

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

In re:

AA FLORIDA BRIDAL RETAIL
COMPANY, LLC, et al.,

Debtors.

Case No. 17-18864-MAM

Chapter 7

**TRUSTEE’S MOTION (I) TO APPROVE AGREEMENT TO COMPROMISE
CONTROVERSY AND SETTLEMENT OF DIRECTOR AND OFFICER LIABILITY
CLAIMS; (II) TO APPROVE BAR ORDER; AND (III) FOR PAYMENT OF
CONTINGENCY FEE TO BAST AMRON LLP FROM SETTLEMENT FUNDS**

(EVIDENTIARY HEARING REQUESTED)

Margaret J. Smith, in her capacity as the duly appointed Chapter 7 trustee for the bankruptcy estates (the “Estate”) of AA Florida Bridal Retail Company, LLC (“Alfred Angelo”) and its related affiliates¹ (collectively, the “Debtor”), through counsel and pursuant to Rules 2002 and 9019 of the Federal Rules of Bankruptcy Procedure, and Section 105 of the United States Bankruptcy Code, files her Motion (I) to Approve Agreement to Compromise Controversy and Settlement of Director and Officer Liability Claims; (II) to Approve Bar Order; and (III) for Payment of Contingency Fee to Bast Amron LLP From Settlement Funds (the “Motion”), and as good cause for same, states as follows:

¹ The Debtors are: AA Florida Bridal Retail Co., LLC (Case No. 17-18864); Alfred Angelo – The Bride’s Studio No. 3, Inc. (Case No. 17- 18871); AA Bridal Midwest, LLC (Case No. 17-18873); AA Bridal Northeast, LLC (Case No. 17-18874); AA Bridal, LLC (Case No. 17-18877); BridesMart, LP (Case No. 17-18879); Hacienda Brides (Case No. 17-18881); DJ Fashions, LLC (Case No. 17-18882); AA Bridal Nebraska, LLC (Case No. 17-18883); Alfred Angelo Investment China I (Case No. 17-18887); Alfred Angelo Investment China III (Case No. 17-18888); Zhuhai Haiping Wedding DRESS Design LTD (Case No. 17-18896); Alfred Angelo Investment Company, Limited (Hong Kong) (Case No. 17-18898); and Alfred Angelo Newco, Inc. (Case No. 17-18900).

I. Summary of Requested Relief

1. By this Motion, the Trustee moves for the following: (a) approval by this Court of a settlement between, on the one hand, the Trustee and the Bankruptcy Estate, and on the other (i) National Union Fire Insurance Company of Pittsburgh, Pa. (the “Insurer”), and the following former directors and officers of the Debtors: (ii) Richard Anders (“Anders”), (iii) Vanessa McIntosh (“McIntosh”), (iv) Paul Quentel (“Quentel”), (v) Martin Weinberg (“Weinberg”), and (vi) Stephen Czech (“Czech”),² on the terms and conditions set forth in the Settlement Agreement to Resolve, Release, and Bar Claims (the “Agreement”),³ a true and correct copy of which is attached hereto as **Exhibit A** and incorporated by reference; (b) entry by this Court of the Approval Order and Bar Order, proposed copies of which are attached hereto as **Exhibits B** and **C**, respectively; and (c) approving the payment of the contingency fee to Trustee’s Special Litigation Counsel, Bast Amron LLP (“Bast Amron”).

2. In order to effectuate the Agreement, the proposed Approval Order provides for entry of the Bar Order. As demonstrated below, the Court has jurisdiction to enter the Bar Order, which is appropriate under applicable law and the record before this Court.

3. As detailed more fully therein, the Agreement is intended to resolve all matters between, on the one hand, the Trustee on behalf of the Debtor and the Debtor’s Estate, and on the other, the Insureds and Insurer, arising from or related to the above-captioned bankruptcy cases (the “Bankruptcy Case”), including, but not limited to: (a) any and all claims and causes of action that the Trustee may have the right to assert against the Insureds arising from or related to

² Anders, McIntosh, Quentel, Weinberg, and Czech may sometimes be collectively referred to as the “Insured” or jointly as the “Insureds.” Insureds and The Insureds, Insurer, and Trustee may sometimes be collectively referred to as the “Parties” or individually as a “Party.”

³ All capitalized terms not otherwise defined in this Motion shall have the meanings ascribed to them in the Agreement. This Motion contains a summary of the key terms of the Agreement. In the event of disparity between the description herein and the Agreement, the terms of the Agreement control.

the Bankruptcy Case and/or the business of the Debtors; and (b) any and all claims and causes of action that the Insureds may have the right to assert against the Trustee and the Bankruptcy Estate arising from or related to the Bankruptcy Case.

4. Among other things, the Agreement provides for the lump-sum payment of \$2,000,000 to the Trustee by the Insurer, representing a substantial majority of the remaining proceeds under the Policy. As detailed below, the Trustee believes that the Settlement falls well above the lowest point in the range of reasonableness and thus, meets the *Justice Oaks* standards. Moreover, the Settlement will increase the pool of funds available for distribution to creditors and allow the Trustee to administer this Estate effectively.

5. Accordingly, the Trustee, in the sound exercise of her business judgment, asserts that the Settlement is in the best interests of this Estate and its creditors, and for the reasons stated below, the Trustee respectfully requests that this Court grant this Motion, approve the Agreement, and enter the Approval Order and Bar Order in substantially the forms attached as **Exhibits B and C**.

II. Facts Supporting Requested Relief

6. This case commenced with the filing of voluntary Chapter 7 bankruptcy petitions (ECF No. 1) (the “Petition”) by the Debtor(s) on July 14, 2017 (the “Petition Date”). Subsequently, Margaret J. Smith was appointed as Chapter 7 trustee of the Debtors’ Estate.

A. The Debtors’ Business

7. Prior to the Petition Date, the Debtors manufactured and distributed wedding and special occasion gowns and accessories to a select group of retailers in the United States, Europe, Canada, and Australia. The Debtors also distributed their products through their own retail operations in various geographic regions within the United States.

B. The D&O Policy and the Trustee's Investigation of the Potential Claims

8. On the Petition Date, the Debtors had in place a \$3.0 million directors and officers liability insurance policy with National Union Fire Insurance Company of Pittsburgh, Pa (PrivateEdge Plus Insurance Policy No. 02-420-07-93) (the “Policy”).

9. Pursuant to her statutory duties as set forth in the Bankruptcy Code, the Trustee is authorized to investigate, pursue and prosecute, based on the sound exercise of her business judgment, recovery opportunities for the benefit of the Estate (collectively, the “Potential Claims”).

10. As further detailed in as further detailed in ECF Nos. 158 and 184, the Trustee was authorized to retain Bast Amron LLP as her counsel to investigate and prosecute the Potential Claims on behalf of the Estate.

11. Shortly after the Petition Date, the Trustee and her professionals began a comprehensive and thorough analysis of the Potential Claims. Among other things, the Trustee served numerous subpoenas (*see* ECF Nos. 220, 221, 222, 260, and 263) and conducted a thorough investigation and review of the Debtors’ documents and of the documents produced by the Parties.

12. Based upon this investigation, the Trustee determined that the Potential Claims should be pursued.

13. Accordingly, on or about October 30, 2017, the Trustee timely served a written notice and demand to the Insurer of a claim under the Policy for covered losses sustained by the Debtors and their creditors as a result of certain alleged acts and omissions purportedly committed by the Insureds (the “Initial Letter”).

14. On or about September 4, 2018, the Trustee provided a supplemental written notice to the Insurer of the claim under the Policy (the “Supplemental Letter”), which included a copy of a comprehensive draft complaint against the Insureds (the “Draft Complaint”) (collectively, all claims described in the Initial Letter, the Supplemental Letter, and the Draft Complaint are referred to herein as the “Demand Letter”).

15. Each of the Insureds have consistently denied and continue to deny that they engaged in any conduct that would give rise to any meritorious claim by the Trustee, and have expressed an intention to vigorously defend against any such claims if brought in any forum.

C. The Defense Costs

16. On March 30, 2018, the Insureds filed their Precautionary, Joint Motion of Former Officers, Directors, and Employees of Debtor for Relief from the Automatic Stay to Allow for Advancement and Payment of Fees and Costs for Trustee Demand, Investigation and Claims under Directors’ and Officers’ Insurance Policy (ECF No. 275).

17. On April 24, 2018, the Bankruptcy Court entered its Agreed Order on Precautionary, Joint Motion of Former Officers, Directors, and Employees of Debtor for Relief from the Automatic Stay to Allow for Advancement and Payment of Fees and Costs for Trustee Demand, Investigation and Claims under Directors’ and Officers’ Insurance Policy (ECF No. 285)(the “Defense Cost Order”).

D. The Mediation

18. Notwithstanding the above, following the issuance of the Demand Letter, the Parties engaged in pre-suit settlement discussions and discovery, and the Parties attended a formal full-day mediation on November 7, 2018, with Howard Tescher as mediator, in an

attempt to settle the Potential Claims asserted in the Demand Letter as well as any and all other claims the Trustee may possess against the Insureds.

19. Shortly after the Mediation, the Parties agreed to enter into the Agreement to consummate the compromise and settlement in order to provide for a full and final resolution of any and all claims and disputes between the Parties arising out of or related to the Potential Claims and the Policy.

