

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE: TRIBUNE COMPANY FRAUDULENT CONVEYANCE
LITIGATION (the "MDL")

Consolidated Multidistrict Action
11 MD 2296 (RJS)

THIS DOCUMENT RELATES TO:

MARC S. KIRSCHNER, AS LITIGATION TRUSTEE FOR THE
TRIBUNE LITIGATION TRUST v. DENNIS J. FITZSIMONS, *et*
al. (the "Action")

12 CV 2652 (RJS)

SETTLEMENT AGREEMENT

This settlement agreement is hereby made and entered into as of this ____ day of ____ 2018 (the "Agreement") between and among _____ (the "Defendant") and plaintiffs Marc S. Kirschner, as Litigation Trustee for the Tribune Litigation Trust (the "Litigation Trust Plaintiff") established under the Litigation Trust Agreement in connection with the Fourth Amended Joint Plan of Reorganization for Tribune Company and Its Subsidiaries, confirmed by order of the Bankruptcy Court dated July 23, 2012 (the "Plan"), Deutsche Bank Trust Company Americas, in its capacity as successor indenture trustee for a certain series of Senior Notes issued by Tribune Company ("DBTCA"), Delaware Trust Company, in its capacity as successor trustee-in-interest to Law Debenture Trust Company of New York for a certain series of Senior Notes issued by Tribune Company ("Delaware Trust"), and Wilmington Trust Company, in its capacity as successor indenture trustee for a certain series of Exchangeable Subordinated Debentures issued by Tribune Company and commonly referred to as the PHONES Notes ("Wilmington Trust" and together with DBTCA and Delaware Trust, the "Note Holder Plaintiffs"), and the individual retiree plaintiffs of The Times Mirror Company, the Tribune Company and/or one or more of 110 affiliates or subsidiaries of the Tribune Company (the "Retiree Plaintiffs" and, together with the Litigation Trust Plaintiff and the Note Holder Plaintiffs, the "Plaintiffs" and, together with Defendant, collectively the "Parties"), for good and

valuable consideration, the receipt of which is hereby acknowledged.

WHEREAS, Defendant is a named defendant in Count One (the "FitzSimons IFT Claim"), and would be named a defendant in the proposed Count One-B (the "FitzSimons CFT Claim") of the Action, an adversary proceeding that was filed by the Official Committee of Unsecured Creditors of Tribune Company (the "Committee Plaintiff"), as predecessor to the Litigation Trust Plaintiff, in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"), and transferred to the United States District Court for the Southern District of New York (the "SDNY Court") for coordinated or consolidated pretrial proceedings;

WHEREAS, the Committee Plaintiff received standing to assert the FitzSimons IFT Claim and the FitzSimons CFT Claim on behalf of Tribune Company ("Tribune") and other related entities (together the "Tribune Debtors") by order of the Bankruptcy Court dated October 27, 2010;

WHEREAS, the Plan became effective on December 31, 2012, at which time the Litigation Trust Plaintiff succeeded the Committee Plaintiff as plaintiff in the Action;

WHEREAS, Defendant may be a member of one or more putative defendant classes in the Action and various actions brought by the Note

Holder Plaintiffs and consolidated within the MDL;

WHEREAS the Action alleges, *inter alia*, that Defendant was a legal or beneficial owner of Tribune's common stock that was purchased, repurchased, or redeemed by Tribune in connection with the leveraged buyout of Tribune in 2007 (the "LBO") and directly or indirectly received cash from Tribune in exchange for such stock (the "Shareholder Transfers") in connection with either or both of Step One of the LBO (in or around June 2007) or Step Two of the LBO (in or around December 2007);

WHEREAS the Action further alleges that the Shareholder Transfers were fraudulent transfers and that Defendant is liable to, *inter alia*, disgorge, turn over and pay as damages the full amount of the Shareholder Transfers, plus prejudgment interest running from the date of such Shareholder Transfers;

WHEREAS for settlement purposes, on information and belief, Defendant acknowledges it received Shareholder Transfers in the following amounts:

Step One: \$ _____

Step Two: \$ _____

WHEREAS the above referenced Shareholder Transfers are hereinafter collectively referred to as "Defendant's Shareholder Transfers";

WHEREAS, pursuant to the terms set forth herein, the Parties desire to settle and compromise their differences respecting the Action and the actions brought by the Note Holder Plaintiffs and Retiree Plaintiffs in order to avoid the expense and inconvenience of litigation;

WHEREAS, the Plan contains in Section V.C a Bar Order that, *inter alia*, bars Defendant from asserting certain claims for non-contractual indemnification or contribution;

WHEREAS, all the Plaintiffs in this matter intend to be bound by this Settlement Agreement.

