

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
West Palm Beach Division**
www.flsb.uscourts.gov

In re:
GINN-LA ST. LUCIE LTD., LLLP, *et al.*,

Debtors.

LEAD CASE NO. 08-29769-PGH
All Cases Jointly Administered

Chapter 7

(4 Cases Substantively Consolidated
Under Lead Case No. 08-29769-PGH)¹

In re:
GINN-LA QUAIL WEST LTD., LLLP, *et al.*,

Debtors.

(3 Cases Substantively Consolidated
Under Lead Case No. 08-29774)²

**TRUSTEE DILLWORTH’S MOTION TO APPROVE SETTLEMENT OF
ADVERSARY PROCEEDING AGAINST GINN, LUBERT-ADLER, ET. AL,
AND TO AUTHORIZE PAYMENT OF AMOUNTS DUE UNDER
ORDER APPROVING EMPLOYMENT OF SPECIAL LITIGATION COUNSEL**

Drew M. Dillworth (“Trustee Dillworth”), in his capacity as Chapter 7 Trustee for the Tesoro and Quail West Debtors’ Estates, by and through the undersigned counsel, moves this Court pursuant to 11 U.S.C. § 105 and Fed. R. Bankr. P. 9019 for entry of an Order approving the settlement described below of Adversary Proceeding No. 10-02976-PGH, and authorizing him to pay, from the \$25 million in settlement proceeds to be recovered, the contingency fee and costs due under this Court’s earlier Order approving the employment of Eugene E. Stearns, Esq. and Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A. as Special Litigation Counsel. The basis for this motion is as follows:

¹ The “Tesoro Debtors’ Estates” (Nos. 08-29769-PGH, 08-29770-PGH, 08-29772-PGH, 08-29773-PGH) are substantively consolidated into Lead Case No. 08-29769-PGH. *See* ECF Nos. 308, 309. The “Tesoro Debtors” and the last four digits of their respective tax identification numbers are: (i) Ginn-LA St. Lucie Ltd., LLLP – 5632; (ii) Ginn-St Lucie GP, LLC – 0983; (iii) Tesoro Golf Club Condo., LLC – 4385; (iv) The Tesoro Club, LLC – 1917. *See* 11 U.S.C. § 342(c)(1).

² The “Quail West Debtors’ Estates” (Nos. 08-29774-PGH, 08-29775-PGH, and 08-29776-PGH) are substantively consolidated into Lead Case No. 08-29774-PGH. *See* ECF No. 34. The “Quail West Debtors” and the last four digits of their respective tax identification numbers are: (i) Ginn-LA Quail West Ltd., LLLP – 2397; (ii) Ginn-Quail West Beach, LLC – 9142; and (iii) Ginn-Quail West GP, LLC – 6313. *See* 11 U.S.C. § 342(c)(1).

BACKGROUND

A. The Bankruptcy Cases

1. On December 23, 2008, each of the Tesoro and Quail West Debtors filed a voluntary petition under Chapter 7 of the Bankruptcy Code, and the U.S. Trustee's Office appointed Trustee Dillworth as the interim Chapter 7 Trustee of the Debtors' Estates.

2. No trustee was elected at the subsequent Meeting of Creditors held pursuant to 11 U.S.C. § 341; thus, pursuant to 11 U.S.C. § 702, Trustee Dillworth is the duly appointed, qualified, and acting Chapter 7 Trustee of the Debtors' Estates.

3. On December 29, 2008, this Court entered an Order directing, *inter alia*, that the Tesoro and Quail West bankruptcy cases be jointly administered for procedural purposes under the Tesoro Lead Case – *i.e.*, No. 08-29769-PGH. *See* ECF No. 20.

4. In addition, on August 9 and 12, 2009, this Court entered a pair of Orders substantively consolidating the Tesoro Debtors' Estates into Lead Case No. 08-29769-PGH, and the Quail West Debtors' Estates into Lead Case No. 08-29774-PGH. *See* ECF Nos. 308-09.

B. The Employment of Special Litigation Counsel

5. On January 3, 2010, Trustee Dillworth filed an Application with this Court seeking authority to employ Eugene E. Stearns, Esq. and the Stearns Weaver law firm as Special Litigation Counsel, on a contingency fee basis. *See* ECF No. 410.

6. The purpose of the Trustee's request was to obtain the representation of counsel qualified to develop and prosecute claims against the Debtors' Equity Sponsors relating to a pre-petition \$675 million loan transaction arranged and administered by Credit Suisse, which was secured by Debtor transfers of guaranties and liens. *Id.*

7. The Debtors' Estates lacked the funds necessary to pay counsel on an hourly basis to pursue said claims; hence, approval was sought to do so on a contingency fee basis. *Id.*

8. After the Trustee filed said Application, he met with creditors to review it, and, as a result of those meetings, agreed to modify the proposed contingency fee structure in certain respects.

9. No written objection to the Application was filed, nor was any objection asserted at the hearing thereon.

10. On February 3, 2010, this Court entered an Order granting the Application, which found the relief requested, as modified, “[wa]s in the best interests of these estates,” and approved the following compensation structure:

Pursuant to 11 U.S.C. § 328, Trustee Dillworth is authorized to employ Stearns and the law firm of Stearns Weaver, as special litigation counsel on a contingency fee basis, as follows:

- a. 20% of the amounts recovered for the benefit of the Debtors’ Estates, if the claims in respect of the Transfers are consensually resolved before the filing of a complaint;
- b. 25% of the amounts recovered for the benefit of the Debtors’ Estates, if the claims in respect of the Transfers are resolved after the filing of a complaint but before the filing of an answer to the complaint;
- c. 30% of the amounts recovered for the benefit of the Debtors’ Estates, if the claims in respect of the Transfers are resolved after the filing of an answer to the complaint but before the commencement of trial;
- d. 35% of the amounts recovered for the benefit of the Debtors’ Estates, if the claims in respect of the Transfers are resolved after the commencement of trial but before any brief on appeal is due;
- e. 40% of the amounts recovered for the benefit of the Debtors’ Estates, if the claims in respect of the Transfers are resolved after the filing of any brief on appeal.

The costs associated with prosecuting the claims in respect of the Transfers, will be the responsibility of the Debtors’ Estates, payable upon proper application pursuant to the Court’s guidelines, notice, hearing and further Order from the Court approving such payment.

ECF No. 449 (the “Employment Order”) (¶¶ 1-3).

C. The Adversary Proceeding

11. On May 10, 2010, Trustee Dillworth commenced an adversary proceeding against several of the Debtors' Equity Sponsors relating to the Credit Suisse loan transaction (the "Adversary Proceeding").

12. The Adversary Proceeding is pending in this Court and has been docketed as Adv. Pro. No. 10-02976-PGH.

13. The original named Defendants included Edward R. "Bobby" Ginn III ("Ginn"), Lubert-Adler Management Co., L.P. ("Lubert-Adler"), and other entities alleged to be involved in the ownership and management of the Debtors. *See* ECF No. 1 (pp. 1, 5).