III. The Settlement⁴

20. The significant provisions of the Settlement include the following:

- a. Within 14 calendar days following entry of the Final Order,⁵ the Insurer has agreed to pay the Trustee, and the Trustee has agreed to accept, the total sum of \$2,000,000 in immediately available funds (the “Settlement Amount”), in full and final settlement of any and all claims the Bankruptcy Estate and Trustee may have the right to assert against the Insureds, the Insurer, and the Policy;
- b. The Insureds have agreed to waive any and all claims and claim rights that each of the Insureds have asserted or may have the right to assert against the Estate and the Trustee, including, but not limited to, any claim rights under 11 U.S.C. §§ 502 and 503;
- c. An integral part of the Agreement and as a condition precedent to the Insurer’s obligation to make the Settlement Payment referenced herein is the Trustee’s obligation to obtain a Final Order that contains a Bar Order in a form acceptable to the Insureds and the Insurer. For the purposes of this Agreement, the Bar Order shall mean an order of the Bankruptcy Court that states and orders substantially as follows:

⁴ As stated above, the following is only a summary of the key terms of the Settlement. The terms of the Agreement control and all parties are urged to review same. All capitalized terms not otherwise defined in this Motion shall have the meanings ascribed to them in the Agreement.

⁵ A “Final Order” shall mean an order that is: (i) not subject to any motion pursuant to Fed. R. Bankr. P. 2003; (ii) to which a notice of appeal has not been filed within the time period specified by Fed. R. Bankr. P. 8002; (iii) to which an appeal has been filed in any court but such appeal has been dismissed and the Approval Order and the Bar Order have each been affirmed and are no longer subject to further appellate review.

All persons and entities, except governmental agencies (the “Barred Persons”), are hereby permanently enjoined, restrained, and barred from filing, commencing, conducting, asserting, litigating, enforcing, collecting, or continuing in any manner, directly, indirectly, or derivatively, any suit, action, claim, guaranty, judgment, lien, demand, or other proceeding (including, without limitation, any proceeding in any judicial, arbitral, administrative, or other forum) against any Insured or the Insurer (limited to such claims against the Insurer as issuer of the Policy) (the “Released Parties”) arising out of or reasonably flowing from the acts or omissions of the Insureds in their capacity as officers, directors, and/or employees of the Debtor or in any way related to the Debtor or its bankruptcy case, or against the Insurer in connection with the Insureds, the Debtor, or its bankruptcy case (limited to such claims against the Insurer as issuer of the Policy) (the “Barred Claims”).

The Bar Order shall not, however, impact, impair, or otherwise affect any rights that an Insured may have under the Policy or pursuant to any other arrangement among an Insured and the Insurer.

In the event that any person asserting a cause of action (a “Plaintiff”) obtains a judgment or arbitration award (a “Judgment”) against any Barred Person with respect to one or more causes of action based upon, arising from, or related to the facts, allegations, or transactions underlying any Barred Claim, then the Plaintiff shall, prior to or in connection with the entry of such Judgment, provide notice of this Bar Order to the court or tribunal in which such Judgment was obtained. Such court or tribunal shall determine whether the Judgment 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 such 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.

and

- d. The Agreement contains mutual general releases by and between the Parties as follows:

Trustee to the Insureds and Insurer

Upon occurrence of the Effective Date, the Trustee, solely in her capacity as Trustee and on behalf of the Debtor and the Debtor's Bankruptcy Estate, remises, releases and forever discharges the Insureds (including their predecessors, successors, heirs, estates, trusts, beneficiaries, spouses, attorneys, agents, and representatives), any other person or entity insured under the Policy (the "Policy Insureds"), and the Insurer (including its predecessors, successors, assignees, parents, subsidiaries, shareholders, designees, members, partners, directors, officers, employees, agents, representatives and attorneys), solely in the Insurer's capacity as insurer of the Insureds and Policy Insureds and as issuer of the Policy, of and from the Trustee Claims and any and all claims, judgments, bad faith claims, contract, extra contractual claims, sanctions, damages, demands, suits, debts, actions or causes of action of any kind, both known and unknown, held by the Trustee (solely in her capacity as Trustee and on behalf of the Debtor and the Debtor's Bankruptcy Estate), the Debtor, and the Debtor's Bankruptcy Estate relating to any act or omission by any Insured and Policy Insured in any way related to the Debtor or the Debtor's bankruptcy case, including, without limitation, claims sounding in contract, tort, and/or violations of any federal or state statute or regulation, whether at law or in equity, direct or derivative, suspected or unsuspected, that the Trustee ever had or may now or hereafter own, hold, have or claim to have by reason of any matter, cause or thing whatsoever from the beginning of the world to the Effective Date against any Insured and Policy Insured, whether such claim was made or could have been made; provided, however, that nothing contained herein shall release the Insurer or the Insureds from any obligations under this Settlement Agreement. In making this release to the Insureds, Policy Insureds, and Insurer (solely in the Insurer's capacity as insurer for the Insureds and Policy Insureds as issuer of the Policy), the Trustee understands and acknowledges that she may hereafter discover facts in addition to or different from those that are currently known or believed to be true with respect to the subject matter of this Settlement Agreement, but agrees that she has taken that possibility into account in reaching this Settlement Agreement and that, notwithstanding the discovery or existence of any such additional or different facts, as to which she expressly assumes the risk, the Trustee fully, finally, and forever settles and releases any and all claims against the Insureds, the Policy Insureds, and Insurer (solely in the Insurer's capacity as insurer for the Insureds and Policy Insureds as issuer of the Policy) as set forth herein.

Nothing in this Settlement Agreement, nor in the releases herein, is intended to, nor shall be construed to, limit, bar, release, waive, impair, compromise, or settle any claims, or potential claims, the Estate may have against any third party entities, including but not limited to Czech Asset Management, L.P., FSJC V, LLC, FSJC OCF V, LLC, and/or any related or affiliated entities, subsidiaries, or assigns.

Upon occurrence of the Effective Date, the Trustee, solely in her capacity as Trustee and on behalf of the Debtor and the Bankruptcy Estate of the Debtor, further fully releases all claims, rights, or title to any coverage, claims, or proceeds under the Policy which the Debtor, its estate, or the Trustee claims to have now or may have in the future concerning the Policy and hereby gives the Insurer a complete and full release under the Policy.

This Settlement Agreement is without prejudice to and nothing herein shall operate or be construed to operate as a compromise, impairment, release, waiver, or as having any effect whatsoever on any and all claims which have been or may be asserted by the Trustee against any third parties that are not the Insureds, Policy Insureds, or the Insurer in the Insurer's capacity as insurer for the Insureds and Policy Insureds as issuer of the Policy. Moreover, the Insurer agrees that it will not file a proof of claim, or in any other way seek recovery or recoupment of the Settlement Payment or defense costs paid in this matter, from the Debtor or in the Bankruptcy Estate.

D&O Parties and Insurer to Trustee

Upon occurrence of the Effective Date, the Insureds remise, release, and forever discharge the Trustee (solely in her capacity as Trustee and on behalf of the Debtor and the Debtor's Bankruptcy Estate), the Debtor, and the Debtor's Bankruptcy Estate of and from any and all claims, sanctions, extra contractual claims, damages, demands, suits, debts, actions or causes of action of any kind relating to the Debtor, the Debtor's Bankruptcy Estate, the Bankruptcy Main Case, the Trustee Claims, or the Policy including, without limitation, claims sounding in contract, tort, violations of any federal or state statute or regulation, contribution, indemnity, and/or any and all claims against the Bankruptcy Estate, including any and all pre- or post-petition claims against the Bankruptcy Estate of the Debtor,⁶ and any and all such claims, to the extent they exist or are claimed to exist, including

⁶ Including, without limitation the following Proofs of Claim ("POC") filed in the Case and designated as Alfred Angelo Newco, Inc. POC Nos.: 543-1 (Vanessa McIntosh) and 804-1 (Martin Weinberg).

a claim against the Debtor's Bankruptcy Estate for payment of the Settlement Payment pursuant to 11 U.S.C. § 502(d) and (h), whether at law or in equity, direct or derivative, known or unknown, or suspected or unsuspected, that the Insureds or Insurer may now have or may have in the future by reason of any matter, cause or thing whatsoever from the beginning of the world to the Effective Date, whether such claim was made or could have been made; provided, however, that nothing contained herein shall release the Trustee from any obligations under this Settlement Agreement. In making this release to the Trustee (solely in her capacity as Trustee and on behalf of the Debtor and the Debtor's Bankruptcy Estate), the Debtor, and the Debtor's Bankruptcy Estate, the Insureds understand and acknowledge that they may hereafter discover facts in addition to or different from those that are currently known or believed to be true with respect to the subject matter of this release, but agree that they have taken that possibility into account in reaching this Settlement Agreement and that, notwithstanding the discovery or existence of any such additional or different facts, as to which the Insureds expressly assume the risk, the Insureds fully, finally, and forever settle and release any and all claims against the Trustee (solely in her capacity as Trustee and on behalf of the Debtor and the Debtor's Bankruptcy Estate), the Debtor, and the Debtor's Bankruptcy Estate as set forth herein.

The Insureds represent and warrant to the Trustee that: (a) they have all right, title, and authority necessary to provide the release given in this Settlement Agreement; (b) they have not assigned, conveyed, sold, or transferred or attempted to assign, convey, sell, or transfer any of the claims released pursuant to this Paragraph 4; (c) they have not commenced and are not prosecuting any arbitration or proceeding against the Trustee (on behalf of the Debtor and the Debtor's Bankruptcy Estate), the Debtor, or Debtor's Bankruptcy Estate anywhere in the world; (d) they have not, and upon occurrence of the Effective Date, will not in the future solicit or accept any assignment of a claim of *any kind* against the Trustee, the Debtor, or Debtor's Bankruptcy Estate; and (e) upon occurrence of the Effective Date, they will not request the Trustee, the Debtor, or Debtor's Bankruptcy Estate to defend, indemnify, or satisfy any claim(s) or award(s) made against any Insured.