WHEREAS, Plaintiffs have appointed Kurtzman Carson Consultants, LLC ("KCC") to act as Settlement Administrator in connection with this Agreement and to undertake the tasks specified herein,

WHEREAS, Akin Gump Strauss Hauer & Feld LLP is authorized by the Note Holder Plaintiffs to approve and execute certain settlements of claims asserted by the Note Holder Plaintiffs; and the Note Holder Plaintiffs have authorized Akin Gump Strauss Hauer & Feld LLP as counsel for the Note Holder Plaintiffs, to execute this Settlement Agreement on behalf of the Note Holder Plaintiffs.

WHEREAS, Teitelbaum Law Group, LLC represents that the Retiree Plaintiffs have authorized the Steering Committee of Retirees, composed of Efrem Zimbalist, III, James Simpson, Richard Schlosberg, Thomas Johnson and William Niese (the "Retiree Steering Committee") to approve and execute settlements of claims potentially asserted by the Retiree Plaintiffs; and the Retiree Steering Committee has authorized Jay Teitelbaum of Teitelbaum Law Group, LLC, as counsel and attorney-in-fact for the Retiree Plaintiffs, to execute this Settlement Agreement on behalf of the Retiree Plaintiffs;

NOW, THEREFORE, in consideration of the promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Recitals Incorporated by Reference. The foregoing recitals are hereby incorporated by reference into this Agreement.

2. Non-Prejudice and Construction of Agreement. The Parties understand and agree that this Agreement is a compromise in settlement of disputed claims and is not, and shall not be construed as, an admission of liability, fault, wrongdoing, or the absence thereof by any of the Parties.

3. Settlement Payment. Within fourteen (14) days of receipt of a copy of this Agreement executed by all Parties, or April 17, 2018, whichever comes first, the Defendant shall deliver to KCC a check, money order, wire transfer or cashier's check in the amount of _____ (\$ _____) (the "Settlement Payment") payable to the order of "KCC, Tribune MDL Settlement Administrator." The amount of the Settlement Payment equals the sum of (i) the Step One transfer amount times 0.225 and (ii) the Step Two transfer amount times 0.45. Plaintiffs agree that payment to KCC in accordance with this Agreement constitutes payment to Plaintiffs, and Defendant shall have no

obligation for the delivery or distribution of the Settlement Payment from KCC to Plaintiffs.

4. Releases.

a. Plaintiffs' Release. Effective upon receipt of the Settlement Payment by KCC, (i) the Litigation Trust Plaintiff, including the Litigation Trustee, on behalf of themselves, the Tribune Debtors and the Tribune Debtors' estates, (ii) the Note Holder Plaintiffs on behalf of themselves, and on behalf of the holders of Senior Notes or PHONES Notes for whom they act as Successor Indenture Trustee, (iii) the Retiree Plaintiffs on behalf of themselves, and (iv) each of their respective assigns, attorneys, insurers, beneficiaries, employees, officers, directors, shareholders, direct and indirect parents, subsidiaries, parties, affiliates, partners, legal and equitable owners, members, predecessors in interest, successors in interest, representatives, spouses, heirs, executors, and administrators solely in their capacity as such that the Litigation Trust Plaintiff, the Note Holder Plaintiffs, or the Retiree Plaintiffs have the ability to bind, hereby release and forever discharge Defendant, its respective predecessors, successors, heirs, executors, administrators, and assigns, all of their past and present, direct and indirect parents, subsidiaries, affiliates, shareholders, members, partners, legal and equitable owners, and all of their respective past and present attorneys, accountants, insurers, beneficiaries, employees, officers, directors, managers, trustees, and representatives, solely in their capacity as such (collectively the "Defendant Released Parties") from any and all present, past, or future claims, demands, debts, losses, offsets, obligations, warranties, costs, expenses, rights of action, and causes of action of every kind and nature whatsoever, whether based on contract, tort, statutory, or other legal or equitable theory of recovery, whether known or unknown, suspected or unsuspected, existing, or claimed to exist, and whether arising in the past or future, seeking recovery of Defendant's Shareholder Transfers, or seeking damages on account of or other relief specifically associated with Defendant's Shareholder Transfers, including claims for a constructive trust, post-petition interest and/or prejudgment interest (collectively the "Plaintiffs' Released Claims"). The foregoing release does not include, *inter alia*, the matters set forth in Paragraph 4.d or claims or rights arising out of or seeking to enforce this Agreement.