14. The Trustee's initial Complaint asserted what amounts to two sets of claims, both seeking to avoid and recover for alleged fraudulent transfers made in connection with the Credit Suisse loan transaction. *See* ECF No. 1 (pp. 17-26).

15. That Complaint was subsequently amended twice to add additional Defendants, and twice to expand on existing factual allegations, in an effort to support the pending claims. *See* ECF Nos. 10, 39, 163, 268.

16. In addition, the Trustee's current pleading – his Fourth Amended Complaint – also added claims for breach of fiduciary duty in connection with the same loan transaction. *See* ECF No. 268 (pp. 73-76).

17. Ultimately, however, following a protracted battle, this Court concluded that the claims for avoidance and recovery of alleged fraudulent transfers could not be maintained and dismissed them with prejudice, leaving only the claims for breach of fiduciary duty. *See* ECF Nos. 232 (pp. 34-35), 334 (pp. 10-41).

18. The Trustee's claims for breach of fiduciary duty name, as Defendants: Ginn; ERG Enterprises, L.P.; Dean S. Adler; and the Lubert-Adler Fund III & IV Entities, *i.e.*, Lubert-Adler Group III, L.P., Lubert-Adler Real Estate Fund III, L.P., Lubert-Adler Real Estate Parallel Fund III, L.P., Lubert-Adler Capital Real Estate Fund III, L.P., Lubert-Adler Group IV, L.P., Lubert-Adler Real Estate Fund IV, L.P., Lubert-Adler Real Estate Parallel Fund IV, L.P., and Lubert-Adler Capital Real Estate Fund IV, L.P. (collectively, the "Fiduciary Defendants").

19. Briefly stated, the claims allege that the Fiduciary Defendants had a duty to act with utmost good faith toward the Debtors in connection with the Credit Suisse loan transaction, but failed to do so, causing the Debtors to sustain substantial economic damages.

20. The Fiduciary Defendants have each filed Answers disputing those allegations and asserting a variety of Affirmative Defenses thereto, including: (i) failure to state a claim; (ii) lack of causation / superseding or intervening acts; (iii) failure to mitigate damages, if any; (iv) waiver; (v) release; (vi) equitable estoppel; (vii) collateral estoppel; (viii) *res judicata*; (ix) law of the case; (x) *in pari delicto*; (xi) consent; (xii) ratification; (xiii) the law of agency; (xiv) good faith; (xv) the business judgment rule; (xvi) various Georgia statutory defenses; (xvii) various contractual defenses; (xviii) lack of standing; (xix) lack of damages; (xx) insufficiency of claims against the Debtors' Estates; etc. *See* ECF Nos. 357, 358.

21. The case is now in the fact discovery phase, with much remaining to be done before the pre-trial conference, which is currently set for April 2, 2013. ECF No. 380 (pp. 2-4).

22. The District Court has ordered that the reference of the case shall remain with this Court until such time, but shall be withdrawn for the purpose of conducting a jury trial. S.D. Fla. Case No. 09:12-mc-80546-KAM, ECF No. 11 (p. 2).

D. The Mediated Settlement

23. Earlier this year, the Trustee and the Ginn and Lubert-Adler Defendants agreed to participate in a formal mediation, in an effort to achieve a compromise that would avoid the costs, delays, and risks inherent in complex litigation and jury trials.

24. The parties selected as mediator a former Florida Circuit and District Court Judge now with Holland & Knight LLP – Rodolfo Sorondo, Jr., Esq.

25. The mediation was conducted on August 7, 2012, beginning at 9:00 a.m., and continued well into the evening, but was ultimately successful. Through the mediation, a settlement was achieved which – if approved – will resolve the Adversary Proceeding and enable a meaningful dividend to be paid to creditors of the Debtors' Estates (the "Settlement").

26. That Settlement has since been fully documented in the Settlement Agreement attached hereto as Exhibit "A," which all parties-in-interest should review in its entirety.

27. The Trustee submits that the essential terms of relevance to the Debtors' Estates can be summarized as follows:

- assuming the Trustee's request for approval of the Settlement is granted and the order of approval is sustained in any further judicial review, the Trustee will be paid \$25 million by the Ginn and Lubert-Adler Parties, to be allocated as follows: \$23.8 million to the Tesoro Debtors' Estates, and the balance, \$1.2 million, to the Quail West Debtors' Estates (as discussed further below, those allocated recoveries should enable unsecured creditors of both the Tesoro and Quail West Debtors' Estates to be paid a dividend on allowed claims of between 30% to 50%);
- the Adversary Proceeding shall then be dismissed with prejudice and certain releases shall be exchanged; and
- the Settlement shall not be deemed evidence or an admission of guilt, liability, or wrongdoing, but rather as a compromise of disputed claims for the purpose of avoiding the costs and inconvenience of further litigation.

Ex. A (§§ 2-7).

REQUESTED RELIEF AND JUSTIFICATION THEREFOR

28. Trustee Dillworth respectfully requests the entry of an Order in this matter: (A) approving the Settlement Agreement in all respects; and (B) authorizing him to pay, from the settlement proceeds to be recovered for the benefit of the Debtors' Estates, the amounts due under the Employment Order, as detailed below.

A. The Settlement Meets the Applicable Legal Standard for Approval

29. Federal Rule of Bankruptcy Procedure 9019(a) accords Bankruptcy Courts the power to approve compromises or settlements. It provides that:

On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

Fed. R. Bankr. P. 9019(a).

30. The decision to approve a settlement lies within a Bankruptcy Court's discretion, but is to be guided by consideration of four factors:

In this circuit, a bankruptcy court evaluating a proposed settlement must consider: "(a) The probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises."

In re Chira, 567 F.3d 1307, 1312 (11th Cir. 2009) (quoting *In re Justice Oaks II, Ltd.*, 898 F.2d 1544, 1549 (11th Cir. 1990)).

31. "Courts consider these factors" – referred to as "the *Justice Oaks* factors" – "to determine 'the fairness, reasonableness and adequacy of a proposed settlement agreement.'" *Id.* at 1312-13 (quoting *In re A & C. Prop.*, 784 F.2d 1377, 1381 (9th Cir. 1986)).

32. In this instance, each of the four *Justice Oaks* factors supports approval of the proposed Settlement Agreement.

“The Probability of Success in the Litigation”

33. Although the Trustee believes the Adversary Proceeding has substantial merit and his claims for breach of fiduciary duty are sound, it is difficult at this point to assess the probability of success in the litigation.

34. As noted above, the Fiduciary Defendants dispute the validity of the claims, and have asserted a myriad of Affirmative Defenses which may need to be overcome.

35. In addition, because fact discovery is not yet complete, and expert reports have yet to be served, it is impossible to predict what the evidentiary playing field will look like when dispositive motions are due to be filed and the case is to be ready for trial.

36. Moreover, since this case involves a *jury* trial, there are additional inherent risks which must be factored into the equation.

