houts would have been able to take action  
8 that would have stopped Cain from continuing to defraud investors. It is possible a  
9 court could find that Houts' permissible actions would have been limited to  
10 withdrawing from the representation and that his withdrawal alone may not have  
11 stopped any investments into the Ponzi scheme. For these reasons, I believe the  
12 claims against Houts, while meritorious, could have some potential challenges in  
13 terms of establishing causation and damages to ANI.

14 11. The Houts Parties have an insurance policy that potentially provides  
15 \$1 million in coverage for the receivership estate's claims. The Houts Parties have  
16 provided confidential financial records to me, which records demonstrate that the  
17 Houts Parties have very little in the way of assets that would be collectible through  
18 enforcement of a judgment. With all of these factors in mind, the Houts Parties and  
19 I agreed to settle and resolve all disputes, subject to Court approval, in exchange for  
20 a lump sum payment of \$290,000.00 to the receivership estate.

21 **Summary**

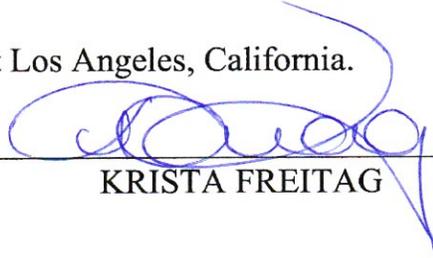
22 12. I reviewed the financial records of the Merit Parties and determined  
23 that their assets that would potentially be collectible, factoring in the costs of further  
24 litigation or a bankruptcy, would be very limited. Therefore, while I believe the  
25 Clawback Claim against the Merit Parties is strong, I also believe the settlement  
26 amount of \$400,000 to the receivership estate, plus the elimination of the four losing  
27 investors' claims against the receivership estate through the payment to them of  
28 \$169,487.18, is a favorable outcome and generates a greater net recovery/benefit to

1 the estate than would likely be obtained through further litigation, enforcement of a  
2 judgment, or potentially a bankruptcy.

3 13. Similarly, I reviewed the financial records of the Houts Parties and  
4 determined that their assets that would potential be collectible (other than the  
5 \$1 million in potentially available insurance coverage), would be very limited.  
6 Moreover, the \$1 million in insurance coverage would be further consumed through  
7 litigation and I believe there are some considerable challenges in the case  
8 (specifically relating to causation and damages, as discussed above) that would need  
9 to be overcome. Accordingly, I believe the proposed settlement amount of  
10 \$290,000 is fair and reasonable, and in the best interests of the receivership estate.

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

13 Executed this 20<sup>th</sup> day of August 2022, at Los Angeles, California.

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16 KRISTA FREITAG

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**EXHIBIT INDEX**

| <b>EXHIBIT NO.</b> | <b>DESCRIPTION</b>                                      | <b>PAGE NO.</b> |
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| Exhibit 1          | Settlement Agreement and Mutual Release (Merit Parties) | 8               |
| Exhibit 2          | Settlement Agreement and Mutual Release (Houts Parties) | 21              |

# EXHIBIT 1

# EXHIBIT 1

**SETTLEMENT AND MUTUAL RELEASE AGREEMENT**

*KA*  
*August 6, 2022*

This SETTLEMENT AND MUTUAL RELEASE AGREEMENT (“**Agreement**”), dated as of ~~July~~, 2022 is made by and between KRISTA L. FREITAG (“**Receiver**”), in her capacity as Court-appointed permanent receiver for ANI DEVELOPMENT, LLC, AMERICAN NATIONAL INVESTMENTS, INC., and their subsidiaries and affiliates (“**Receivership Entities**”), MERIT FINANCIAL, INC., a California corporation (“**Merit**”), ILAN AWERBUCH, an individual (“**Awerbuch**”), and HARRIET LYNN POLLOCK, an individual (“**Pollock**” and collectively, the “**Merit Parties**”).