b. Defendant's Release. Effective upon receipt of the Settlement Payment by KCC, Defendant, on behalf of itself, and its respective assigns, attorneys, insurers, beneficiaries, employees, officers, directors, shareholders, direct and indirect parents, subsidiaries, parties, affiliates, partners, legal and equitable owners, members, predecessors in interest, successors in interest, heirs, executors, administrators, trustees, representatives and spouses that it has the ability to bind, solely in their capacity as such, hereby releases and forever discharges the Plaintiffs, their respective predecessors, successors, heirs, executors, administrators, and assigns, all of their past and present, direct and indirect parents, subsidiaries, affiliates, shareholders, members, partners, legal and equitable owners, and all of their respective past and present attorneys, accountants, insurers, beneficiaries, employees, officers, directors, managers and representatives from any and all present, past, or future claims, demands, debts, losses, offsets, obligations, warranties, costs, expenses, rights of action, judgment reduction, and causes of action of every kind and nature whatsoever, whether based on contract, tort, statutory, or other legal or equitable theory of recovery, whether known or unknown, suspected or unsuspected, existing, or claimed to exist, and whether arising in the past or future, respecting Defendant's Shareholder Transfers that are the subject matter of this litigation. The foregoing release does not include, *inter alia*, the matters set forth in Paragraph 4.d or claims or rights arising out of or seeking to enforce this Agreement.

c. Waiver of California Civil Code § 1542 and Similar Provisions. The Parties acknowledge the risk that, subsequent to the execution of this Agreement, they may discover, incur, or suffer damages based upon claims concerning Defendant's Shareholder Transfers which were unknown or unanticipated at the time this Agreement was executed and which are within the scope of the releases provided for by this Agreement. The Parties acknowledge that they are assuming the risk of such unknown and unanticipated claims and agree that this Agreement applies to such unknown and unanticipated claims. As such, the Parties expressly waive the benefits of California Civil Code § 1542, and any similar provision in any jurisdiction other than California. California Civil Code § 1542 provides:

A GENERAL RELEASE DOES NOT
EXTEND TO CLAIMS WHICH THE

CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

d. For the avoidance of any doubt, Plaintiffs' Released Claims include all claims for recovery of, or damages incurred as a result of, Defendant's Shareholder Transfers, but do not include present, past, or future claims, demands, debts, losses, offsets, obligations, warranties, costs, expenses, rights of action, and causes of action of every kind and nature whatsoever, whether based on contract, tort, statutory, or other legal or equitable theory of recovery, whether known or unknown, suspected or unsuspected, existing, or claimed to exist, and whether arising in the past or future (i) relating to any Shareholder Transfers other than Defendant's Shareholder Transfers, which may have been received by any of the Defendant Released Parties or for which any Defendant Released Parties may be proper party defendants; (ii) against any of the Defendant Released Parties based in full or in part on any role, act or omission by any Defendant Released Party in connection with the Tribune LBO other than Defendant's receipt of Defendant's Shareholder Transfers; (iii) relating to any claims asserted against any Defendant Released Party under Section 547 of the Bankruptcy Code; or (iv) relating to any claims transferred to the Litigation Trust created under Article XIII of the Plan, other than the FitzSimons IFT Claim and the FitzSimons CFT Claim.