37. The proposed Settlement, if approved, would eliminate all of those risks and provide certainty of recovery for the benefit of the Tesoro and Quail West Debtors’ Estates.

“The Difficulties, if Any, to be Encountered in the Matter of Collection”

38. The Trustee believes that, if the litigation is *not* resolved through settlement, but, instead, ends in a favorable money judgment, he may encounter difficulties in collection.

39. The Trustee has been advised that certain of the Fiduciary Defendants have or may have insurance coverage in the form of “wasting” coverage – *i.e.*, it is being eaten-away by defense costs.

40. The longer the case proceeds, the less insurance coverage there may be to cover a potential money judgment.

41. Thus, this factor also counsels in favor of approving the proposed Settlement, as it would provide certainty of collection.

“The Complexity of the Litigation Involved, and the Expense, Inconvenience, and Delay Necessarily Attending It”

42. The Trustee believes the complexity of the Adversary Proceeding is self-evident, as is the expense, inconvenience, and delay necessarily attending it.

43. The pleadings, motion papers, transcripts, and substantive orders in the case already total nearly 2,500 pages, not including exhibits, and the heavy lifting has only just begun.

44. Though the parties have already engaged in substantial fact discovery to date, much remains to be completed, including fact depositions, which are expected to be extensive. The parties’ initial disclosures collectively identified more than 50 potential fact witnesses, a great many of whom will need to be deposed, in most instances at out-of-state locations. Those depositions are expected to consume at least the balance of this year, if not beyond, and require enormous expenditures of manpower and money.

45. The expert phase of discovery will then follow, which is also expected to be both lengthy and expensive. Given the nature of the case, and the number of complicated issues, it is anticipated that each side will designate multiple expert witnesses, all of whom will need to submit reports and be deposed – all at significant expense.

46. The parties also anticipate that, when that phase of discovery has been completed, numerous dispositive motions will be filed which will require substantial time and attention, and that any ensuing trial in the case will require between two to four weeks to complete, with post-trial motions and lengthy appeals to follow, regardless of who wins.

47. In other words, unless the proposed Settlement described herein is approved, this already costly and protracted litigation will grow only *more* costly and protracted, with a final resolution potentially *years* away.

“The Paramount Interest of the Creditors and a Proper Deference to Their Reasonable Views in the Premises”

48. Finally, in view of the foregoing, the Trustee also respectfully submits that the proposed Settlement is in the best interests of all creditors of the Debtors’ Estates.

49. The Trustee has effectively administered all assets of the Debtors’ Estates *other than* the claims being pursued in the Adversary Proceeding, and will not be in a position to pay creditors a meaningful dividend unless and until those claims are resolved favorably.

50. The proposed Settlement, if approved, will not only enable creditors to be paid sooner rather than later, it will enable allowed claims to be paid in significant amounts.

51. The Trustee has conducted a preliminary review of the claims filed to date and expects that, after litigation costs and other administrative expenses have been paid, and claims objections have been resolved, he will be in a position to pay unsecured creditors of each set of Debtors’ Estates a dividend on allowed claims of between 30% to 50%.

52. For those unsecured creditors, mainly retirees living in the Debtor developments, time is of the essence and the certainty of such a recovery *now* is undoubtedly far preferable to the risks and delays inherent in pursuing a potentially greater recovery through litigation, which, of course, might yield *no* recovery at all.

53. Thus, like the other factors discussed above, this factor too supports approval of the proposed Settlement, leaving no question as to how this matter should be resolved.

54. The proposed Settlement is more than “fair[], reasonable[], and adequa[te],” and, after notice and hearing, should be approved forthwith.

B. Under the Employment Order, if the Proposed Settlement is Approved, Special Litigation Counsel Will be Entitled to a Contingency Fee and Reimbursement of Litigation Costs

55. As discussed above, before the Trustee commenced the Adversary Proceeding, this Court authorized the employment of Special Litigation Counsel on a contingency fee basis and approved a tiered fee structure dependent on the posture of the case at the time of recovery. *See* Employment Order, ¶ 2.

56. If this Court were to approve the proposed Settlement described herein, the contingency fee would be governed by the third tier of that structure, which provides for:

- c. 30% of the amounts recovered for the benefit of the Debtors’ Estates, if the claims in respect of the Transfers are resolved after the filing of an answer to the complaint but before the commencement of trial[.]

Employment Order, ¶ 2(c).

57. Applying that formula to the proposed Settlement, the contingency fee due would be as follows:

Recovering Parties	Recovery	Contingency Fee Due
Tesoro Debtors’ Estates	\$23,800,000	\$7,140,000
Quail West Debtors’ Estates	\$1,200,000	\$360,000

58. In addition, under the Court’s Employment Order, the costs associated with prosecuting the claims at issue are also “the responsibility of the Debtors’ Estates,” payable upon application, notice, hearing, and further Order approving said payment. Employment Order, ¶ 3.

59. Those costs are itemized in Exhibit “B” and amount to a total of \$254,916, which we submit is eminently reasonable for a case of this complexity and magnitude.

60. The costs should be borne equally by the Tesoro and Quail West Debtors’ Estates, *i.e.*, each set of Estates should be responsible for \$127,458.

WHEREFORE, Trustee Dillworth respectfully requests the entry of an Order herein approving the Settlement Agreement in all respects, and authorizing him to pay Stearns Weaver:

- A. from the settlement proceeds to be recovered for the benefit of the Tesoro Debtors' Estates, a contingency fee of \$7,140,000, and costs in the amount of \$127,458, for a total of \$7,267,458; and
- B. from the settlement proceeds to be recovered for the benefit of the Quail West Debtors' Estates, a contingency fee of \$360,000, and costs in the amount of \$127,458, for a total of \$487,458;

without need of further Court Order.

Dated: October 16, 2012

Respectfully submitted,

STEARNS WEAVER MILLER WEISSLER
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Chapter 7 Trustee of the Tesoro Debtors' Estates
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EXHIBIT A

SETTLEMENT AGREEMENT

SETTLEMENT AGREEMENT

This Settlement Agreement (the “Agreement”) is entered into as of August 7, 2012 by and among the following parties:

(A) Drew M. Dillworth (the “Trustee”) in his capacity as Chapter 7 trustee of the estates (each a “Bankruptcy Estate”) of each of the following debtors (each a “Debtor” and collectively the “Debtors” in the U.S. Bankruptcy Court for the Southern District of Florida (the “Bankruptcy Court”)): (i) Ginn-LA St. Lucie, Ltd., LLLP., Case No. 08-29769-PGH; (ii) Ginn-St.Lucie GP, LLC, Case No. 08-29770-PGH; (iii) Tesoro Golf Club Condominium, LLC, Case No. 08-29772-PGH; (iv) The Tesoro Club, LLC, Case No. 08-29773-PGH; (v) Ginn-LA Quail West, Ltd., LLLP, Case No. 08-29774-PGH; (vi) Ginn-Quail West Beach, LLC, Case No. 08-29775-PGH; and (vii) Ginn-Quail West GP, LLC, Case No. 08-29776-PGH). Ginn-LA St. Lucie, Ltd., LLLP., Ginn-St.Lucie GP, LLC, Tesoro Golf Club Condominium, LLC, and The Tesoro Club, LLC are sometimes collectively referred to herein as the “Tesoro Debtors,” and their Bankruptcy Estates are sometimes collectively referred to as the “Tesoro Debtors’ Estates.” Ginn-LA Quail West, Ltd., LLLP, Ginn-Quail West Beach, LLC, and Ginn-Quail West GP, LLC are sometimes collectively referred to herein as the “Quail West Debtors,” and their Bankruptcy Estates are sometimes collectively referred to as the “Quail West Debtors’ Estates.”