21. The proposed form of an order approving the Agreement is attached here at

Exhibit B.

22. A proposed form of the Bar Order is attached here at **Exhibit C**. The Bar Order will, among other things, bar the commencement, prosecution, and/or continuance of any action relating to the business of the Debtors filed against the Insureds prior to or after the Final Order Date, and against the Insurer relative to the Policy.

IV. Legal Standard for Settlement

23. Before addressing the substantive issues, the Trustee reiterates that the Settlement arose from extensive settlement discussions between the Settlement Parties, culminating in a formal full-day mediation conference. The Settlement was negotiated at arm's-length and approval is in accord with the strong public policy which favors pre-trial settlement in all types of litigation. *In re Grau*, 267 B.R. 896, 899 (Bankr. S.D. Fla. 2001).

24. Bankruptcy Rule 9019(a) provides: "On motion . . . and after a hearing on notice to creditors, the debtor . . . and to such other entities as the court may designate, the court may approve a compromise or settlement."

25. As this Court has previously found, "approval of a settlement in a bankruptcy proceeding is within the sound discretion of the Court, and will not be disturbed or modified on appeal unless approval or disapproval is an abuse of discretion." *In re Arrow Air, Inc.*, 85 B.R. 886, 891 (Bankr. S.D. Fla. 1988) (citing *Rivercity v. Herpel (In re Jackson Brewing Co.)*, 624 F.2d 599, 602-03 (5th Cir. 1980) (hereinafter "*Jackson Brewing*"); *Anaconda-Ericsson, Inc. v. Hessen (In re Teltronics Servs., Inc.)*, 762 F.2d 185, 189 (2d Cir. 1985) (hereinafter, "*Teltronics*"); *In re Prudence Co.*, 98 F.2d 559 (2d Cir. 1938), cert. denied sub nom. *Stein v. McGrath*, 306 U.S. 636 (1939)).

26. The test is whether the proposed settlement "falls below the 'lowest point in the range of reasonableness.'" *In re Arrow Air, Inc.*, 85 B.R. at 891 (quoting *Teltronics*, 762 F.2d at

189; *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983), cert. denied, 464 U.S. 822 (1983)).

27. According to the Eleventh Circuit Court of Appeals, when a bankruptcy court decides whether to approve or disapprove a proposed settlement, it 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; and
- (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

Wallis v. Justice Oaks II, Ltd. (In re Justice Oaks II, Ltd.), 898 F.2d 1544, 1549 (11th Cir. 1990).

See also, *Jackson Brewing*, 624 F.2d at 602.

28. In exercising its review under Bankruptcy Rule 9019, a bankruptcy court gives weight to a trustee's sound business judgment. See, e.g., *In re Southeast Banking Corp.*, 314 B.R. 250, 273 (Bankr. S.D. Fla. 2004) (noting a court gives "weight to the trustee's informed judgment" in considering a settlement under Bankruptcy Rule 9019); *Abeles v. Infotechnology, Inc. (In re Infotechnology, Inc.)*, 89 F.3d 825 (2d Cir. 1995) (noting that in determining whether to approve a debtor's motion to settle a controversy, a court does not substitute its judgment for that of the debtor in possession).

29. In the instant case, each of the four *Justice Oaks* factors weighs heavily in favor of approval of the Agreement.

A. Probability of Success in Litigation

30. The Trustee believes that approving the Agreement is in the best interests of the Estate and believes that a payment from the Insurer in the gross amount of \$2,000,000 is reasonable and appropriate. This is particularly so given that the Trustee has not yet had to commence an adversary proceeding to obtain the recovery. Absent the Agreement, the Trustee

would be required to commence litigation, and engage in extensive discovery, motion practice, evidentiary hearings, expert witnesses, and eventually a trial, and would result in significant expenses to be borne by the Estate, as well as significant delay. What's more, any protracted litigation would likely diminish the proceeds of the Policy; having been spent on defense costs and attorneys' fees.

31. While the Trustee is confident that she would prevail in such litigation, she understands and recognizes the potential defenses that will be asserted by the Insureds, as well as any defenses which may be asserted by the Insurer as to coverage under the Policy.

32. Given the inherent risks of litigation and the certainty to be provided under the Agreement, from the perspective of the Trustee, the settlement falls well within the reasonable range of anticipated recovery.

B. Difficulties of Collection

33. The Policy is a 'wasting' policy and thus, is decreased by the costs of defense. Even though litigation has not yet commenced, as evidenced by the initial fee request by counsel for certain of the Insureds, a significant portion of the insurance limits will have been exhausted to cover attorneys' fees and costs. Thus, if the Agreement isn't approved and litigation ensues, the defense costs will substantially deplete, if not completely eviscerate, the insurance funds available to cover any judgment obtained. And while preliminary information suggests that certain of the Insureds may be collectable, there is no guarantee of same. The Trustee would be required to engage in collection efforts against each of the Insureds, who are spread across several different states, at great expense to the Trustee with no certainty that a recovery for the benefit of creditors would be achieved.

34. The Agreement, however, ensures a \$2,000,000 recovery for the benefit of the Estate's creditors today.

C. Complexity, Expense, Inconvenience and Delay

35. The Potential Trustee Claims involve a complex series of facts, spanning an extended period of time, and involving a number of individuals. There are 5 potential defendants and many, many more fact witnesses spread across many different counties and states. The costs attendant to litigation will be significant.

36. What's more, any litigation, including appeals, will likely last years with no certainty that a recovery approaching or exceeding the Settlement Amount will be achieved.

D. Paramount Interest of Creditors

37. Finally, because the Agreement guarantees a significant lump-sum recovery in comparably short order, it will increase the dividend available to creditors.

38. Accordingly, for the reasons set forth herein, the Trustee asserts that the Settlement meets the standards set forth in *In re Justice Oaks II*, and therefore, recommends approval of the Settlement because it is fair and reasonable, falls within the reasonable range of possible litigation outcomes, and is in the best interest of the Estate and its creditors.

V. Motion to Approve Bar Order

39. The Agreement requires the entry of a Bar Order in the form attached as **Exhibit C** to this Motion.

40. Pursuant to 28 U.S.C. § 1334(b) and consistent with an unbroken chain of decisions issued by the Eleventh Circuit, the Bankruptcy Court possesses broad subject matter jurisdiction to enter the Bar Order to enjoin actions against the Parties as a part of the Bankruptcy Court's approval of the Agreement. 28 U.S.C. § 1334(b); *Apps v. Morrison (In re*

Superior Homes Investments, LLC), Case No. 12-15451; 521 Fed.Appx. 895, 2013 WL 2477057, *2 (11th Cir. June 10, 2013) (per curiam) (hereinafter, “*Superior Homes*”); *Munford v. Munford, Inc. (In re Munford)*, 97 F.3d 449 (11th Cir. 1996) (hereinafter, “*Munford*”); *Brophy v. Salkin*, 550 B.R. 595, 602 (S.D. Fla. 2015); *In re Jiangbo Pharmaceuticals, Inc.*, 520 B.R. 316 (Bankr. S.D. Fla. 2014); *In re Rothstein Rosenfeldt Adler, PA.*, Case No. 09-34791-BKC-RBR, 2010 WL 3743885, at *7 (Bankr. S.D. Fla. Sept. 22, 2010). The law is clear that a bankruptcy court has subject matter jurisdiction over all “civil proceedings” that are “related to” a chapter 11 case. *Superior Homes*, at *2; *Munford*, 97 F.3d at 453.

41. This jurisdictional grant is extremely broad. *Winchester Global Trust Co. v. Entrust NPL, Corp. (In re Ryan)*, 276 Fed. Appx. 963, 966 (11th Cir. 2008) (citing *Cont’l Nat’l Bank of Miami v. Sanchez (In re Toledo)*, 170 F.3d 1340, 1345 (11th Cir. 1999)). The test for determining whether a civil proceeding is related to bankruptcy is whether the outcome of the proceeding “*could conceivably have an effect on the estate being administered in bankruptcy.*” *Superior Homes*, at *2 (*emphasis supplied*). See also *Munford*, 97 F.3d at 453. The proceeding need not necessarily be against the debtor or against the debtor’s property. “Related to” jurisdiction extends to “suits between third parties which have an effect on the bankruptcy estate.” *Superior Homes*, at *2 (quoting *Celotex Corp. v. Edwards*, 514 U.S. 300, 307 n.5 (1995)); *In re Ryan*, 276 Fed. Appx. at 963; *Miller v. Kemira, Inc. (In re Lemco Gypsum, Inc.)*, 910 F.2d 784, 788 (11th Cir. 1990). “Congress intended to grant comprehensive jurisdiction to the bankruptcy courts so that they might deal efficiently and expeditiously with all matters connected with the bankruptcy estate.” *In re Lemco Gypsum, Inc.*, 910 F.2d at 786 (citing *Pacor, Inc. v. Higgins*, 743 F.3d 984, 986 (3d Cir. 1984)). Stated differently, a civil proceeding is sufficiently *related to* a chapter 11 bankruptcy case if the outcome could conceivably alter the

debtor's rights, liabilities, options, or freedom of action and impact the handling and administration of the bankrupt estate. *Munford*, 97 F.3d at 453 (citing *In re Lemco Gypsum, Inc.*, 910 F.2d at 788).

42. The Eleventh Circuit's rulings in both *Munford* and *Superior Homes* are instructive and evidence of the Eleventh Circuit's long-standing recognition of the appropriateness of bar orders in cases like this one in which continued litigation would be wasteful and would not advance the principal objectives of the Bankruptcy Code and the Circuit's mandate that bankruptcy courts be respectful of, and deferential to, the business judgment of fiduciaries in their courts.