5. Dismissal of Defendants.

a. Dismissal by Litigation Trust Plaintiff. Within five (5) business days after KCC's receipt of the Settlement Payment, the Litigation Trust Plaintiff shall file a notice of dismissal of the Action with prejudice as to Defendant in the form attached hereto as Exhibit A. To the extent Defendant is or becomes a defendant in the Action on one or more claims carved out by Paragraph 4.d from the Releases provided for herein, the dismissal with prejudice called for by this paragraph shall not preclude, pursuant to the doctrines of claim or issue preclusion or impede in any other way, Plaintiffs' assertion of such claim or claims encompassed by Paragraph 4.d.

b. Dismissal by Note Holder Plaintiffs. The actions filed by the Note Holder Plaintiffs (the "Note Holder Actions") and the Retiree Plaintiffs (the "Retiree Actions") were previously dismissed but presently are on appeal. Should the Note Holder Actions or the Retiree Actions be reinstated as a result of the appeal or otherwise, within twenty (20) days after the issuance of the mandate from the appellate court the Note Holder Plaintiffs and/or Retiree Plaintiffs shall file in the district court a notice of dismissal with prejudice as to any Defendant individually named as a Defendant, or otherwise file a notice excluding Defendant from any putative class of defendants. To the extent Defendant is or becomes a defendant in the Note Holder Actions or Retiree Actions on one or more claims carved out by Paragraph 4.d from the Releases provided for herein, the dismissal with prejudice or notice of exclusion called for by this paragraph shall not preclude, pursuant to doctrines of claim or issue preclusion, or impede in any other way, Plaintiffs' assertion of such claim or claims encompassed by Paragraph 4.d.

6. Representation and Warranty Respecting Defendant's Shareholder Transfers. Defendant hereby represents and warrants to Plaintiffs, following a review by Defendant and/or its counsel of all reasonably available applicable sources of information, that Defendant, including for purposes of this Paragraph 6 accounts or entities beneficially owned by Defendant, did not directly or indirectly receive Shareholder Transfers in excess of Defendant's Shareholder Transfers. To the extent Plaintiffs receive information reasonably likely to establish that Defendant, or accounts or entities beneficially owned by Defendant, did directly or indirectly receive Shareholder Transfers in excess of Defendant's Shareholder Transfers of at least \$3,400, Plaintiffs shall have the option to declare this Agreement void and reinstate or refile the Action and the applicable Note Holder Action as to Defendant provided that Plaintiffs return the Settlement Payment to Defendant within sixty (60) days of reinstating the Action. The Action so reinstated shall be wholly without prejudice to Plaintiffs' rights to pursue such action, notwithstanding (i) this Agreement, (ii) the prior dismissal, or (iii) the passage of time, or any otherwise applicable statutes of limitations or repose, the doctrine of laches or any other similar laws, rules or doctrines, and all other potential time-based defenses (collectively, the "Limitations Defenses"), which are waived in the event that the Action is reinstated or refiled to the extent such Limitations Defenses arose between and including

the date this Agreement was executed and the date four months after the close of fact discovery in the Action. Nothing herein is intended to revive a claim that was time-barred as of the date of this Agreement. To the extent Plaintiffs do not return the Settlement Payment to Defendant within sixty (60) days, Defendant may interpose the releases provided for in Paragraph 4 of this Agreement as a defense to any action filed or refiled against Defendant and Plaintiffs shall not oppose dismissal of such action(s) on that basis.