(B) Edward R. Ginn III; Edward R. Ginn III, as Trustee of the Edward R. Ginn III Revocable Trust, Dated September 14, 2002; ERG Management, LLC; and ERG Enterprises, L.P. (collectively, the “Ginn Parties”); and

(C) Lubert-Adler Management Co., L.P.; Lubert-Adler Real Estate Fund III, L.P.; Lubert-Adler Real Estate Parallel Fund III, L.P.; Lubert-Adler Capital Real Estate Fund III, L.P.; Lubert-Adler Real Estate Fund IV, L.P.; Lubert-Adler Real Estate Parallel Fund IV, L.P.; Lubert-Adler Capital Real Estate Fund IV, L.P.; Lubert-Adler Group III, L.P.; Lubert-Adler Group IV, L.P.; Dean S. Adler; and Ira M. Lubert (collectively, the “Lubert-Adler Parties”). Lubert-Adler Real Estate Fund III, L.P., Lubert-Adler Real Estate Parallel Fund III, L.P., and Lubert-Adler Capital Real Estate Fund III, L.P. are sometimes collectively referred to herein as the “Fund III Investment Partnerships.” Lubert-Adler Real Estate Fund IV, L.P., Lubert-Adler Real Estate Parallel Fund IV, L.P., and Lubert-Adler Capital Real Estate Fund IV, L.P. are sometimes collectively referred to herein as the “Fund IV Investment Partnerships.”

The Trustee, the Ginn Parties, and the Lubert-Adler Parties are sometimes collectively referred to herein as the “Parties” and are sometimes each individually referred to as a “Party.”

The Ginn Parties and the Lubert-Adler Parties are sometimes collectively referred to herein as the “Ginn-LA Parties.”

RECITALS

WHEREAS, on May 10, 2010, the Trustee commenced an action before the Bankruptcy Court styled *Drew M. Dillworth, Chapter 7 Trustee vs. Edward R. Ginn III, et al.*, Adv. No. 10-2976-PGH (referred to herein as the “Action”) wherein he named as defendants the Ginn Parties and the Lubert-Adler Parties, as well as limited partners in the Fund III Investment Partnerships (collectively, the “Lubert-Adler Fund III Investor Defendants”) and limited partners in the Fund IV Investment Partnerships (collectively, the “Lubert-Adler Fund IV Investor Defendants”);

WHEREAS, the Parties desire and hereby resolve to settle fully, completely, and finally their disputes in accordance with the terms set forth below;

WHEREAS, the Parties seek to avoid the expense of, among other things, further litigation or court action;

WHEREAS, no Party admits liability in connection with the claims or defenses asserted in the Action; and

WHEREAS, this Agreement is subject to Bankruptcy Court approval and shall not be effective until an Order approving the settlement documented herein (the “Order of Approval”) becomes Final and Non-Appealable (the term “Final and Non-Appealable” means: (i) fourteen (14) days have elapsed without the filing of a motion pursuant to Fed. R. Bankr. P. 9023 or 9024, or the filing of an appeal pursuant to Fed. R. Bankr. P. 8001 and 8002; or (ii) if such a motion and/or appeal is filed, such motion and/or appeal has been fully resolved, and is not subject to further appellate review).

NOW, THEREFORE, in consideration of the mutual promises and for other good and valuable consideration set forth herein, the receipt and sufficiency of which are both hereby acknowledged, the undersigned Parties hereby agree as follows to a complete and final settlement of their disputes, on the following terms and conditions:

TERMS OF SETTLEMENT

1. Incorporation of Recitals. The paragraphs contained in the Recitals section to this Agreement above are incorporated herein by reference and made a substantive part of this Agreement, and the Parties hereto stipulate and agree that the Recitals are true, correct, and accurate.

2. Settlement Payment. Within fourteen (14) business days after the date upon which the Order of Approval becomes Final and Non-Appealable, the Ginn Parties and the Lubert-Adler Parties shall pay to the Trustee, by a check (or checks) drawn on a U.S. banking institution (or institutions) and/or by wire transfer (or transfers) pursuant to written wire instructions to be provided by the Trustee, the total sum of Twenty-Five Million Dollars and no Cents (\$25,000,000.00) (the "Settlement Payment"). The Settlement Payment shall be allocated among the Tesoro Debtors' Estates and the Quail West Debtors' Estates as follows: Twenty-Three Million Eight Hundred Thousand Dollars (\$23,800,000.00) to the Tesoro Debtors' Estates; and One Million Two Hundred Thousand Dollars (\$1,200,000.00) to the Quail West Debtors' Estates.

3. Stipulation of Dismissal. Within one (1) business day after receipt of the Settlement Payment, the Trustee shall cause to be filed with the Bankruptcy Court a duly and fully executed stipulation of voluntary dismissal with prejudice in the form attached hereto as Exhibit A (the "Stipulation of Voluntary Dismissal With Prejudice").

4. Release By The Trustee. Effective immediately upon receipt of the Settlement Payment, the Trustee, his predecessors-in-interest, successors-in-interest, and the Bankruptcy Estates (collectively, the “Trustee Releasers”), without any further action or agreement, hereby remise, release, acquit, satisfy, and forever discharge each of the Ginn Parties and Lubert-Adler Parties, and all of their respective past and present insurers, employees, investors, partners (including but not limited to the Lubert-Adler Fund III Investor Defendants and the Lubert-Adler Fund IV Investor Defendants), members, managers, affiliated or related entities (including but not limited to Ginn-LA CS Holding Co., LLC, Ginn-LA CS Borrower, LLC and Ginn-LA Conduit Lender, Inc.), agents, attorneys, officers, directors, trustees, predecessors, successors, beneficiaries, heirs, assigns, representatives, and personal representatives (collectively, the “Ginn-LA Releasees”), of and from any, and all manner of, claims, action and actions, cause and causes of action, obligations, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, orders, executions, and demands whatsoever, in law or in equity, known or unknown, asserted or unasserted, matured or unmatured, fixed or contingent, actual or potential (including costs, expenses, legal fees, and interest which may be or have been incurred in connection with such claims), which the Trustee Releasers ever had, now have, or which the Trustee Releasers hereafter can, shall or may have, against any of the Ginn-LA Releasees, for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day on which the Trustee receives the Settlement Payment. It is the specific intent of the Parties that this release shall be construed broadly to provide the most complete release possible to each of the Ginn-LA Releasees, including, but not limited to, all claims and causes of action raised, or which could have been raised in the Action, along with any and all claims and causes

of action that could have resulted from the facts pled or action taken by all Parties related in any manner to either of the Action and the underlying facts related thereto. This release, however, shall not include any rights or remedies contained in or arising from any of the continuing obligations of the Parties under this Agreement.