43. In *Munford*, the Eleventh Circuit determined that bankruptcy jurisdiction properly extended to a dispute between non-debtor third parties in an adversary proceeding and empowered the bankruptcy court to bar litigation between them pursuant to a settlement approved under Rule 9019 of the Federal Rules of Bankruptcy Procedure. *Munford*, 97 F.3d at 453-54.

44. Similarly, in *Superior Homes*, the Eleventh Circuit had an opportunity to revisit its earlier ruling in *Munford*. *Superior Homes*, at *2. In *Superior Homes*, the Eleventh Circuit again held that a bankruptcy court had jurisdiction to approve a settlement under Rule 9019 of the Federal Rules of Bankruptcy Procedure containing a bar order preventing state court cases from proceeding against non-debtor entities. *Id.*, *1. In *Superior Homes*, numerous creditors had filed an involuntary chapter 11 case against the debtor, a home builder. A chapter 11 trustee was appointed and he initiated a proceeding to recover numerous transfers to its principals and affiliated entities (collectively, the "Non-Debtor Defendants") which were potentially subject to avoidance as fraudulent transfers under the Bankruptcy Code and applicable state law. *Id.*

Eventually, the trustee and the Non-Debtor Defendants reached a settlement whereby, in exchange for a payment to the estate from the Non-Debtor Defendants, the trustee would seek bankruptcy court approval for a bar order enjoining third parties from pursuing the Non-Debtor Defendants. *Id.* The Eleventh Circuit held that the bankruptcy court had jurisdiction to enter the bar order because the state-court litigation “had a direct impact on the [e]state”. *Id.*, at *2. Specifically, the court found that the potential third-party lawsuits against the Non-Debtor Defendants would “directly impact” the estate because “the Trustee would not have received the \$800,000 settlement in the absence of the Bar Order.” *Id.*⁷ The same analysis applies here. Absent approval of the Agreement and entry of the Approval Order and Bar Order the Debtors’ Estate will not receive \$2,000,000 from the Settling Parties.

45. Bankruptcy Courts within the Eleventh Circuit have applied the ruling in *Superior Homes* and approved broad bar orders. *See, e.g., In re Jiangbo Pharmaceuticals, Inc.*, 520 B.R. 316; *In re Fundamental Long Term Care, Inc.*, 500 B.R. 140 (Bankr. M.D. Fla. 2013); *In re Evaluation Solutions, LLC*, Case No. 3:13-bk-00446-JAF, 2013 WL 3306216, n.3 (Bankr. M.D. Fla. June 27, 2013) (finding “[t]he continuation of the [plaintiffs] action would directly impact the estate because the Trustee would not receive the \$2,316,000 from Chase in the absence of the Bar Order. Accordingly, the Court has subject matter jurisdiction to enter the Bar Order.”).

46. Like the bankruptcy courts in the foregoing cases, this Court possesses broad jurisdiction to enter the Bar Order as a part of the Agreement. The Parties have negotiated for the

⁷ Additionally, the Eleventh Circuit opined that the bankruptcy court’s approval of the settlement with the bar order “was well within the bankruptcy court’s power as a court sitting in equity.” *Id.* (citing 11 U.S.C. § 105; *Cont’l Ill. Nat’l Bank & Trust Co. of Chicago v. Chicago, R.I. & P. Ry. Co.*, 294 U.S. 648, 675, 55 S.Ct. 595, 605-06 (1935) (noting that a bankruptcy court has “[t]he power to issue an injunction when necessary to prevent the defeat” of its jurisdiction); *Alderwoods Grp., Inc. v. Garcia*, 682 F.3d 958, 967 n. 19 (11th Cir. 2012) (noting that a bankruptcy court may issue “any type of order, whether injunctive, compensative or punitive, as long as it is necessary or appropriate to carry out the provisions of the Bankruptcy Code” (internal quotation marks omitted))).

Bar Order as an integral part of the Agreement and in return will pay the Estate the Settlement Payment (\$2,000,000) for distribution to the creditors of the Estate. As such, the Agreement (and the Bar Order that is integral to it contemplates) directly impacts the Debtors' for the simple reason that the Estate will not receive the Settlement Payment (\$2,000,000) and the other consideration that is a part of the Agreement absent the Bankruptcy Court's approval of the Bar Order.

47. There exists an additional economic benefit to the Debtors' Estate for supporting the Court's subject matter jurisdiction to approve the Agreement containing the Bar Order. Absent a settlement containing the Bar Order, the Estate would not receive the Settlement Payment and other consideration from the Agreement, *and* the Estate would also bear the burden of significant litigation costs in pursuing the Potential Trustee Claims. As the Eleventh Circuit explained in *Munford*:

First, public policy strongly favors pretrial settlement in all types of litigation because such cases, depending on their complexity, "can occupy a court's docket for years on end, depleting the resources of parties and the taxpayers while rendering meaningful relief increasingly elusive." *U.S. Oil & Gas v. Wolfson*, 967 F.2d 489, 493 (11th Cir.1992). Second, litigation costs are particularly burdensome on a bankrupt estate given the financial instability of the estate. Third, "bar orders play an integral role in facilitating settlement." *U.S. Oil & Gas*, 967 F.2d at 494. This is because "[d]efendants buy little peace through settlement unless they are assured that they will be protected against codefendants' efforts to shift their losses through cross-claims for indemnity, contribution, and other causes related to the underlying litigation." *U.S. Oil & Gas Litigation*, 967 F.2d at 494. But for the bankruptcy court's bar order in this case, for example, VRC would not have entered into the settlement agreement with Munford, Inc. For these reasons, we hold that section 105(a) and rule 16 authorize bankruptcy courts to enter bar orders where such orders are integral to settlement in an adversary proceeding.

Id., at 455.

48. Furthermore, the Bankruptcy Court has the authority to enter the Bar Order pursuant section 105(a) of the Bankruptcy Code, which provides, in pertinent part, that a bankruptcy court may “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions [of the Bankruptcy Code].” 11 U.S.C. § 105(a). Under section 105(a) of the Bankruptcy Code, a bankruptcy court has expansive equitable power to fashion any order or decree that serves the interest of preserving or protecting the value of a debtor’s assets. *See, e.g., In re Franzese*, Case No. 07-14518-RBR, 2007 WL 2083650, *2 (Bankr. S.D. Fla. July 19, 2007) (“Section 105(a) is a grant of equitable powers”); *In re Weinraub*, 361 B.R. 586, 589 (Bankr. S.D. Fla. 2007); *In re Grau*, 267 B.R. 896, 899 (Bankr. S.D. Fla. 2001) (section 105 affords bankruptcy courts broad authority to approve settlements). As such, it is clear the Bankruptcy Court’s approval of the Bar Order is well within its power under section 105(a) of the Bankruptcy Code as a court sitting in equity. *Munford*, 97 F.3d at 454 (affirming a bar order that the bankruptcy court concluded, in part, that it had authority to do so under section 105(a)). Accordingly, the Trustee submits that “related to” jurisdiction exists, and the Bankruptcy Court possesses the power to approve the Bar Order.

49. All of the above considerations favor approval of the Bar Order as fair and equitable in this case. As in *Munford*, each of the parties to the Agreement is seeking to resolve their claims through settlement, and the Bar Order is integral to the compromise and a material inducement to the beneficiaries of the Bar Order. The Defendants have made it clear that, in the absence of the Bar Order, they are not prepared to enter into the Agreement.

50. The Trustee submits that upon ‘reasonable determination,’ the requested Bar Order is fair and equitable because all parties that have asserted, or could assert, a claim against the Defendants are already scheduled creditors, or have already received notice of the bankruptcy

and will benefit from the Agreement and payment of \$2,000,000 to the Estate. Additionally, the Potential Trustee Claims, and the other potential claims barred by the Bar Order, are factually interrelated as they all relate to the operations of the Debtors and the Policy.

51. Further, the Insureds' assets, and the funds available under the Policy, will be depleted by defending the potential litigation. The settlement avoids the risks accompanying litigation.

52. Finally, the Bar Order is narrowly tailored. It is limited to those claims against the Defendants arising from, in connection with or involving the operation of the Debtors and the Policy. The Bar Order is not intended, and shall not, bar third-party claims against the Parties arising out of matters unrelated to the Debtors or the Policy.

**VI. Motion to Approve Payment of Contingency Fee to
Bast Amron from Settlement Proceeds**

53. On October 3, 2017, this Court entered its *Order Granting Trustee's Application to Employ Brett M. Amron and Bast Amron LLP as Special Litigation Counsel and to Approve Contingency Fee Compensation Arrangement with Respect to Investigation and Prosecution of Certain Potential Litigation Claims Nunc Pro Tunc to August 15, 2017* (ECF No. 184)(the "Employment Order").

54. The Employment Order provides, in pertinent part, that Brett M. Amron and Bast Amron shall be compensated as follows:

- a. 30% contingency fee based on gross affirmative recoveries from any insurance policy under which the Debtors are named insureds;
- b. 35% contingency fee based upon gross affirmative recoveries from any other source; and
- c. Expenses, including without limitation any expert witness fees, to be paid by the Estates periodically through applications made to the Court, based on the financial circumstances of the Estates.

55. If the Settlement is approved by this Court, Bast Amron is entitled to receive \$600,000 or 30% from the \$2,000,000 settlement for its contingency fee.

56. Accordingly, the Trustee seeks authority to disburse the sum of \$600,000 to Bast Amron upon approval of the Settlement and receipt of the Settlement Amount, without further order of the Court.