7. Bar Order.

a. The Bar Order is excerpted and attached hereto as Exhibit B and is incorporated by reference as if fully set forth herein, as are all definitions contained in the Plan relating to the Bar Order.

b. Defendant hereby waives, dismisses and releases, and shall not assert, any Barred Claim (as defined in the Plan) against any of the Released Parties (as defined in the Plan).

c. Defendant hereby further waives, dismisses and releases, and shall not assert any claim, defense, counterclaim, right or remedy arising out of or relating to the judgment reduction provisions of the Plan, portions of which are excerpted and included in Exhibit B attached hereto.

d. Defendant hereby further waives, dismisses and releases, and shall not assert, any claim, defense, counterclaim, right or remedy seeking non-contractual indemnification or contribution against any other person or entity named as a defendant in the Action or any other actions commenced by the Committee Plaintiff or the Litigation Trust Plaintiff on behalf of the Debtors' Estates or within any putative or certified class of defendants named in the Action or any action commenced by the Note Holder Plaintiffs (collectively "Other Defendants"). Plaintiffs represent and warrant that, in connection with a settlement with any Other Defendant, they will make commercially reasonable efforts to obtain such Other Defendant's agreement to a provision precluding such settling Other Defendant from asserting any claim or defense of non-contractual indemnification or contribution against Defendant.

e. By including this Paragraph 7 the parties hereto do not in any respect assert or concede (and reserve the right to explicitly dispute) that Defendant has any claims for non-contractual

indemnification or contribution against any Released Party or Other Defendant, or that any Released Party or Other Defendant has any claims for non-contractual indemnification or contribution against Defendant.

8. Admissibility of Agreement. The Parties hereto agree that this Agreement and the negotiations surrounding this Agreement shall not be admissible in any arbitration, suit, action or other proceeding, except as shall be necessary or appropriate to enforce the terms of this Agreement.

9. No Modification. No change or modification of this Agreement shall be valid unless it is contained in writing and signed by all Parties.

10. No Other Consents.

a. Defendant represents and warrants that no consent or agreement from any court, or of any person or entity other than Defendant, is required for Defendant to execute, deliver, and perform under this Agreement.

b. Plaintiffs represent and warrant that no consent or agreement from any court, or of any person or entity other than Plaintiffs, is required for Plaintiffs to execute, deliver, and perform under this Agreement.

11. Representations. The Parties each represent and warrant for themselves (and not for any other Party) that: (a) the person executing this Agreement on such Party's behalf has full authority to do so; and (b) as of the execution of this Agreement, such Party has not sold, assigned, granted, or transferred to any individual or entity their rights in full or in part for any claims, defenses or counterclaims associated with the Action.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York, without regard to the conflicts of laws or choice of laws principles thereof.

13. Integration. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior discussions, agreements, and understandings, both written and oral, between the Parties with respect hereto. The Parties acknowledge that they have not relied on any statements, representations, promises, or

agreements of any kind other than what is expressly contained in this Agreement, made by or on behalf of any Party released hereby.

14. Severability. In the event that any provision of this Agreement is held to be void, voidable, unlawful, or otherwise unenforceable, the remaining terms of this Agreement shall remain in full force and effect.

15. Cost of Litigation. Each Party agrees to bear its own attorneys' fees and costs incurred in connection with the prosecution and/or defense of the Action and the negotiation and preparation of this Agreement.

16. Execution. This Agreement may be executed in one or more counterparts, with the same force and effect as if executed in one complete document. This Agreement shall not be effective unless it is signed by Defendant and is received by Akin Gump Strauss Hauer & Feld LLP prior to the issuance of an opinion or other dispositive order in *Merit Mgmt. Grp., LP v. FTI Consulting, Inc.*, Supreme Court Docket No. 16-784, in any event no later than April 17, 2018.

17. Facsimile Signature Deemed Original. This Agreement may be signed and delivered by facsimile or PDF transmission, and such facsimile or PDF documents shall be deemed originals and binding upon the signatories upon receipt by the Party to whom the facsimile or PDF transmission is sent.

18. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective predecessors, successors and assigns.

19. Duty to Cooperate. The Parties hereto expressly agree to execute such other documents in a timely manner and to take such other timely action as may be reasonably necessary to further the purpose of this Agreement.

20. Interpretation of Agreement. In the event that any provision of this Agreement requires interpretation, it is agreed by the Parties that any statutory or common law rule requiring that a document be construed against the Party who (by itself or through its agent) prepared the document shall be inapplicable.