5. Releases By Ginn Parties.

(a) Each of the Ginn Parties, their respective predecessors-in-interest, successors-in-interest, affiliates, and related entities (collectively, the "Ginn Releasers") hereby remise, release, acquit, satisfy, and forever discharge the Trustee, and each of the Bankruptcy Estates, and their respective agents and attorneys (collectively the "Trustee Releasees"), of and from any, and all manner of, claims, action and actions, cause and causes of action, obligations, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, known or unknown, asserted or unasserted, matured or unmatured, fixed or contingent, actual or potential (including costs, expenses, and legal fees which may be or have been incurred in connection with such claims), which the Ginn Releasers ever had, now have, or which the Ginn Releasers hereafter can, shall or may have, against any of the Trustee Releasees for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day on which the Trustee receives the Settlement Payment. It is the specific intent of the Parties that this release shall be construed broadly to provide the most complete release possible to the Trustee Releasees. This release, however, shall not include any rights or remedies contained in or arising from any of the continuing obligations of the Parties set forth in this Agreement.

(b) Effective immediately upon receipt of the Settlement Payment by the Trustee, each of the Ginn Parties hereby remises, releases, acquits, satisfies, and forever discharges each of the Lubert-Adler Parties, the Lubert-Adler Fund III Investor Defendants and the Lubert-Adler Fund IV Investor Defendants (collectively, the “Lubert-Adler Releasees”) of and from any, and all manner of, claims, action and actions, cause and causes of action, obligations, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, and demands whatsoever, in law or in equity, known or unknown, matured or unmatured, fixed or contingent, asserted or unasserted, actual or potential (including costs, expenses, legal fees, and interest which may be or have been incurred in connection with such claims), which any of the Ginn Parties ever had, now have, or which any of the Ginn Parties hereafter can, shall or may have, against any of the Lubert-Adler Releasees, for, upon or by reason of any matter, cause or thing whatsoever, arising from or in any way relating to all claims asserted or that could have been asserted in the Action, and all other disputes, asserted or unasserted, which do or may exist between them arising from any facts known or unknown and arising out of, or in any way relating to, the subject matter of the Action from the beginning of the world to the day of these presents, provided, however, nothing in this Section 5(b) shall be construed to release: (i) any rights, duties or obligations of any party arising under or referred to in that certain Partnership Restructure Agreement, dated November 10, 2010, provided further, however, that the Ginn Parties expressly confirm that the Lubert-Adler Parties have no and shall have no obligation to pay any legal fees or costs of defense of the Ginn Parties in connection with the Action; (ii) any rights or remedies contained in or arising from any of the continuing obligations of the Parties set forth in this Agreement; or (iii) any claims or defenses that have been or may be brought by purchasers of lots

in developments owned by the Debtors or in which the Ginn Parties or the Lubert-Adler Parties have or had direct or indirect investments and/or management or operational responsibilities.

6. Releases By Lubert-Adler Parties.

(a) Each of the Lubert-Adler Parties, their respective predecessors-in-interest, successors-in-interest, affiliates, and related entities (collectively, the “Lubert-Adler Releasers”) hereby remise, release, acquit, satisfy, and forever discharge the Trustee Releasees of and from any, and all manner of, claims, action and actions, cause and causes of action, obligations, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, orders, executions, claims and demands whatsoever, in law or in equity, known or unknown, asserted or unasserted, matured or unmatured, fixed or contingent, actual or potential (including costs, expenses, and legal fees which may be or have been incurred in connection with such claims), which the Lubert-Adler Releasers ever had, now has, or which the Lubert-Adler Releasers hereafter can, shall or may have, against any of the Trustee Releasees for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day on which the Trustee receives the Settlement Payment. It is the specific intent of the Parties that this release shall be construed broadly to provide the most complete release possible to the Trustee Releasees. This release, however, shall not include any rights or remedies contained in or arising from any of the continuing obligations of the Parties set forth in this Agreement.

(b) Effective immediately upon receipt of the Settlement Payment to the Trustee, each of the Lubert-Adler Parties hereby remises, releases, acquits, satisfies, and forever discharges each of the Ginn Parties of and from any, and all manner of, claims, action and actions, cause and causes of action, obligations, suits, debts, dues, sums of money, accounts, reckonings, bonds,

bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, and demands whatsoever, in law or in equity, known or unknown, matured or unmatured, fixed or contingent, asserted or unasserted, actual or potential (including costs, expenses, legal fees, and interest which may be or have been incurred in connection with such claims), which any of the Lubert-Adler Parties ever had, now has, or which any of the Lubert-Adler Parties hereafter can, shall or may have, against any of the Ginn Parties, for, upon or by reason of any matter, cause or thing whatsoever, arising from or in any way relating to all claims asserted or that could have been asserted in the Action, and all other disputes, asserted or unasserted, which do or may exist between them arising from any facts known or unknown and arising out of, or in any way relating to, the subject matter of the Action from the beginning of the world to the day of these presents. However, nothing in this Section 6(b) shall be construed to release: (i) any rights, duties or obligations of any party arising under or referred to in that certain Partnership Restructure Agreement dated November 10, 2010, provided further, however, that the Ginn Parties expressly confirm that the Lubert-Adler Parties have no and shall have no obligation to pay any legal fees or costs of defense of the Ginn Parties in connection with the Action; (ii) any rights or remedies contained in or arising from any of the obligations of the Parties set forth in this Agreement; or (iii) with respect to claims that have been or may be brought by purchasers of lots in developments owned by the Debtors or in which the Ginn Parties or the Lubert-Adler Parties have or had direct or indirect investments and/or management or operational responsibilities.

(c) Nothing in this Agreement, including the releases granted in Sections 5 and 6 hereof, shall be construed as a release by any of the Lubert-Adler Parties against any of the Lubert-Adler Parties' insurers in their role and capacity as insurers to any of the Lubert-Adler

Parties. It is the express intent of the Lubert-Adler Parties to preserve all of their claims against their insurers.

7. No Admission Of Liability Or Wrongdoing. The terms and conditions of this Agreement and the settlement being effected hereby are not intended to be, nor shall they be, deemed evidence or an admission of guilt, liability or wrongdoing by any Party, and nothing in this Agreement nor any of its provisions shall be offered or received in evidence against any Party in any action or proceeding, except to enforce its terms. Instead, the terms and conditions of this Agreement and the settlement being effected hereby are a compromise of disputed claims and have been entered into by the Parties solely for the purpose of avoiding the costs and inconvenience of further litigation.