**RECITALS**

A. On August 28, 2019, the Securities and Exchange Commission (“**Commission**”) filed a Complaint in the United States District Court for the Southern District of California (“**District Court**”) against Defendants Gina Champion-Cain (“**Champion-Cain**”) and ANI Development, Inc., and Relief Defendant American National Investments, Inc. (“**SEC Action**”). Concurrently with filing the Complaint, the Commission and Champion-Cain filed a Joint Motion and Stipulated Request by All Parties for a Preliminary Injunction Order and Orders (1) Freezing Assets; (2) Requiring Accountings; (3) Prohibiting the Destruction of Documents; and (4) Appointing a Permanent Receiver (“**Joint Motion**”).

B. On September 3, 2019, the District Court granted the Joint Motion and entered its Order; Granting the Parties Joint Motion and Stipulated Request by all Parties for a Preliminary Injunction Order and Order (1) Freezing Assets; (2) Requiring Accountings; (3) Prohibiting the Destruction of Documents; and (4) Appointing a Permanent Receiver, including appointment of the Receiver on a permanent basis.

C. The Receiver filed a Complaint in the District Court to recover fraudulent transfers made by the Receivership Entities to Merit and Awerbuch (“**Merit Complaint**”). The Receiver alleges that during the seven years leading up to the filing of the Merit Complaint, Merit received \$1,335,479.75 (“**Profit Amount**”) from the Receivership Entities in excess of any amounts paid or value provided to the Receivership Entities (“**Transfers**”). The Receiver also alleges that the majority of the Profit Amount, after being paid to Merit, was subsequently transferred to Awerbuch, as Merit’s owner, or to other parties for their personal benefit. The Receiver has asserted claims against Merit and Awerbuch for return of the Profit Amount as representing one or more voidable transactions under the California Uniform Voidable Transactions Act.

D. Merit and Awerbuch have also been sued by four investors who suffered losses from the fraudulent scheme that is the subject of the SEC Action (“**Plaintiff Investors**”). The Plaintiff Investors’ lawsuit is pending in San Diego Superior Court, Case No. 37-2022-00020978-CU-FR-CTL (“**State Court Action**”). Based on the Receiver’s forensic accounting, and factoring in their recoveries from other settlements, the Plaintiff Investors, collectively, have money-in, money-out (“**MIMO**”) net losses from the scheme in the total amount of \$169,487.18. A schedule showing the MIMO net loss for each Plaintiff Investor is attached hereto as **Exhibit A**.

E. As part of their settlement negotiations, Merit, Awerbuch and Pollock have produced financial records to the Receiver sufficient for the Receiver to understand their assets, liabilities, income and expenses. Through the review of these records, the Receiver has determined that representations made by Merit and Awerbuch during settlement negotiations about the value of their assets are materially accurate.

F. The Receiver, Merit, Awerbuch, and Pollock have agreed to settle and resolve all disputes, and release all claims arising from the Transfers from the Receivership Entities, under the terms and conditions provided herein.

### AGREEMENT

NOW, THEREFORE, in consideration of the covenants and conditions hereinafter contained, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged the undersigned agree as follows:

1. Court Approval. All terms and conditions of this Agreement shall be subject to and conditioned upon approval by the District Court in the SEC Action (“**Court Approval**”). Once the Joinder Deadline (defined below) has passed, the Receiver shall file a noticed motion for approval of this Agreement.

2. Payment. The Merit Parties shall pay a total of \$569,487.18 to the receivership estate (“**Settlement Payment**”), subject to adjustment pursuant to sections 5 or 6, below. The payment shall be made within 60 days after Court Approval.

3. Bar Order. As part of the Court Approval and a condition of this Agreement, the District Court shall enter an order permanently barring and enjoining all persons and entities whatsoever, including but not limited to the Plaintiff Investors, the Receiver and the Receivership Entities, 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 fraudulent liquor license loan program that is the subject of the SEC Action, 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 District 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 Merit 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 the SEC Action and the State Court Action, thereby immediately enjoining any and all actions to the extent those actions bring claims against the Merit Parties (the “**Bar Order**”).