VI. Other Related Relief

A. Notice

57. The Trustee will serve this Motion on all appropriate parties and will file a separate certificate of service identifying the specific parties served with this Motion and the Notice of Hearing when issued. The Trustee requests that the Court make a determination that all necessary parties have received the requisite notice.

B. Authority to Execute Necessary Documents

58. Assuming that the Agreement is approved, the Trustee seeks authority to: (a) take such actions; and (b) execute such documents, as she deems reasonable, necessary and/or desirable to effectuate the Agreement.

C. Retention of Jurisdiction

59. Finally, assuming that the Settlement is approved, the Trustee requests that the Court retain sole and exclusive personal and subject matter jurisdiction to: (a) interpret, implement and enforce (i) the terms and conditions of the Agreement, the Motion and the Approval Order, and (ii) all related matters; and (b) adjudicate any and all disputes of any type arising from or related to (i) the Agreement, this Motion and the Approval Order, and (ii) all related matters.

WHEREFORE, Margaret J. Smith, as Chapter 7 trustee of the bankruptcy estate of AA Florida Bridal Retail Company, LLC, et al., respectfully requests this Honorable Court enter an Order: (1) granting the instant Motion; (2) approving the Settlement and the Agreement; (3) approving the Bar Order; (4) approving the payment of the contingency fee to Bast Amron in the amount of \$600,000; (5) authorizing the Trustee to disburse the contingency fee to Bast Amron in the amount of \$600,000 upon receipt of the Settlement Amount and without further order of this Court, and (6) granting such other and further relief as this Court deems just and proper.

Dated: January 17, 2019

Respectfully submitted,

/s/ D. Brett Marks

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on January 17, 2019, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day by transmission of Notices of Electronic Filing generated by CM/ECF to those parties registered to receive electronic notices of filing in this case as listed in the below service list.

/s/ D. Brett Marks
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EXHIBIT "A"

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

In re:

Case No. 17-18864-MAM

Chapter 7

AA FLORIDA BRIDAL RETAIL
COMPANY, LLC, et al.,

Debtors.

SETTLEMENT AGREEMENT TO RESOLVE, RELEASE, AND BAR CLAIMS

This Settlement Agreement to Resolve, Release, and Bar Claims (“Settlement Agreement”) is entered into by and among Margaret J. Smith, not individually but solely in her capacity as the Chapter 7 Trustee (the “Trustee”) for the bankruptcy estate (the “Bankruptcy Estate”) of AA Florida Bridal Retail Company, LLC, et al. (collectively, the “Debtor”), and the following former directors, officers, and/or employees of the Debtor (individually an “Insured” and collectively, the “Insureds”): Richard Anders (“Anders”), Vanessa McIntosh (“McIntosh”), Paul Quentel (“Quentel”), Martin Weinberg (“Weinberg”), and Stephen Czech (“Czech”). From time to time in this Settlement Agreement, the Trustee and the Insureds are referred to collectively as the “Parties.”

WHEREAS, the Trustee is the duly appointed and acting Trustee for the Bankruptcy Estate of the Debtor. On July 14, 2017, the Debtor filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code. The Trustee was appointed on July 14, 2017, as the Chapter 7 Trustee for the Bankruptcy Estate pursuant to the Notice of Appointment of Successor Chapter 7 Trustee (ECF No. 3).

WHEREAS, National Union Fire Insurance Company of Pittsburgh, Pa. (the “Insurer”) issued PrivateEdge Plus Insurance Policy No. 02-420-07-93 (the “Policy”) to Alfred Angelo Newco Holding, LLC, an affiliate of the Debtor.

WHEREAS, the Trustee has conducted extensive discovery under Bankruptcy Rule 2004 of certain of the Insureds, their affiliates, and third parties.

WHEREAS, by letter dated October 30, 2017, the Trustee asserted a claim and made demand under the Policy asserting, among other things, director and officer liability claims against the Insureds, which was followed by a second demand letter dated September 4, 2018, together with a draft Adversary Complaint for Damages and Other Relief (the “Trustee Claims”).

WHEREAS, on November 7, 2018, the Trustee, the Insurer, and counsel for the Insureds attended and participated in a full-day mediation conference in Miami, FL. A settlement was reached shortly after the mediation, with the Parties having agreed that it was in the best interests of all involved to amicably resolve the Trustee Claims.

WHEREAS, the Insureds and the Insurer deny any and all liability in connection with the Trustee Claims.

WHEREAS, the Parties wish to set forth the terms of their settlement in this Settlement Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Parties agree as follows:

1. **Recitals Incorporated.** The recitals and prefatory phrases and paragraphs set forth above are hereby incorporated in full and made a part of this Settlement Agreement.

2. **Effective Date.** Unless otherwise stated, the obligations, representations and warranties stated in this Settlement Agreement shall become effective on the date upon which all of the following conditions precedent have occurred (the “Effective Date”):

(A) the United States Bankruptcy Court for the Southern District of Florida, West Palm Beach Division (the “Bankruptcy Court”) has entered orders pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure approving this Settlement Agreement and a Bar Order containing language substantially similar to the language set forth in Paragraph 3 below (together, the “9019 Orders”);

(B) the 9019 Orders have not been reversed, stayed, modified or amended, and as to which (i) the time to appeal, petition for certiorari or move for reargument, rehearing or a new trial has expired and no appeal, petition for certiorari or motion for reargument, rehearing or a new trial, respectively, has been timely filed (which time period shall mean, with respect to motions to correct either 9019 Order under Rule 9024 of the Federal Rules of Bankruptcy Procedure, Rule 60 of the Federal Rules of Civil Procedure or otherwise, fourteen (14) days after the entry of each 9019 Order), or (ii) any appeal, any petition for certiorari or any motion for reargument, rehearing or a new trial that has been or may be filed has been resolved by the highest court (or any other tribunal having appellate jurisdiction over the 9019 Orders) to which either 9019 Order was appealed or from which certiorari or reargument, rehearing or a new trial was sought, and the time to take any further appeal, petition for certiorari or move for reargument, rehearing or a new trial shall have expired without such actions having been taken (upon satisfaction of each condition of Paragraph 2(A) and 2(B), the 9019 Orders shall be referred to as the “Final Orders”); and

(C) upon receipt and bank clearance of the Settlement Payment (as defined below).

For the avoidance of any doubt, the Trustee may, but under no circumstances shall be required to, appeal any 9019 Order that fails to approve either the Settlement Agreement or the Bar Order.

3. **Trustee Release to Insureds and Insurer, Court Approval, Bar Order, and Agreement to Lift of Automatic Stay.** Upon occurrence of the Effective Date, the Trustee, solely in her capacity as Trustee and on behalf of the Debtor and the Debtor's Bankruptcy Estate, remises, releases and forever discharges the Insureds (including their predecessors, successors, heirs, estates, trusts, beneficiaries, spouses, attorneys, agents, and representatives), any other person or entity insured under the Policy (the "Policy Insureds"), and the Insurer (including its predecessors, successors, assignees, parents, subsidiaries, shareholders, designees, members, partners, directors, officers, employees, agents, representatives and attorneys), solely in the Insurer's capacity as insurer of the Insureds and Policy Insureds and as issuer of the Policy, of and from the Trustee Claims and any and all claims, judgments, bad faith claims, contract, extra contractual claims, sanctions, damages, demands, suits, debts, actions or causes of action of any kind, both known and unknown, held by the Trustee (solely in her capacity as Trustee and on behalf of the Debtor and the Debtor's Bankruptcy Estate), the Debtor, and the Debtor's Bankruptcy Estate relating to any act or omission by any Insured and Policy Insured in any way related to the Debtor or the Debtor's bankruptcy case, including, without limitation, claims sounding in contract, tort, and/or violations of any federal or state statute or regulation, whether at law or in equity, direct or derivative, suspected or unsuspected, that the Trustee ever had or may now or hereafter own, hold, have or claim to have by reason of any matter, cause or thing whatsoever from the beginning of the world to the Effective Date against any Insured and Policy Insured, whether such claim was made or could have been made; provided, however, that nothing contained herein shall release the Insurer or the Insureds from any obligations under this Settlement Agreement. In making this release to the Insureds, Policy Insureds, and Insurer (solely in the Insurer's capacity as insurer for the Insureds and Policy Insureds as issuer of the Policy), the Trustee understands and acknowledges that she may hereafter discover facts in addition to or different from those that are currently known or believed to be true with respect to the subject matter of this Settlement Agreement, but agrees that she has taken that possibility into account in reaching this Settlement Agreement and that, notwithstanding the discovery or existence of any such additional or different facts, as to which she expressly assumes the risk, the Trustee fully, finally, and forever settles and releases any and all claims against the Insureds, the Policy Insureds, and Insurer (solely in the Insurer's capacity as insurer for the Insureds and Policy Insureds as issuer of the Policy) as set forth herein.

Nothing in this Settlement Agreement, nor in the releases herein, is intended to, nor shall be construed to, limit, bar, release, waive, impair, compromise, or settle any claims, or potential claims, the Estate may have against any third party entities, including but not limited to Czech Asset Management, L.P., FSJC V, LLC, FSJC OCFV V, LLC, and/or any related or affiliated entities, subsidiaries, or assigns.

Upon occurrence of the Effective Date, the Trustee, solely in her capacity as Trustee and on behalf of the Debtor and the Bankruptcy Estate of the Debtor, further fully releases all claims, rights, or title to any coverage, claims, or proceeds under the Policy which the Debtor, its estate, or the Trustee claims to have now or may have in the future concerning the Policy and hereby gives the Insurer a complete and full release under the Policy.