8. No Public Statements. The Parties agree to make no statement disparaging any of the other Parties. The parties agree that there will be no press releases or public announcements of the settlement reflected in this Agreement, other than the motion seeking Bankruptcy Court approval of the settlement.

9. Return of Documents. Within fifteen (15) days following receipt of the Settlement Payment, the Trustee shall return or destroy, and shall cause his counsel, experts, and advisors to return or destroy, all documents produced by the Ginn Parties, the Lubert-Adler Parties, and any third-party in connection with the Action, and all other documents obtained from any third party pertaining or relating to the facts or claims that were the subject of the Action, and shall promptly provide written confirmation thereof. The Trustee further agrees that the content of all such documents and information, or any other documents or information reflecting non-public communications between or among or information of the Parties, shall remain confidential and shall not be disclosed, directly or indirectly, by the Trustee or his counsel, advisors or experts to

any third parties except in accordance with the terms of the Stipulated Protective Order entered in the Action [D.E.23] (the “Protective Order). The Protective Order shall remain in full force and effect even after the filing of the Stipulation of Voluntary Dismissal With Prejudice; provided, however, that paragraph 18 thereof shall be deemed amended to replace the words “60 days” with “15 days.” For the avoidance of doubt, the Trustee further agrees that he will not voluntarily waive the attorney-client privilege to which he succeeded in his capacity as trustee for the Debtors.

10. Entire Agreement. This Agreement, together with its exhibits, contains the entire agreement between the Parties, and supersedes any and all prior understandings, negotiations, agreements, promises and representations, either oral or in writing, among the Parties hereto with respect to the terms of this Settlement Agreement.

11. Construction of Agreement. The terms of this Agreement are contractual and not a mere recital and no other contract, promise, or inducement has been made to any of the Parties, other than as set forth herein. This Agreement is the sole agreement of the Parties on the matters set forth herein. Counsel for each of the Parties has had an active role in the drafting of this Agreement such that it shall not be construed more strictly against any Party as the drafter.

12. Agreement Voluntarily Executed. Each Party acknowledges having read the terms of this Agreement, understood the meaning of same, having had, or had the opportunity to seek, the advice of legal counsel of its own choice in connection with and prior to entry into this settlement, and hereby executes this Agreement voluntarily with full understanding of all its terms and of all of its respective rights and obligations hereunder. Moreover, each Party hereto acknowledges that it has not relied on any warranties, representations or other statements or promises — implicit or express — other than the terms of this Agreement, that it has entered into

this Agreement of its own free will, that this Agreement is the product of arms' length negotiations between sophisticated Parties of equal bargaining power. Each Party also acknowledges that it has had sufficient time to review the Agreement, including in accordance with all federal and state laws.

13. Competency and Authority to Settle. Each Party warrants and represents that he, she or it is legally competent to execute this Agreement, and has not assigned, transferred, conveyed, or in any way encumbered any claim, liability or cause of action released herein. Each Party warrants and represents that he, she or it each has the full corporate authority and individual capacity, and is fully authorized to execute this Agreement without the necessity of obtaining the consent of any other Party and that no other person or entity needs to be joined in this Agreement in order to accomplish the Agreement and releases set forth herein, except insofar as it is subject to Bankruptcy Court approval.

14. Modification. No change, modification, or waiver of any provision of this Agreement or any exhibit hereto shall be valid or binding unless it is in writing and signed by all Parties to this Agreement.

15. Agreement Is Binding. Upon the Order of Approval becoming Final and Non-Appealable, this Agreement shall be binding upon all Parties and their respective agents, parents, legal representatives, trustees, predecessors, successors, beneficiaries, heirs, and assigns, subsidiaries, divisions, and any other partners, affiliates, shareholders, sole proprietorships, corporations, limited liability companies, or any other entities controlled by them or claiming by, through or under them.

16. Governing Law. This Agreement shall be construed in accordance with the internal laws of the State of Florida without regard to its conflicts of laws provisions.

17. Attorneys' Fees and Costs. As a part of this Agreement and the settlement effected hereby, each of the Parties agrees to bear his, her or its own respective taxable and non-taxable costs and attorneys' fees (including but not limited to bankruptcy court level, trial court level and appellate court level attorneys' fees) expended, incurred, and/or billed in, or in connection with, the Action, except that in the event of any litigation arising pursuant to, or in connection with, enforcement of any of the provisions of this Agreement, the prevailing Party shall be entitled to an award of all attorneys' fees and costs incurred at the trial and/or appellate levels in that litigation. Nothing in this paragraph, however, shall be construed to affect the responsibility of the Parties' respective insurance carriers to fund costs of defense relating to this Action.

19. Counterpart Execution. To facilitate execution, this Agreement may be executed in as many counterparts as may be required, and it shall not be necessary that the signature of each Party appear on each counterpart. It shall be sufficient that the signature of each Party appear on at least one counterpart. All counterparts shall collectively constitute a single Agreement. A signature by any Party transmitted by email, fax or telecopier shall be deemed equivalent to an original signature. Copies of this fully executed Agreement shall be deemed equivalent to the original.

20. Captions and Headings. Captions and headings contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

21. Effective Date. This Agreement shall be deemed fully effective upon the last to occur of: (i) full and proper execution of this Agreement by all Parties; and (ii) the Order of Approval becoming Final and Non-Appealable. Any Party shall at that time be entitled to

enforce this settlement and the provisions of this Agreement. For the avoidance of doubt, the releases set forth above in sections 4, 5(b), and 6(b) shall not be effective until receipt of the Settlement Payment by the Trustee.

22. Notices. All notices, demands, consents, requests, approvals or other notifications or communications required or permitted under this Agreement shall be in writing and be sent by both certified mail and e-mail to:

Notice to the Trustee:

Matthew W. Buttrick, Esq.
Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
Museum Tower
150 W. Flagler Street, Suite 2200
Miami, FL 33130
ddillworth@stearnsweaver.com

Notice to the Ginn Parties:

Lynn F. Chandler, Esq.
Smith Moore Leatherwood, LLP
525 N. Tryon Street, Suite 1400
Charlotte, N.C. 28202
lynn.chandler@smithmoorelaw.com

Notice to the Lubert-Adler Parties:

William A. Harvey, Esq.
Klehr Harrison Harvey Branzburg LLP
1835 Market Street, Suite 1400
Philadelphia, PA 19103
Wharvey@klehr.com

23. Retention of Jurisdiction By The Court. The Bankruptcy Court shall retain the jurisdiction and authority to construe, interpret and enforce this Agreement as necessary.

IN WITNESS WHEREOF, we have hereunto set our hands and seals to this instrument as
of the 16th day of October, 2012.



**Drew M. Dillworth, as Chapter 7 trustee for
the Tesoro Debtors' Estates and the Quail West Debtors' Estates**

Edward R. Ginn III

Edward R. Ginn III Revocable Trust Dated September 14, 2002

By: _____
Edward R. Ginn III, Trustee

ERG Management, LLC

By: _____
Edward R. Ginn III, its Manager

ERG Enterprises, L.P.