4. Mutual Release. Once all conditions of this Agreement have been satisfied, including but not limited to Court Approval, entry of the Bar Order, and completion of all settlement payments, and effective only upon satisfaction of all such conditions, the Receiver, on the one hand, and the Merit Parties on the other hand, and each of them, for themselves, their agents, employees, partners, directors, officers, successors and assigns, forever, irrevocably and unconditionally release and discharge one another, and their respective officers, directors,

representatives, heirs, executors, administrators, receivers, successors, assigns, predecessors, agents, attorneys and employees, of and from any and all claims, demands, debts, obligations, liabilities, costs, expenses, rights of action, causes of action, awards and judgments arising from the Transfers, all of which are hereinafter called, “**Released Claims.**”

Each of the Receiver and the Merit Parties acknowledge and agree that the Released Claims may include claims of every nature and kind whatsoever, whether known or unknown, suspected or unsuspected and further acknowledge that they may be presently unknown or unsuspected, and may be based upon hereafter discovered facts different from, or in addition to, those which they now know, or believe to be true. Nevertheless, the parties agree that the foregoing release shall be and remain effective in all respects, notwithstanding such different or additional facts, or the discovery thereof, and further hereby expressly waive and relinquish any and all rights provided in California Civil Code Section 1542 which provides 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.”

The Receiver and the Merit Parties expressly waive and release any rights and benefits that they have or may have under any similar law or rule of any other jurisdiction pertaining to the matters released herein. It is the intention of the parties through this Agreement and with the advice of counsel to fully, finally and forever settle and release the claims and disputes existing between them as provided herein, known or unknown. The releases herein given shall be and remain in effect as full and complete releases of all such matters notwithstanding the discovery of any additional claims or facts relating thereto.

5. Joinder. Upon execution of this Agreement, the parties, through counsel, will provide the Agreement to the Plaintiff Investors (through their counsel) 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 (“Joinder Deadline”)**. The parties agree that if one or more Plaintiff Investors wish to join in the Agreement, on the same terms and conditions contained herein, including by agreeing to accept payment directly from the Merit Parties in amounts corresponding to the respective portions of the Settlement Payment set forth on Exhibit A, by agreeing not to oppose the entry of the Bar Order, providing full releases of their claims against the Merit Parties as described in Exhibit B, and agreeing to dismiss their claims against any of the Merit Parties, they may do so by timely executing the Joinder Agreement within the ten (10) business day period. If any Plaintiff Investors join the Agreement, the portion of the Settlement Payment set forth on Exhibit A will be made by the Merit Parties directly to counsel for the Plaintiff Investors instead of to the Receiver as a “Joinder Settlement Payment” as defined in the Joinder Agreement attached as Exhibit B and the amount of the Settlement Payment to the Receiver under Section 2 above shall be reduced by the amount of all Joinder Settlement Payments.

6. Enforcement of Bar Order or Appeal. If any of the Plaintiff Investors challenge or dispute the enforcement of the Bar Order in the State Court Action and/or the State Court refuses to dismiss the State Court Action, meaning the Plaintiff Investors are allowed to pursue claims against the Merit Parties, the portion of the Settlement Payment representing the total MIMO net losses of the Plaintiff Investors (as reflected on Exhibit A – Column “E”) shall be returned to the Merit Parties and the Plaintiff Investors shall have no claims against the receivership estate or right to participate in any distributions from the receivership estate. If an appeal is filed with respect to the District Court’s approval of this Agreement, or the Bar Order, or any portion thereof, the Receiver shall hold back the Settlement Payment representing the total MIMO net losses of the Plaintiff Investors (as reflected on Exhibit A – Column “E”) until such appeal is concluded. If the District Court’s approval of the Agreement, including the Bar Order, is upheld on appeal, the Plaintiff Investors shall promptly receive an amount equal to the distributions the Plaintiff Investors would have received on account of their allowed claims in the receivership and shall be entitled to share in further distributions (assuming their claims in the receivership have been allowed by the District Court). If the Plaintiff Investors are permitted to bring suit against any Merit Parties as a result of the appeal or any other reason, the Plaintiff Investors’ Settlement Payment funds held back by the Receiver shall be returned to the Merit Parties within 14 days of entry of a court order granting or sustaining such right in favor of the Plaintiff Investors, and the Plaintiff Investors shall have no claim against the receivership estate or right to participate in any distributions from the receivership estate. If, while an appeal of the Bar Order is pending, a Plaintiff Investor decides not to participate in the appeal and dismisses all claims against the Merit Parties in the State Court Action with prejudice, the Plaintiff Investor shall promptly receive an amount equal to the distributions the Plaintiff Investor would have received on account of his/her/its allowed claim in the receivership and shall be entitled to share in further distributions (assuming his/her/its claim in the receivership has been allowed by the District Court). Except as provided for in this Paragraph, no other portions of the Settlement Payments shall be held back by the Receiver or returned to the Merit Parties. All interest earned on Settlement Sum funds shall belong to the receivership estate and shall not be included in any funds held back or returned to the Merit Parties.