This Settlement Agreement is without prejudice to and nothing herein shall operate or be construed to operate as a compromise, impairment, release, waiver, or as having any effect whatsoever on any and all claims which have been or may be asserted by the Trustee against any third parties that are not the Insureds, Policy Insureds, or the Insurer in the Insurer's capacity as

insurer for the Insureds and Policy Insureds as issuer of the Policy. Moreover, the Insurer agrees that it will not file a proof of claim, or in any other way seek recovery or recoupment of the Settlement Payment or defense costs paid in this matter, from the Debtor or in the Bankruptcy Estate.

An integral part of this Settlement Agreement and as a condition precedent to the Insurer's obligation to make the Settlement Payment referenced herein is the Trustee's obligation to obtain a Final Order that contains a Bar Order in a form acceptable to the Insureds and the Insurer. For the purposes of this Settlement Agreement, the Bar Order shall mean an order of the Bankruptcy Court that states and orders substantially as follows:

All persons and entities, except governmental agencies (the "Barred Persons"), are hereby permanently enjoined, restrained, and barred from filing, commencing, conducting, asserting, litigating, enforcing, collecting, or continuing in any manner, directly, indirectly, or derivatively, any suit, action, claim, guaranty, judgment, lien, demand, or other proceeding (including, without limitation, any proceeding in any judicial, arbitral, administrative, or other forum) against any Insured or the Insurer (limited to such claims against the Insurer as issuer of the Policy) (the "Released Parties") arising out of or reasonably flowing from the acts or omissions of the Insureds in their capacity as officers, directors, and/or employees of the Debtor or in any way related to the Debtor or its bankruptcy case, or against the Insurer in connection with the Insureds, the Debtor, or its bankruptcy case (limited to such claims against the Insurer as issuer of the Policy) (the "Barred Claims").

The Bar Order shall not, however, impact, impair, or otherwise affect any rights that an Insured may have under the Policy or pursuant to any other arrangement among an Insured and the Insurer.

In the event that any person asserting a cause of action (a "Plaintiff") obtains a judgment or arbitration award (a "Judgment") against any Barred Person with respect to one or more causes of action based upon, arising from, or related to the facts, allegations, or transactions underlying any Barred Claim, then the Plaintiff shall, prior to or in connection with the entry of such Judgment, provide notice of this Bar Order to the court or tribunal in which such Judgment was obtained. Such court or tribunal shall determine whether the Judgment 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 such 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.

The Parties agree that upon satisfaction of each condition of Paragraph 2(A) and 2(B) of this Settlement Agreement, the automatic stay shall be lifted, to the extent it may be applicable, to permit the Insurer to: (i) make the Settlement Payment set forth in Paragraph 5; (ii) to the extent applicable, pay defense costs, without further approval from the Bankruptcy Court, for the Insureds for any existing or future claims pursuant to the terms of the Policy after the Settlement Payment has been made to the Trustee as set forth herein; and (iii) to the extent applicable, pay, without review or approval by the Bankruptcy Court, any other payments for any other existing or future claims against the Insureds pursuant to the terms of the Policy after the Settlement Payment has been made to the Trustee as set forth herein. For the avoidance of doubt, nothing in this Settlement Agreement shall be construed to alter any obligation the Insurer may have to pay any claims, including defense costs, of the Insureds.

The Trustee, solely in her capacity as Trustee and on behalf of the Debtor and the Bankruptcy Estate of the Debtor, represents and warrants to the Insureds and Insurer that: (a) she has all right, title, and authority necessary to provide the release given in this Settlement Agreement; (b) she has not assigned, conveyed, sold, or transferred or attempted to assign, convey, sell, or transfer any of the claims released pursuant to this Paragraph 3, including, without limitation, any claims arising out of, based upon, or in any way involving any circumstance, event, fact, or transaction alleged or that could have been alleged against the Insureds or the Insurer in the Insurer's capacity as insurer for the Insureds and Policy Insureds as issuer of the Policy; (c) she has not commenced and is not prosecuting any arbitration or proceeding against the Insureds anywhere in the world other than the above captioned case (the "Bankruptcy Main Case"); and (d) she has not, and upon occurrence of the Effective Date, will not in the future solicit or accept any assignment of a claim of *any kind* against the Insureds or Insurer (but solely as insurer for the Insureds and Policy Insureds as issuer of the Policy).

4. **Insureds Release to the Trustee, the Debtor, and the Debtor's Bankruptcy Estate.** Upon occurrence of the Effective Date, the Insureds remise, release, and forever discharge the Trustee (solely in her capacity as Trustee and on behalf of the Debtor and the Debtor's Bankruptcy Estate), the Debtor, and the Debtor's Bankruptcy Estate of and from any and all claims, sanctions, extra contractual claims, damages, demands, suits, debts, actions or causes of action of any kind relating to the Debtor, the Debtor's Bankruptcy Estate, the Bankruptcy Main Case, the Trustee Claims, or the Policy including, without limitation, claims sounding in contract, tort, violations of any federal or state statute or regulation, contribution, indemnity, and/or any and all claims against the Bankruptcy Estate, including any and all pre- or post-petition claims against the Bankruptcy Estate of the Debtor,¹ and any and all such claims, to the extent they exist or are claimed to exist, including a claim against the Debtor's Bankruptcy Estate for payment of the Settlement Payment pursuant to 11 U.S.C. § 502(d) and (h), whether at law or in equity, direct or derivative, known or unknown, or suspected or unsuspected, that the Insureds or Insurer may now have or may have in the future by reason of any matter, cause or thing whatsoever from the beginning of the world to the Effective Date, whether such claim was made or could have been made; provided, however, that nothing contained herein shall release the Trustee from any obligations under this Settlement Agreement. In making this release to the Trustee (solely in her capacity as Trustee and on behalf of the

¹ Including, without limitation the following Proofs of Claim ("POC") filed in the Case and designated as Alfred Angelo Newco, Inc. POC Nos.: 543-1 (Vanessa McIntosh) and 804-1 (Martin Weinberg).

Debtor and the Debtor's Bankruptcy Estate), the Debtor, and the Debtor's Bankruptcy Estate, the Insureds understand and acknowledge that they may hereafter discover facts in addition to or different from those that are currently known or believed to be true with respect to the subject matter of this release, but agree that they have taken that possibility into account in reaching this Settlement Agreement and that, notwithstanding the discovery or existence of any such additional or different facts, as to which the Insureds expressly assume the risk, the Insureds fully, finally, and forever settle and release any and all claims against the Trustee (solely in her capacity as Trustee and on behalf of the Debtor and the Debtor's Bankruptcy Estate), the Debtor, and the Debtor's Bankruptcy Estate as set forth herein.

The Insureds represent and warrant to the Trustee that: (a) they have all right, title, and authority necessary to provide the release given in this Settlement Agreement; (b) they have not assigned, conveyed, sold, or transferred or attempted to assign, convey, sell, or transfer any of the claims released pursuant to this Paragraph 4; (c) they have not commenced and are not prosecuting any arbitration or proceeding against the Trustee (on behalf of the Debtor and the Debtor's Bankruptcy Estate), the Debtor, or Debtor's Bankruptcy Estate anywhere in the world; (d) they have not, and upon occurrence of the Effective Date, will not in the future solicit or accept any assignment of a claim of *any kind* against the Trustee, the Debtor, or Debtor's Bankruptcy Estate; and (e) upon occurrence of the Effective Date, they will not request the Trustee, the Debtor, or Debtor's Bankruptcy Estate to defend, indemnify, or satisfy any claim(s) or award(s) made against any Insured.

5. **Settlement Payment.** For and in consideration of each of the terms set forth herein, the Insureds shall cause the Insurer to pay on the Insureds' behalf the sum of TWO MILLION AND 00/100 DOLLARS (\$2,000,000.00) (the "Settlement Payment"). The Insurer will pay the Settlement Payment in the form of a check for good and collectable funds made payable to "Margaret J. Smith, Chapter 7 Trustee of the AA Florida Bridal Retail Company, LLC, et al. Bankruptcy Estate." The check shall be tendered to the Trustee at her office address: c/o Margaret J. Smith, Chapter 7 Trustee of the AA Florida Bridal Retail Company, LLC, et al. Bankruptcy Estate, 1400 Centrepark Boulevard Suite 860. West Palm Beach, FL 33401, via Overnight or via wire transfer directly to the Trustee (wiring instructions shall be made available upon request). The Insurer shall pay the Settlement Payment within 14 calendar days of the later of the following events: (i) the 9019 Orders become Final Orders (satisfaction of each condition of Paragraph 2(A) and 2(B) of this Settlement Agreement); and (ii) receipt of a W-9 for the Trustee. The Parties understand that no Insured is obligated to make all or part of the Settlement Payment.

6. **Non-Disparagement.** The Trustee hereby agrees that she will not in any way disparage the Insureds or make any negative comments regarding the Insureds in connection with this Settlement Agreement, the Trustee Claims, or any related matters. For purposes of this paragraph, "disparage" includes, without limitation, making comments or statements to any person or entity that could reasonably be expected to adversely affect the personal or professional reputation of the Insureds. However, this section shall not be construed to impede the performance of any duties, obligations, or responsibilities the Trustee has to provide information related to or in furtherance of her obligations or duties as Chapter 7 trustee of the bankruptcy estate of the Debtor, nor shall it be construed to impede the Trustee's ability to investigate or prosecute claims or potential claims against any third party entities including but not limited to Czech Asset Management, L.P., FSJC V, LLC, and FSJC OCFV V, LLC.