By: ERG Management, LLC, its General Partner

By: _____
Edward R. Ginn III, its Manager

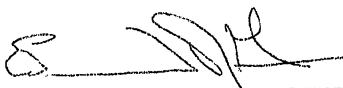
IN WITNESS WHEREOF, we have hereunto set our hands and seals to this instrument as
of the ____ day of October, 2012.

**Drew M. Dillworth, as Chapter 7 trustee for
the Tesoro Debtors' Estates and the Quail West Debtors' Estates**



Edward R. Ginn III

Edward R. Ginn III Revocable Trust Dated September 14, 2002

By: 

Edward R. Ginn III, Trustee


ERG Management, LLC

By: 

Edward R. Ginn III, its Manager

ERG Enterprises, L.P.

By: ERG Management, LLC, its General Partner

By: 

Edward R. Ginn III, its Manager

Lubert-Adler Management Co., L.P.

By: Lubert-Adler Management GP, LLC, its General Partner

By: _____

Name: IRA M. Lubert
Title: Chairman

Lubert-Adler Real Estate Fund III, L.P.

By: Lubert-Adler Group III, L.P., its General Partner

By: Lubert-Adler Group III, LLC, its General Partner

By: _____

Name: Stuart Margulies
Title: Vice President

Lubert-Adler Real Estate Parallel Fund III, L.P.

By: Lubert-Adler Group III, L.P., its General Partner

By: Lubert-Adler Group III, LLC, its General Partner

By: _____

Name: Stuart Margulies
Title: Vice President

Lubert-Adler Capital Real Estate Fund III, L.P.

By: Lubert-Adler Group III, L.P., its General Partner

By: Lubert-Adler Group III, LLC, its General Partner


By: _____

Name: Stuart Margulies
Title: Vice President

Lubert-Adler Real Estate Fund IV, L.P.

By: Lubert-Adler Group IV, L.P., its General Partner

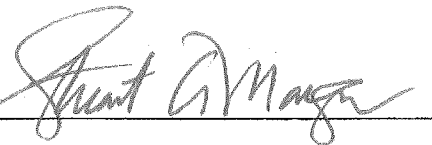
By: Lubert-Adler Group IV, LLC, its General Partner

By: 
Name: _____
Title: **Stuart Margulies**
Vice President

Lubert-Adler Real Estate Parallel Fund IV, L.P.

By: Lubert-Adler Group IV, L.P., its General Partner

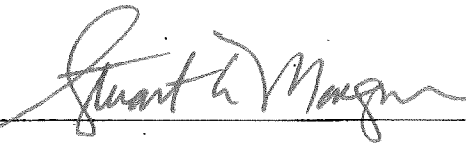
By: Lubert-Adler Group IV, LLC, its General Partner

By: 
Name: _____
Title: **Stuart Margulies**
Vice President

Lubert-Adler Capital Real Estate Fund IV, L.P.


By: Lubert-Adler Group IV, L.P., its General Partner

By: Lubert-Adler Group IV, LLC, its General Partner

By: 
Name: _____
Title: **Stuart Margulies**
Vice President

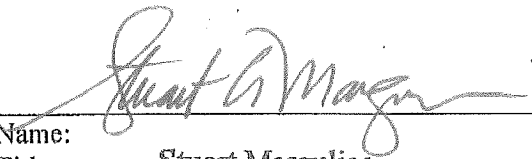
Lubert-Adler Group III, L.P.

By: Lubert-Adler Group III, LLC, its General Partner

By: 
Name: _____
Title: **Stuart Margulies**
Vice President

Lubert-Adler Group IV, L.P.

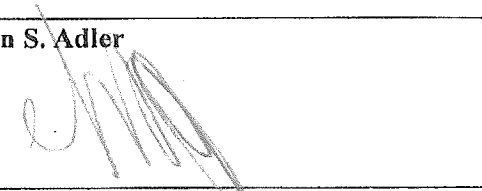
By: Lubert-Adler Group IV, LLC, its General Partner

By: 

Name:

Title:

Stuart Margulies
Vice President



Dean S. Adler



Ira M. Lubert


Lubert-Adler Group IV, L.P.

By: Lubert-Adler Group IV, LLC, its General Partner

By: _____

Name:

Title:



Dean S. Adler

Ira M. Lubert

EXHIBIT A

STIPULATION OF VOLUNTARY DISMISSAL WITH PREJUDICE

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**
www.flsb.uscourts.gov

In re:

CASE NO. 08-29769-PGH

GINN-LA ST. LUCIE LTD., LLLP, *et al.*,

All Cases Jointly Administered

Debtors.

Chapter 7

In re:

(4 Cases Substantively Consolidated
Under Lead Case No. 08-29769-PGH)¹

GINN-LA QUAIL WEST LTD., LLLP, *et al.*,

(3 Cases Substantively Consolidated
Under Lead Case No. 08-29774-PGH)²

Debtors.

DREW M DILLWORTH, Chapter 7 Trustee,

ADV. PRO. NO. 10-02976-PGH

Plaintiff,

vs.

EDWARD R. GINN III, *et al.*,

Defendants.

STIPULATION OF VOLUNTARY DISMISSAL WITH PREJUDICE

Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), as incorporated by Fed. R. Bankr. P. 7041, the parties hereby stipulate to the dismissal, with prejudice, of this adversary proceeding.

Each party shall bear his or its own costs and attorneys' fees.

¹ The "Tesoro Debtors' Estates" (Nos. 08-29769-PGH, 08-29770-PGH, 08-29772-PGH, 08-29773-PGH) are substantively consolidated into Lead Case No. 08-29769-PGH. See ECF Nos. 308, 309. The "Tesoro Debtors" and the last four digits of their respective tax identification numbers are: (i) Ginn-LA St. Lucie Ltd., LLLP – 5632; (ii) Ginn-St Lucie GP, LLC – 0983; (iii) Tesoro Golf Club Condo., LLC – 4385; (iv) The Tesoro Club, LLC – 1917. See 11 U.S.C. § 342(c)(1).

² The "Quail West Debtors' Estates" (Nos. 08-29774-PGH, 08-29775-PGH, and 08-29776-PGH) are substantively consolidated into Lead Case No. 08-29774-PGH. See ECF No. 34. The "Quail West Debtors" and the last four digits of their respective tax identification numbers are: (i) Ginn-LA Quail West Ltd., LLLP – 2397; (ii) Ginn-Quail West Beach, LLC – 9142; and (iii) Ginn-Quail West GP, LLC – 6313. See 11 U.S.C. § 342(c)(1).