7. 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 District Court, the State Court and, if necessary, any other court.

8. Randolph Houts Bar Order. The Merit Parties shall not oppose the entry of a bar order in favor of attorney Randolph Houts and his law firm (“**Houts Parties**”) in connection with the Receiver’s proposed settlement with the Houts Parties.

9. Awerbuch and Pollock Claims in Receivership. The Receiver has recommended to the District Court in her pending motion concerning claim amounts that the Erich & Lilly Awerbuch Revocable Living Trust have an allowed claim in the receivership, but has recommended that the claims of the Merit Parties be disallowed. The Merit Parties shall not dispute these recommendations.

10. Voluntary Signing. Each of the parties to this Agreement has executed this Agreement without any duress or undue influence.

11. Independent Counsel. Each of the parties acknowledge and agree that he/she/it has been represented by independent counsel of its own choice throughout all negotiations which preceded the execution of this Agreement, that it has executed and approved of this Agreement after consultation with said counsel, and that it shall not deny the validity of this Agreement on the ground that such party did not have the advice of legal counsel.

12. Governing Law and Venue. This Agreement shall in all respects be interpreted, enforced, and governed by and under the laws of California, and Federal Equity Receivership law, and subject to the exclusive jurisdiction of the District Court.

13. Waiver/Amendment. No breach of any provision of this Agreement can be waived unless in writing. Waiver of any one breach of any provision of this Agreement is not a waiver of any other breach of the same or of any other provision of this Agreement. Amendment of this Agreement may be made only by written agreement signed by the parties.

14. Fax and Counterparts. This Agreement may be executed by the parties hereto electronically and/or in counterparts and, if so executed, each electronic copy and/or counterpart shall have the full force and effect of an original.

15. Attorneys' Fees and Costs. The parties hereto shall each bear their own costs and attorneys' fees incurred in connection with the negotiation and documentation of this Agreement. If any proceeding, action, suit or claim is undertaken to interpret or enforce this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs incurred in connection with such dispute.

16. Notices. Notices to be provided hereunder shall be effective if sent to the following:

To the Merit Parties:

Merit Financial, Inc.  
c/o Mike Neue  
Geraci LLP  
90 Discovery  
Irvine, CA 92618

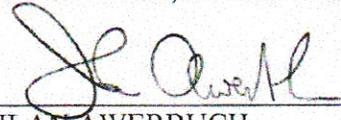
To the Receiver:

Krista L. Freitag, Receiver  
c/o Allen Matkins  
600 W. Broadway, 27<sup>th</sup> Floor  
San Diego, CA 92101  
Attn: Ted Fates, Esq.

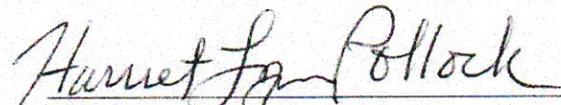
**MERIT FINANCIAL, INC., a California corporation:**

By:   
ILAN AWERBUCH, its Chief Executive Officer

**ILAN AWERBUCH, an Individual**

By:   
ILAN AWERBUCH

**HARRIET LYNN POLLOCK, an Individual**

By:   
LYNN POLLOCK

**KRISTA L. FREITAG, COURT-APPOINTED PERMANENT RECEIVER FOR ANI DEVELOPMENT, LLC, AMERICAN NATIONAL INVESTMENTS, INC., AND THEIR SUBSIDIARIES AND AFFILIATES**