7. **Non-Approval.** In the event the Settlement Agreement is not approved by the Bankruptcy Court or the Effective Date does not occur, nothing herein shall be deemed a representation or admission by any Party as to any issue, and this Settlement Agreement will be deemed null and void, including the validity of any and all instruments executed by any of the Parties for its performance and implementation prior to its approval and the Effective Date and the Parties shall be returned to the status quo each Party held prior to entry into this Settlement Agreement, provided, however, that nothing herein shall operate or be construed to operate as deeming null and void or having any effect whatsoever on any Tolling Agreement(s) or amendments thereto which have been executed or may be executed in the future by any of the Parties and any and all such Tolling Agreement(s) or amendments thereto shall remain valid and binding on the parties thereto.

8. **No Admissions.** This Settlement Agreement is entered into for settlement and compromise of disputed claims and shall never be treated as an admission by any Party of any liability whatsoever or as an admission by any Party of any violation of the rights of any other Party or person, or the violation of any law, statute, regulation, duty or contract whatsoever. By entering into this Settlement Agreement, the Parties do so solely to avoid the inconvenience, expense, and uncertainty of further proceedings or litigation and expressly disclaim any liability to any other party or person. This Settlement Agreement shall have no precedential value in this or any other matter.

9. **Attorneys' Fees and Costs.** Each Party will bear its own expenses, including any costs or attorneys' fees incurred in connection with the negotiation and execution of this Settlement Agreement, obtaining a Final Order approving the Settlement Agreement, the Trustee Claims, and the Bankruptcy Main Case, except that the Insureds' defense costs, including in connection with the foregoing, are reimbursable according to the terms of the Policy. Subject to the restrictions and limitations herein, in the event that a Party hereto initiates a lawsuit or other proceeding to enforce the provisions of this Settlement Agreement or asserts the provisions of this Settlement Agreement as a defense to a lawsuit or other proceeding brought by any other Party, however, the Party prevailing in such lawsuit or civil proceeding shall be paid, in addition to all other sums that may be required to be paid, a reasonable sum for the prevailing Party's attorneys' fees and costs of action, including paralegal fees and any fees and costs on appeal.

10. **Notices.** All notices or information to be provided under this Settlement Agreement shall be sent to the following:

- a. Trustee: Brett M. Amron, Esq.
Dana R. Quick, Esq.
BAST AMRON LLP
SunTrust International Center
One SE Third Avenue, Suite 1400
Miami, Florida 33131
Email: bamron@bastamron.com
Email: dquick@bastamron.com

- b. Richard Anders, Donald R. Kirk, Esq.
Vanessa Joseph W. Swanson, Esq.
McIntosh, Paul Alexandra D. Blye, Esq.
Quentel, and Carlton Fields
Martin 4221 W. Boy Scout Blvd., Ste. 1000
Weinberg: Tampa, Florida 33607-5780
Email: dkirk@carltonfields.com
Email: jswanson@carltonfields.com
Email: ablye@carltonfields.com
- c. Stephen Czech: Benjamin S. Kaminetzky, Esq.
Andrew S. Gehring, Esq.
Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017
Email: ben.kaminetzky@davispolk.com
Email: andrew.gehring@davispolk.com
- d. Insurer: David Kuffler, Esq.
Kaufman Dolowich Voluck
40 Exchange Place, 20th Floor
New York, NY 10005
Email: dkuffler@kdvlaw.com

11. **Entire Agreement.** This Settlement Agreement constitutes the only existing and binding agreement of settlement among the Parties, and the Parties acknowledge that there are no other warranties, promises, assurances or representations of any kind, express or implied, upon which the Parties have relied in entering into this Settlement Agreement, unless expressly set forth herein. This Settlement Agreement shall not be modified except by written agreement signed by the Party against whom modification is sought.

12. **Tolling.** The Parties agree that all applicable statutes of limitations as to the Trustee Claims or defenses to the Trustee Claims shall be tolled and suspended from November 13, 2018, until the later of the tenth business day following: (i) failure to timely tender the Settlement Payment to the Trustee pursuant to Paragraph 5 of the Agreement; or (ii) entry of final order or orders denying approval of the Settlement Agreement or Bar Order.

13. **Parties Affected.** This Settlement Agreement shall inure to the benefit of the Parties and their officers, directors, shareholders, employees, partners, attorneys, professionals, representatives, spouses, trustees, heirs, successors, and assigns.

14. **Governing Law/Forum Selection.** The Parties agree that the Bankruptcy Court shall have continuing jurisdiction to enforce the terms of this Settlement Agreement and the Parties expressly consent to the exercise of personal jurisdiction over them for that limited purpose. This Settlement Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of Florida, without regard to its conflict of law principles.

15. **Adequate Consideration.** Each of the Parties hereby agrees and acknowledges that the rights and benefits granted to each of them, subject to their respective obligations hereunder, constitute full and adequate consideration to each such Party to enter into this Agreement, and each such Party has expressly bargained for and agreed that the rights afforded them constitute a material inducement to agree to settle the Trustee Claims in accordance with the terms and conditions of this Agreement.

16. **Acknowledgment of Terms.** The Parties have read and understand the terms of this Settlement Agreement, have consulted with their respective counsel, and understand and acknowledge the significance and consequence of each such term. No Party is relying on information provided by or from the other Party in entering into this Settlement Agreement and there are no duties of disclosure by either Party to the other. This Settlement Agreement was executed after arm's length negotiations between the Parties and their respective counsel, and reflects the conclusion of the Parties that this Settlement Agreement is in the best interests of the Parties. Each Party represents and warrants that the person executing this Settlement Agreement on his, her, or its behalf has all authority and legal right to do so and separately acknowledges and represents that this representation and warranty is an essential and material provision of this settlement and shall survive execution of this Settlement Agreement.

17. **Advice of Counsel.** The Parties acknowledge that they have been represented by counsel of their own choice in the negotiations leading up to the execution of this Settlement Agreement, have read this Settlement Agreement, and have had the opportunity to receive an explanation from legal counsel regarding the legal nature and effect of same. The Parties have had the Settlement Agreement fully explained to them by their respective counsel and understand the terms and provisions of this Settlement Agreement and its nature and effect. The Parties further represent that they are entering into this Settlement Agreement freely and voluntarily, relying solely upon the advice of their own counsel, and not relying on the representation of any other Party or of counsel for any other Party.

18. **Severability.** Except with respect to the Bar Order required pursuant to Paragraph 3 above, if any term of this Settlement Agreement is deemed unenforceable, void or against public policy by a Court of competent jurisdiction, that term shall be severed without affecting the remainder of this Settlement Agreement.

19. **Neutral Interpretation.** In the event any dispute arises among the Parties with regard to the interpretation of any term of this Settlement Agreement, all of the Parties shall be considered collectively to be the drafting party and any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall be inapplicable.

20. **Execution of Documents.** This Settlement Agreement may be executed in counterparts, that is, all signatures need not appear on the same copy and execution of counterparts shall have the same force and effect as if the Parties had signed the same instrument. All such executed copies shall together constitute the complete Settlement Agreement. The Parties may execute this Settlement Agreement and create a complete set of signatures by exchanging PDF copies of the executed signature pages. Signatures transmitted in PDF format shall have the same effect as original signatures.

At any time and from time to time before and after the conclusion of the overall settlement provided for in this Agreement, the Parties shall promptly execute and deliver such further documents and instruments, and take such other actions as may be reasonable to carry out the purpose and intent of this Agreement.

21. **Divisions and Headings.** The divisions of this Settlement Agreement into sections and subsections and the use of captions and headings in connection therewith are solely for convenience and shall have no legal effect in construing the provisions of this Settlement Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: _____

1-14-19



MARGARET J. SMITH, CHAPTER 7 TRUSTEE
FOR THE BANKRUPTCY ESTATE OF AA
FLORIDA BRIDAL RETAIL COMPANY, LLC,
ET AL.

Dated: _____

RICHARD ANDERS

Dated: _____

VANESSA MCINTOSH

Dated: _____

PAUL QUENTEL

Dated: _____

MARTIN WEINBERG

Dated: _____

STEPHEN CZECH

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: _____

MARGARET J. SMITH, CHAPTER 7 TRUSTEE
FOR THE BANKRUPTCY ESTATE OF AA
FLORIDA BRIDAL RETAIL COMPANY, LLC,
ET AL.

Dated: JANUARY 14, 2019



RICHARD ANDERS

Dated: _____

VANESSA MCINTOSH

Dated: _____

PAUL QUENTEL

Dated: _____

MARTIN WEINBERG

Dated: _____

STEPHEN CZECH

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: _____

MARGARET J. SMITH, CHAPTER 7 TRUSTEE
FOR THE BANKRUPTCY ESTATE OF AA
FLORIDA BRIDAL RETAIL COMPANY, LLC,
ET AL.

Dated: _____

RICHARD ANDERS

Dated: 01/15/2019

Vanessa McIntosh

VANESSA MCINTOSH

Dated: _____

PAUL QUENTEL

Dated: _____

MARTIN WEINBERG

Dated: _____

STEPHEN CZECH

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: _____
MARGARET J. SMITH, CHAPTER 7 TRUSTEE
FOR THE BANKRUPTCY ESTATE OF AA
FLORIDA BRIDAL RETAIL COMPANY, LLC,
ET AL.

Dated: _____
RICHARD ANDERS

Dated: _____
VANESSA MCINTOSH

Dated: 2019-01-15

PAUL QUENTEL

Dated: _____
MARTIN WEINBERG

Dated: _____
STEPHEN CZECH

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: _____

MARGARET J. SMITH, CHAPTER 7 TRUSTEE
FOR THE BANKRUPTCY ESTATE OF AA
FLORIDA BRIDAL RETAIL COMPANY, LLC,
ET AL.