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& SITTERSON, P.A.
Counsel for Plaintiff
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Telephone: (305) 789-3200

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Harold D. Moorefield, Jr.
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Matthew W. Buttrick
Fla Bar No. 176028
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Telephone: (305) 377-0655

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Adler Real Estate Fund III, L.P.; Lubert-Adler Real Estate
Parallel Fund III, L.P.; Lubert-Adler Capital Real Estate
Fund III, L.P.; Lubert-Adler Real Estate Fund IV, L.P.;
Lubert-Adler Real Estate Parallel Fund IV, L.P.; Lubert-
Adler Capital Real Estate Fund IV, L.P.; Lubert-Adler
Group III, L.P.; Lubert-Adler Group IV, L.P.; Dean Adler;
and Ira Lubert
1835 Market Street, Suite 1400
Philadelphia, PA 19103

By: /s/ William A. Harvey
William A. Harvey
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wharvey@klehr.com
Rona J. Rosen
Admitted Pro Hac Vice
rrosen@klehr.com

BERGER SINGERMAN, P.A.

Counsel to Lubert-Adler Management Co., L.P.; Lubert-Adler Real Estate Fund III, L.P.; Lubert-Adler Real Estate Parallel Fund III, L.P.; Lubert-Adler Capital Real Estate Fund III, L.P.; Lubert-Adler Real Estate Fund IV, L.P.; Lubert-Adler Real Estate Parallel Fund IV, L.P.; Lubert-Adler Capital Real Estate Fund IV, L.P.; Lubert-Adler Group III, L.P.; Lubert-Adler Group IV, L.P.; Dean Adler; and Ira Lubert

1835 Market Street, Suite 1400
Philadelphia, PA 19103

By: /s/ Paul Steven Singerman

Paul Steven Singerman

Fla. Bar No. 378860

singerman@bergersingerman.com

ROPES & GRAY LLP

Counsel to the “Major University Defendants”

Prudential Tower

800 Boylston Street

Boston, MA 02199

By: /s/ D. Ross Martin

D. Ross Martin

Admitted Pro Hac Vice

ross.martin@ropesgray.com

BILZIN SUMBERG BAENA PRICE & AXELROD, LLP

Counsel to the “Major University Defendants”

1450 Brickell Avenue, Suite 2300

Miami, FL 33131

By: /s/ Scott L. Baena

Scott L. Baena

Fla. Bar No. 186445

sbaena@bilzin.com

SMITH HULSEY & BUSEY
Counsel to the “Investor Defendants”
225 Water Street, Suite 1800
Jacksonville, FL 32202

By: /s/ Stephen D. Busey
Stephen D. Busey
Fla. Bar No. 117790
busey@smithhulsey.com

EXHIBIT B

CERTIFICATION REGARDING REQUEST FOR REIMBURSEMENT OF EXPENSES, WITH SUMMARY OF REQUESTED REIMBURSEMENT OF EXPENSES THROUGH SEPTEMBER 30, 2012

**CERTIFICATION REGARDING REQUEST FOR
REIMBURSEMENT OF EXPENSES**

1. I have been designated by Trustee Drew M. Dillworth (“Trustee Dillworth”) and the law firm of Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A. (“Stearns Weaver”) as the professional with responsibility in these jointly administered cases for compliance with the current Guidelines for Fee Applications For Professionals in the Southern District of Florida in Bankruptcy Cases (the “Guidelines”).

2. I have read Trustee Dillworth’s Motion to Approve Settlement of Adversary Proceeding Against Ginn, Lubert-Adler, et al., and to Authorize Payment of Amounts Due Under Order Approving Employment of Special Litigation Counsel (the “Motion”), which includes a request for reimbursement of costs of litigation and other related expenses. The Motion complies with the Guidelines, and the expenses sought fall within the Guidelines, except as specifically described below.

3. The expenses sought are billed at rates and in accordance with practices customarily employed by Stearns Weaver and generally accepted by Stearns Weaver clients.

4. In seeking reimbursement for the expenditures described in the attachment hereto, Stearns Weaver is seeking reimbursement only for the actual expenditure and has not marked up the actual cost to provide a profit or to recover the amortized cost of investment in staff time or equipment or capital outlay (except to the extent that Stearns Weaver has elected to charge for in-house photocopies and outgoing facsimile transmissions at the maximum rates permitted by the Guidelines).

5. In seeking reimbursement for any service provided by a third party, Stearns Weaver is seeking reimbursement only for the amount actually paid by Stearns Weaver to the third party.

6. The Motion presents no variances with the provisions of the Guidelines for requesting reimbursement of expenses, except as follows:

- (a) the Motion seeks reimbursement for photocopies made in house in *color* at \$1.00 per page, which is the rate customarily employed by Stearns Weaver and accepted by Stearns Weaver clients (the Guidelines do not specify what an applicant may charge for copies made in house in color);
- (b) the Motion seeks reimbursement for Stearns Weaver's share of the mediator's fee and invoiced expenses (the Guidelines do not specify whether mediation expenses are allowable or non-allowable).

We submit those charges were necessary, and are reasonable, and should therefore be reimbursed.

Dated: October 16, 2012

Respectfully submitted,

STEARNS WEAVER MILLER WEISSLER
ALHADEFF & SITTERSON, P.A.

Attorneys for Drew M. Dillworth,
Chapter 7 Trustee of the Tesoro Debtors' Estates
and the Quail West Debtors' Estates

Museum Tower, Suite 2200
150 West Flagler Street
Miami, Florida 33130
Telephone: (305) 789-3200
Facsimile: (305) 789-3395

By: /s/ Harold D. Moorefield, Jr.
HAROLD D. MOOREFIELD, JR.
Florida Bar No. 239291
hmoorefield@stearnsweaver.com

**Summary of Requested Reimbursement of Expenses
Through September 30, 2012**

1.	Filing Fees	\$250.00
2.	Process Service Fees	\$265.00
3.	Expert Witness Fees – Per Order Entered in Lead Case at ECF No. 505, Granting Leave to Employ Professionals in Connection With Adv. Pro. 10-02976-PGH	\$152,216.00
4.	Court Reporter Fees and Transcripts	\$2,717.20
5.	Lien and Title Searches	\$0.00
6.	Photocopies – In House – 143,162 B&W Copies @ \$0.15/Page	\$21,474.30
	Photocopies – In House – 6,707 Color Copies @ \$1.00/Page	\$6,707.00
	Photocopies / Imaging / Printing – Outside – @ Actual Cost	\$24,273.29
7.	Postage	\$3,276.49
8.	Overnight Delivery Charges	\$277.65
9.	Outside Courier / Messenger Services	\$248.52
10.	Long Distance Telephone Charges	\$376.72
11.	Long Distance Fax Transmissions – 47 Pages @ 1.00/Page	\$47.00
12.	Computerized Research	\$38,024.61
13.	Travel to Atlanta, GA for Document Review – July 2010 Matthew W. Buttrick, Esq. and Andrew E. Stearns, Esq. Airfare and Lodging @ Actual Cost	\$1,328.52
14.	Other – Mediator Fee and Expenses	\$3,434.69
Total Requested Reimbursement		\$254,916.99

Copies of supporting documents for the above expenses will be made available upon request.