21. Parties Rely on Own Judgment. The Parties hereto, and each of them, represent and declare that in executing this Agreement, they rely solely upon their own judgment, belief and knowledge, and on the advice and recommendations of their own independently selected counsel, concerning the nature, extent and duration of their rights and claims and that they have not been influenced to any extent whatsoever in executing the same by any representations or statements extrinsic to this Agreement regarding any matters made by any of the Parties hereto or by any person representing them or any of them. The Parties acknowledge that no Party hereto nor any of their representatives has made any promise, representation or warranty whatsoever, written or oral, as any inducement to enter into this Agreement, except as expressly set forth in this Agreement.

[Defendant]

Name: _____
Title: _____
Date: _____
Address: _____

Phone: _____
Fax: _____
E-mail: _____

**Marc S. Kirschner, as Litigation Trustee for
the Tribune Litigation Trust**

**Akin Gump Strauss Hauer & Feld LLP, as
Counsel for Delaware Trust Company (as
successor trustee-in-interest to Law Debenture
Trust Company of New York), Deutsche Bank
Trust Company Americas, and Wilmington Trust
Company**

Date: _____

Kirschner Consulting Company
1120 Park Avenue, Suite 18A
New York, NY 10128
Phone: (212) 860-7577
Fax: (212) 722-0349
E-mail: mskirschner@kirschnerconsulting.com

Name: _____
Title: _____
Date: _____

Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036
Phone: (212) 872-1000
Fax: (212) 872-1002
E-mail: dzensky@akingump.com

**Jay Teitelbaum, as Counsel and Attorney-in-Fact
for the Retiree Plaintiffs**

Date: _____

Teitelbaum Law Group, LLC
1 Barker Avenue, 3rd Floor
White Plains, NY 10601
Phone: (914) 437-7670
Fax: (914) 437-7672
E-mail: jteitelbaum@tblawllp.com

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE: TRIBUNE COMPANY FRAUDULENT CONVEYANCE LITIGATION	Consolidated Multidistrict Action 11 MD 2296 (RJS)
THIS DOCUMENT RELATES TO: MARC S. KIRSCHNER, AS LITIGATION TRUSTEE FOR THE TRIBUNE LITIGATION TRUST v. DENNIS J. FITZSIMONS, <i>et al.</i>	12 CV 2652 (RJS)

PLAINTIFF'S NOTICE OF VOLUNTARY DISMISSAL

Pursuant to Federal Rule of Civil Procedure 41(a)(1) and the terms, conditions, and limitations of a Settlement Agreement, dated _____, 2018, between the parties, Plaintiff Marc S. Kirschner, as Litigation Trustee for the Tribune Litigation Trust, hereby gives notice that he is dismissing the above-entitled action with prejudice solely against the defendant or defendants listed below:

- [Defendant]

Dated: _____, 2018

Respectfully submitted,

David Zensky, Esq.
AKIN GUMP STRAUSS HAUER & FELD LLP
One Bryant Park
New York, NY 10036-6745
Phone: (212) 872-1000
Fax: (212) 872-1002

*Counsel for Plaintiff Marc S. Kirschner,
as Litigation Trustee for the Tribune Litigation Trust*

EXHIBIT B

C. BAR ORDER.

1. It is hereby ordered that all (i) Non-Settling Defendants; (ii) Released Parties; (iii) Persons who have voted for or against the DCL Plan or who are presumed to have voted for or against the DCL Plan under Section 1126(f)-(g) of the Bankruptcy Code; and (iv) any other Persons that hold, have held or may hold a Claim or other debt or liability, or an Interest or other right of an equity holder, against, in or relating to any of the Debtors or their respective estate (collectively, the “Barred Persons”), are hereby permanently barred, enjoined and restrained from commencing, prosecuting, or asserting in this Court, in any federal or state court, or in any other court, arbitration proceeding, administrative agency, or other forum in the United States or elsewhere any claim for non-contractual indemnity or contribution against any Released Party (including any other non-contractual claim against the Released Parties, whether or not denominated as for contribution or indemnity, where the injury to the Barred Person is the liability of the Barred Person to the Plaintiff (as defined below)), arising out of or reasonably flowing from the claims or allegations in any of the Released Claims, the Preserved Causes of Actions, or the Disclaimed State Law Avoidance Claims, whether arising under state, federal or foreign law as claims, cross-claims, counterclaims, or third-party claims (collectively, the “Barred Claims”). Barred Claims shall not include any claim for non-contractual indemnity or contribution against any Released Party solely in its capacity, if any, as a Selling Stockholder. If a court or tribunal determines that Barred Claims exist that would have given rise to liability of any Released Party to a Barred Person but for this Order, the Barred Persons are also entitled to the judgment reduction provisions set forth herein. This Order (the “Bar Order”) is without prejudice to the position of any party as to the existence, in the absence of this Bar Order, of any Barred Claim; and it is further