By:   
KRISTA L. FREITAG, Receiver

**Exhibit A**

|  | A                                  | B                                   | C = (A+B)   | D = (Actual Amount Disclosed)                                    | E = (C+D)                                   |
|--|------------------------------------|-------------------------------------|---|--|---|
|  | Money In (pre-Settlement Payments) | Money Out (pre-Settlement Payments) | MIMO Net Loss (pre Third-Party Settlement Payments) | Third-Party Settlement Payments Previously Received by Investors | MIMO Net Loss Amount for Subject Settlement |
| Alter, Cari                            | 190,000.00                         | (21,395.65)                         | 168,604.35  | (119,773.05)   | 48,831.30                                   |
| Bagwell, John                          | 360,000.00                         | (8,213.69)                          | 351,786.31  | (297,750.42)   | 54,035.89                                   |
| De Bellefroid, Marie                   | 125,000.00                         | (27,795.47)                         | 97,204.53   | (69,793.17)  | 27,411.36                                   |
| Dickinson, Jane                        | 150,000.00                         | (13,471.23)                         | 136,528.77  | (97,320.14)  | 39,208.63                                   |
| <b>SubTotal of Plaintiff Claimants</b> | <b>825,000.00</b>                  | <b>(70,876.04)</b>                  | <b>754,123.96</b>                                   | <b>(584,636.78)</b>  | <b>169,487.18</b>                           |

## Exhibit B

This is an agreement to join the Settlement and Mutual Release Agreement (“Agreement”) between the Receiver and the Merit Parties dated July \_\_, 2022 (“*Joinder Agreement*”). The Joinder Agreement incorporates all definitions, recitals, terms and conditions of the Agreement and is made between the Plaintiff Investors who execute this Joinder Agreement (“*Joinder Plaintiffs*”) and the Merit Parties (collectively the “*Joinder Parties*” or individually “*Joinder Party*”).

**1. Joinder Settlement Payment.** Within fifteen (15) calendar days of satisfaction of, and in consideration of, all conditions set forth in Paragraphs 1 and 3 of the Agreement and Paragraph 5 of the Joinder Agreement, and receipt of a completed IRS W-9 and appropriate wire instructions, and with the understanding and agreement that the Merit 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 Plaintiffs will hold the Merit Parties harmless for any tax consequences and shall bear sole responsibility for any allocation and/or distribution of same, the Merit Parties, will pay to the respective counsel for the Joinder Plaintiffs, as applicable, the amounts corresponding to such Joinder Plaintiffs 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 Action, the receivership, and/or this settlement.

**3. Mutual Releases.** The Joinder Parties’ agreements regarding the Joinder Settlement Payment in this Joinder Agreement are also in consideration of mutual releases, the specifics of which are as follows and as set forth in Paragraph 4 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 Merit Parties, as defined in the Agreement, hereto relating in any way, directly or indirectly, to the subject matter of the SEC Action, 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 Action, and for the Joinder Plaintiffs, 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 any Joinder Parties’ right to bring an action to enforce the terms of this Joinder Agreement and 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 the SEC Action and/or the State Court Action.

4. **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.

5. **Settlement Conditions.** In addition to the conditions described in Paragraphs 1 and 3 of the Agreement, this Joinder Agreement, the Joinder Settlement Payment, 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 Plaintiffs in the State Court Action,** which dismissals shall be filed within thirty (30) calendar days of entry of the Bar Order and the approval by the District Court described in Paragraph 1 of the Agreement.

6. **Stay of Litigation, Pending Satisfaction of Conditions Precedent.** The Joinder Parties agree that pending satisfaction of the Settlement Conditions set forth in Paragraphs 1 and 3 of the Agreement and Paragraph 5 of the Joinder Agreement, the Joinder Parties shall not pursue any

discovery or litigation filing in the State Court Action or otherwise and the Joinder Claimants shall jointly file, together with the Merit Parties, a stipulation to stay the applicable State Court Action. If other Plaintiff Investors who are not Joinder Plaintiffs oppose a stay, then Joinder Plaintiffs shall not oppose a motion by the Merit Parties to stay the State Court Action.