Dated: _____

RICHARD ANDERS

Dated: _____

VANESSA MCINTOSH

Dated: _____

PAUL QUENTEL

Dated: 1/16/19

Martin Weinberg
MARTIN WEINBERG

Dated: _____

STEPHEN CZECH

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement, as follows:

Dated: _____
MARGARET J. SMITH, CHAPTER 7 TRUSTEE
FOR THE BANKRUPTCY ESTATE OF AA
FLORIDA BRIDAL RETAIL COMPANY, LLC,
ET AL.

Dated: _____
RICHARD ANDERS

Dated: _____
VANESSA MCINTOSH

Dated: _____
PAUL QUENTEL

Dated: _____
MARTIN WEINBERG

Dated: 1/15/19 _____

STEPHEN CZECH

EXHIBIT "B"

PROPOSED APPROVAL ORDER

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

In re:

Case No. 17-18864-MAM

Chapter 7

AA FLORIDA BRIDAL RETAIL
COMPANY, LLC, et al.,

Debtors.

_____ /

**ORDER APPROVING AGREEMENT TO COMPROMISE CONTROVERSY AND
SETTLEMENT OF DIRECTOR AND OFFICER LIABILITY CLAIMS AND FOR
PAYMENT OF CONTINGENCY FEE TO BAST AMRON LLP (ECF NO.--)**

THIS MATTER came before the Court on _____, 2019, upon the Trustee's (the "Trustee") Motion (I) to Approve Agreement to Compromise Controversy and Settlement of Director and Officer Liability Claims; (II) to Approve Bar Order; and (III) for Payment of Contingency Fee to Bast Amron LLP from Settlement Funds (ECF No. ____) (the "Motion").¹

¹ Unless otherwise stated herein, capitalized terms shall have the same meaning as provided in the Agreement.

The Court has reviewed the Motion and the Agreement attached to the Motion at **Exhibit A** thereto (the “Agreement”), and has considered the entire record in this case, the arguments of counsel at the hearing on the Motion, and evidence adduced in support of the Motion (including any evidence offered by proffer and accepted by the Court without objection of any party). The Court finds that notice of the Motion and the hearing thereon is sufficient (*see* ECF No. ____ for the Certificate of Service of the Notice of Hearing on the Motion).

The Court further finds that the settlement and compromise contained in the Agreement attached to the Motion is (i) fair and reasonable, (ii) falls well above the lowest point in the range of reasonableness, (iii) meets the standards for approval set forth by the Eleventh Circuit Court of Appeals in *Wallis v. Justice Oaks II, Ltd. (In re Justice Oaks II, Ltd.)*, 898 F.2d 1544 (11th Cir. 1990), (iv) is proper pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure, and (v) therefore is in the best interests of the Debtors’ Bankruptcy Estates and all creditors of the Debtors’ Bankruptcy Estates.

Based on the foregoing, it is

ORDERED:

1. The Motion is **GRANTED**. The settlement and compromise contained in the Agreement is approved in all respects. The relief requested by the Trustee for the entry of the Bar Order shall be addressed by separate order of the Court.
2. The terms of the Agreement are approved and incorporated herein in their entirety. The Trustee is further authorized to take any action necessary to effectuate the terms of the Agreement.
3. Bast Amron LLP’s (“Bast Amron”) Contingency Fee is approved in the amount of \$600,000. The Trustee has the authority and is directed to make payment upon receipt of the

Settlement Payment. The Trustee is further authorized and directed to make payment of 100% of Bast Amron's out-of-pocket expenses unpaid as of the date of this order, which total \$_____.

4. The Court reserves jurisdiction regarding the interpretation, effectuation, and enforcement of the terms of the Agreement and this Order.

#

Submitted by:

D. Brett Marks, Esq.
AKERMAN LLP
Counsel for Chapter 7 Trustee, Margaret J. Smith
Las Olas Centre II, Suite 1600
350 East Las Olas Boulevard
Fort Lauderdale, FL 33301-2229
Tel: 954-463-2700 /Fax: 954-463-2224
brett.marks@akerman.com

D. Brett Marks, Esq. is directed to serve copies of this Order upon all interested parties and to file a certificate of service with the Court.

EXHIBIT "C"

PROPOSED BAR ORDER

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

In re:

Case No. 17-18864-MAM

Chapter 7

AA FLORIDA BRIDAL RETAIL
COMPANY, LLC, et al.,

Debtors.

_____ /

**BAR ORDER IN ACCORDANCE WITH THE ORDER APPROVING
AGREEMENT TO COMPROMISE CONTROVERSY AND SETTLEMENT
OF DIRECTOR AND OFFICER LIABILITY CLAIMS AND FOR
PAYMENT OF CONTINGENCY FEE TO BAST AMRON LLP (ECF NO.--)**

THIS MATTER came before the Court for hearing on _____, 2019 (the
“Hearing”) upon the Trustee’s (the “Trustee”) Motion (I) to Approve Agreement to Compromise
Controversy and Settlement of Director and Officer Liability Claims; (II) to Approve Bar Order;

and (III) for Payment of Contingency Fee to Bast Amron LLP from Settlement Funds (ECF No. ____) (the “Motion”).¹

The Court has reviewed the Motion and the Agreement attached to the Motion at **Exhibit A** thereto (the “Agreement”), and has considered the record in this case, the arguments of counsel at the Hearing on the Motion, and evidence adduced in support of the Motion (including any evidence offered by proffer and accepted by the Court without objection of any party). The Court finds that notice of the Motion and the Hearing thereon is sufficient (*see* ECF No. ____ for the Certificate of Service of the Notice of Hearing on the Motion).

The Court further finds that the entry of this order is reasonable and justified under the facts and circumstances of this case, and is a requirement of the Settling Parties, without which the settlement and compromise contained in the Agreement attached to the Motion would not have been entered into by the Settling Parties.

Based upon the foregoing, it is

ORDERED:

1. The Court approved the Agreement by a separate order (the “Approval Order”).
2. For the reasons stated on the record at the Hearing which are incorporated herein by reference, the Trustee’s request for the entry of a bar order is **GRANTED** as set forth below.
3. Except as otherwise provided in the Agreement, and pursuant to 11 U.S.C. §105(a), this Order shall act as a permanent injunction against any person or entity, except governmental agencies, in favor of (a) Richard Anders, Vanessa McIntosh, Paul Quentel, Martin Weinberg, and Stephen Czech, all other persons who are considered insured persons under the Policy, and each of their spouses, heirs, successors and assigns (collectively, the “Insureds”) in

¹ Unless otherwise stated herein, capitalized terms shall have the same meaning as provided in the Agreement.

regard to any and all matters arising out of any involvement of the Insureds whatsoever in transactions, acts, or events in any manner related to the Debtors and their predecessors, affiliates, successors, and related entities; and (b) National Union Fire Insurance Company of Pittsburgh, Pa. (the “Insurer,” and together with the Insureds, the “Released Parties”) with regard to any and all claims under the Policy, as follows:

a. Against the filing, commencing, conducting, asserting, litigating, enforcing, collecting, or continuing in any manner directly, indirectly, or derivatively, any suit, action, claim, guaranty, judgment, lien, demand, or other proceeding (including, without limitation, any proceeding in any judicial, arbitral, administrative, or other forum) against (i) any of the Insureds or Insurer (limited to such claims against the Insurer as issuer of the Policy) arising out of or reasonably flowing from the acts or omissions of the Insureds in their capacity as officers, directors, and/or employees of the Debtor¹ or in any way related to the Debtor or its bankruptcy case (the “Barred Claims”); and (ii) the Insurer in connection with the Insureds, the Debtor, or its bankruptcy case (limited to such claims against the Insurer as issuer of the Policy).

b. The Bar Order shall not, however, impact, impair, or otherwise affect any rights that an Insured may have under the Policy or pursuant to any other arrangement among an Insured and the Insurer.

¹ As used herein, the “Debtor” shall collectively include: AA Florida Bridal Retail Co., LLC (Case No. 17-18864); Alfred Angelo – The Bride’s Studio No. 3, Inc. (Case No. 17- 18871); AA Bridal Midwest, LLC (Case No. 17-18873); AA Bridal Northeast, LLC (Case No. 17-18874); AA Bridal, LLC (Case No. 17-18877); BridesMart, LP (Case No. 17-18879); Hacienda Brides (Case No. 17-18881); DJ Fashions, LLC (Case No. 17-18882); AA Bridal Nebraska, LLC (Case No. 17-18883); Alfred Angelo Investment China I (Case No. 17-18887); Alfred Angelo Investment China III (Case No. 17-18888); Zhuhai Haiping Wedding DRESS Design LTD (Case No. 17-18896); Alfred Angelo Investment Company, Limited (Hong Kong) (Case No. 17-18898); and Alfred Angelo Newco, Inc. (Case No. 17-18900).

c. In the event that any person asserting a cause of action (a “Plaintiff”) obtains a judgment or arbitration award (a “Judgment”) against any Barred Person with respect to one or more causes of action based upon, arising from, or related to the facts, allegations, or transactions underlying any Barred Claim, then the Plaintiff shall, prior to or in connection with the entry of such Judgment, provide notice of this Bar Order to the court or tribunal in which such Judgment was obtained. Such court or tribunal shall determine whether the Judgment 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 such 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.

4. The Court reserves jurisdiction regarding the interpretation, effectuation, and enforcement of this Order.

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Submitted by:

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D. Brett Marks, Esq. is directed to serve copies of this Order upon all interested parties and to file a certificate of service with the Court.