2. Ordered that in the event any Person asserts a Preserved Cause of Action or a Disclaimed State Law Avoidance Claim (a “Plaintiff”) against any Barred Person with respect to one or more Preserved Causes of Action or Disclaimed State Law Avoidance Claims based upon, arising from, or related to the facts, allegations, or transactions underlying any Released Claims (the “Action”), then, prior to entry of any judgment or arbitration award (“Judgment”) in the Action, the Plaintiff shall provide notice of this Bar Order to the court or tribunal hearing the Action. Such court or tribunal shall determine whether the Action gives rise to Barred Claims on which Released Parties would have been liable to the Barred Persons in the absence of this Bar Order. If the court or tribunal so determines, it shall reduce any Judgment against such Barred Person in an amount equal to (a) the amount of the Judgment against any such Barred Person times (b) the aggregate proportionate share of fault (expressed as a percentage) of the Released Party or Parties that would have been liable on a Barred Claim in the absence of this Bar Order expressed as a percentage of the aggregate fault of (i) the Barred Person, (ii) such Released Party or Parties, and (iii) all other Persons determined by such court or tribunal to be liable to the Barred Person in connection with the Action, whether or not such Persons are sued in such Action. Nothing herein shall prejudice or operate to preclude the right of any defendant in such Action to (i) provide notice of this Bar Order to the court or tribunal hearing the Action at any point, or (ii) raise any issues, claims or defenses regarding judgment reduction or proportionate share of fault in the court or tribunal hearing the Action at any point in accordance with applicable law or procedure and this Bar Order. For the avoidance of doubt, nothing herein shall be deemed to entitle a Plaintiff to more than a single satisfaction with respect to any Preserved Causes of Action or Disclaimed State Law Avoidance Claims; and it is further

3. Ordered that nothing herein shall prejudice or operate to preclude the rights of any Barred Person to assert any claims or causes of action (including, without limitation, any direct or personal claims or causes of action), other than claims for non-contractual indemnity or contribution against any Released Party as set forth above. For the avoidance of doubt, the provisions of this Bar Order, including the judgment reduction provisions set forth herein, shall not apply to (i) any contractual indemnity; (ii) any claim for which a court determines joint liability does not exist as a matter of law, equity or fact as between any Barred Person and any Released Party; or (iii) any claims for non-contractual indemnity or contribution asserted with respect to claims or causes of action that are brought by any Person other than (a) the Litigation Trust; (b) any Person asserting a claim on behalf of the Debtors’ estates; (c) any Person asserting a Preserved Cause of Action; or (d) any Person asserting a Disclaimed State Law Avoidance Claim; and it is further

4. Ordered that if any Plaintiff enters into a settlement with any Person with respect to one or more causes of action based upon, arising from, or related to the Released Claims or any transaction underlying any Released Claim, then such Plaintiff shall cause to be included, and in all events, the settlement shall be deemed to include, a dismissal, release and waiver of any Barred Claims with respect to such settlement; and it is further

5. Ordered that each Plaintiff is hereby enjoined and restrained from seeking relief or collecting judgments against any Non-Settling Defendants in any manner that fails to conform to the terms of this Bar Order, including, without limitation, the proportionate judgment reduction provision set forth herein; and it is further

6. Ordered that this Court shall retain continuing jurisdiction with respect to all matters concerning this Bar Order, including, without limitation, hearing a petition for relief by a Barred Person or any other party in interest in the event that a court or tribunal hearing the Action fails to apply the judgment reduction provisions of this Bar Order.