7. **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.

8. **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 District 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.

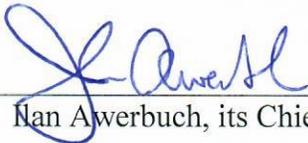
15. **Headings.** The various headings used in this Joinder Agreement are solely for the Joinder Parties' convenience and may not be used to interpret this Joinder Agreement. The headings do not define, limit, extend, or describe the Joinder Parties' intent or the scope of this Joinder Agreement.

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.

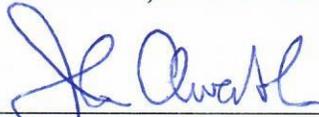
18. **Counterparts.** This Joinder Agreement may be executed by ink, by electronic signature, by facsimile, or by email, in any number of counterparts and by different parties on separate pages or counterparts, each of which, when executed and delivered, shall be deemed and treated as an original, and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

**MERIT FINANCIAL, INC., A California Corporation**



By: Ilan Awerbuch, its Chief Executive Officer

**ILAN AWERBUCH, an Individual**



By:

ILAN AWERBUCH

**HARRIET LYNN POLLOCK, an Individual**



By:

HARRIET LYNN POLLOCK

**THE JOINDER PLAINTIFFS**

**PLAINTIFF INVESTORS:**

\_\_\_\_\_  
By: Cari Alter, as an individual and as Trustee of The Alter Family Trust dated 3/4/2003

\_\_\_\_\_  
By: John Bagwell, an individual

\_\_\_\_\_  
By: Marie-Charlotte de Bellefroid, as an individual and as Trustee of The Marie-Charlotte de Bellefroid Trust dated 10/6/2004

\_\_\_\_\_  
By: Jane Dickinson, as an individual and as Trustee for The J. W. Dickinson Trust dated 12/18/2015

# EXHIBIT 2

# EXHIBIT 2

**SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

*September* This Settlement Agreement and Mutual Release (the "Agreement") is made as of ~~August~~ 1, 2022 (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 Randolph C. Houts, an individual, The Law Offices of Randolph C. Houts and Power Process Inc, a California corporation (collectively, the "Houts Parties"), on the other hand. The Receiver and the Houts Parties 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"). Among other things, the Receivership Order authorizes the Receiver to pursue, prosecute and/or settle all claims and causes of action of the Receivership Entities against third parties. Specifically, the Receivership Order empowers the Receiver to investigate and, where appropriate, to institute, pursue, and prosecute all claims and causes of action of whatever kind and nature that may now or hereafter exist related to the facts and/or claims described in the SEC Action. The scope of the Receiver's mandate and duties include pursuit of potential claims against third parties to maximize the assets of the receivership estate that will be available to distribute to harmed investors.

B. The Receiver investigated the role of the Houts Parties with respect to the facts, circumstances and events relating to the Receivership Entities that are alleged, described or at issue in the SEC Action (collectively, the "ANI Issues"). The Receiver believes the Receivership Entities have valid claims for damages against the Houts Parties relating to the ANI Issues, including for breach of fiduciary duty and professional negligence (collectively, the "Claims").

C. The Houts Parties have denied, and unequivocally continue to deny, any wrongdoing with respect to the ANI Issues, and deny that they have any liability whatsoever with respect to the purported Claims. Further, the Houts Parties believe they have valid legal claims against the Receivership Entities, including, but not limited to, claims for unpaid pre-receivership professional fees.

WHEREAS, the Parties have negotiated and now desire to resolve all disputes and disagreements between them relating to the ANI Issues and the 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 and such Approval Order (defined below) becoming final, 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. *No Claims, Counterclaims, or Setoffs.* Other than as set forth in this Agreement, no Party has asserted any claims, counterclaims, recoupments, defenses, demands, or setoffs against any other Party, including as to the matters that are the subject of this Agreement. To the extent any claims, counterclaims, or setoffs have been asserted by either Party, or which otherwise exist or are later discovered, they are intended to be fully addressed, resolved, released, and waived as part of this Agreement.

d. *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. **Terms of Settlement.** The Parties hereby agree to the following terms of settlement:

a. *Payment on behalf of the Houts Parties.* Promptly after this Agreement has been fully executed, the Receiver will file a noticed motion in the SEC Action seeking entry of the Approval Order. The Houts Parties shall pay the amount of \$290,000 to the Receiver within ten (10) business days of entry of an order by the District Court in the SEC Action approving this Agreement (“Approval Order”).

b. *Bar Order.* The Approval Order shall contain a provision permanently enjoining and barring all persons and entities whatsoever, including but not limited to the Receiver and the Receivership Entities, 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 fraudulent liquor license loan program that is the subject of the SEC Action, 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 District 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 Houts 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 the SEC Action, thereby immediately enjoining any and all actions to the extent those actions bring claims against the Houts Parties.

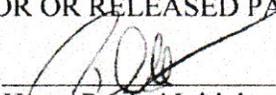
c. *Financial Records Produced by Houts Parties.* In connection with negotiating this Agreement, the Houts Parties provided certain confidential financial records to the Receiver for her review. Upon entry of the Approval Order, all such financial records will be returned to the Houts Parties or destroyed.

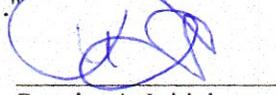
3. Mutual Releases. Except for the obligations set forth in this Agreement and subject to the Approval Order, the Parties, and each of them, on his, her, or its own behalf and on behalf of any relatives, representatives, brokers, predecessors, successors, direct and indirect parent companies, direct 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, 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 ANI Issues, the SEC Action, and/or the 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:

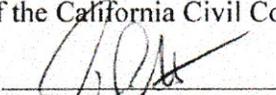
"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE

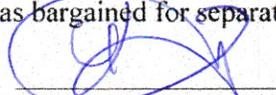
RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

  
\_\_\_\_\_  
Houts Parties' 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."

  
\_\_\_\_\_  
Houts Parties' 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.

4. 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.

5. 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. *Time.* Time is of the essence as to each and every term of this Agreement.

i. *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 the Houts Parties:

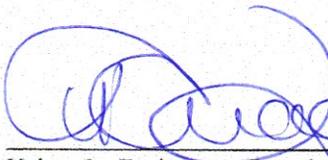
Scott Metzger, Duckor Metzger & Wynne, A Professional Law Corporation  
101 West Broadway, Suite 1700, San Diego, CA 92101

For the Receiver, Krista Freitag:

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

j. *Confidentiality and Non-Disparagement:* Except as is reasonable and appropriate to obtain Court approval of this Agreement, to provide the Notices as required by this Agreement, or to enforce the terms of the Settlement and this Agreement, the Parties will (a) keep confidential and shall not publish, communicate, or otherwise make public or disclose, directly or indirectly, in any manner whatsoever, the existence and terms of this Settlement and Agreement or the communications, contentions, allegations, and discussions in connection with the negotiations that led to the Settlement and this Agreement, and (b) not make any disparaging, defamatory, or professionally damaging remarks, orally or written, about the other Party or their counsel relating to this Settlement and Agreement, or the facts giving rise to the SEC Action, to the public, the media, or the Court. Notwithstanding the foregoing, the Houts Parties shall have right to disclose the information identified in subparagraph (a) above to spouses, legal counsel, and/or financial advisors if such persons agree to maintain the confidentiality of the existence and terms of this Agreement and Settlement.

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 capacity as Receiver*

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

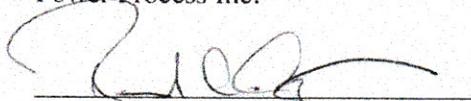


Randolph C. Houts, individually



The Law Offices of Randolph C. Houts  
Randolph C. Houts, Principal

Power Process Inc.



Randolph C. Houts, President

APPROVED AS TO FORM AND CONTENT:

DUCKOR METZGER & WYNNE ALPC

ALLEN MATKINS

By: 

Scott L. Metzger, Esq.  
Counsel for The Houts Parties

By: 

Ted Fates, Esq.  
Counsel for Receiver,  
Krista Freitag