

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

WOODBRIIDGE GROUP OF COMPANIES, LLC,
et al.,¹

Debtors.

Chapter 11

Case No. 17-12560 (KJC)

(Jointly Administered)

Hrg. Date: June 5, 2018, at 11:00 a.m. (ET)

Obj. Deadline: May 29, 2018, at 4:00 p.m. (ET)

**DEBTORS' MOTION FOR ENTRY OF AN ORDER, PURSUANT TO SECTION
105(a) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 9019,
AUTHORIZING AND APPROVING ENTRY INTO A
SETTLEMENT WITH 805 NIMES PLACE, LLC**

Woodbridge Group of Companies, LLC and its affiliated debtors and debtors in possession (collectively, the "Debtors") in the above-captioned cases (the "Chapter 11 Cases"), hereby move the Court (this "Motion") for the entry of an order, substantially in the form attached hereto as Exhibit A (the "Proposed Order"), pursuant to section 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code") and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), (i) authorizing and approving the Debtors to enter into the Stipulation, dated May 11, 2018 (the "Stipulation"), in the form attached as Exhibit 1 to the Proposed Order, with 805 Nimes Place, LLC ("Nimes") settling a dispute in connection with that certain *Loan Agreement*, dated as of May 31, 2017 (the "Loan Agreement"), and (ii) granting related relief. In support of this Motion, the Debtors rely on the *Declaration of Bradley D. Sharp in Support of Debtors' Motion for Entry of an Order, Pursuant to Section*

¹ The last four digits of Woodbridge Group of Companies, LLC's federal tax identification number are 3603. The mailing address for Woodbridge Group of Companies, LLC is 14140 Ventura Boulevard #302, Sherman Oaks, California 91423. Due to the large number of debtors in these cases, which are being jointly administered for procedural purposes only, a complete list of the Debtors, the last four digits of their federal tax identification numbers, and their addresses are not provided herein. A complete list of this information may be obtained on the website of the Debtors' noticing and claims agent at www.gardencitygroup.com/cases/WGC, or by contacting the undersigned counsel for the Debtors.

105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, Authorizing and Approving the Debtors' Entry into a Settlement with 805 Nimes Place, LLC (the "Sharp Declaration") and respectfully state as follows:

JURISDICTION

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(b) and 157 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b) and, pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicates for the relief requested herein are Bankruptcy Code section 105(a) and Bankruptcy Rule 9019.

GENERAL BACKGROUND

2. On December 4, 2017, a total of 279 Debtors commenced voluntary cases under chapter 11 of the Bankruptcy Code. Thereafter, on February 9, 2018, March 9, 2018, March 23, 2018, and March 27, 2018, additional affiliated Debtors (27 in total) commenced voluntary cases under chapter 11 of the Bankruptcy Code (collectively, the "Petition Dates"). Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors are continuing to manage their financial affairs as debtors in possession.

3. The Chapter 11 Cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and Local Rule 1015-1. No trustee has been appointed in the Chapter 11 Cases. An

official committee of unsecured creditors (the “Committee”) was appointed on December 14, 2017 [Docket No. 79]. On January 23, 2018, the Court approved a settlement providing for the formation of an ad hoc noteholder group (the “Noteholder Group”) and an ad hoc unitholder group (the “Unitholder Group”) [Docket No. 357].

THE LOAN AGREEMENT

4. Pursuant to the Loan Agreement, Nimes loaned the original principal amount of \$20,000,000 (the “Loan”) to Debtor Bishop White Investments, LLC (“BWI”) to finance BWI’s purchase of the real property commonly known as 805 Nimes Place, Los Angeles, California 90077 (the “Property”) from Nimes. Sharp Decl. ¶ 3. The Loan is evidenced by, among other things, that certain *Promissory Note*, dated as of May 31, 2017, as amended by that certain *First Amendment to Promissory Note and Other Loan Documents*, dated as of August 10, 2017 and that certain *Second Amendment to Promissory Note and Other Loan Documents*, dated as of November 2, 2017 (collectively, the “Note”). *Id.* BWI’s obligations under the Loan Agreement and the Note are secured by that certain Deed of Trust, Security Agreement and Financing Statement signed by BWI and recorded against the Property on May 31, 2017 (“Deed of Trust”). *Id.* BWI defaulted under the Loan Agreement, the Note and the Deed of Trust as noticed to BWI and evidenced by that certain Notice of Default and Election to Sell Under Deed of Trust recorded against the Property on December 1, 2017. *Id.* As of the date hereof, the principal amount owing on the Loan is \$17,000,000. *Id.*

5. Nimes asserts a secured claim (the “Nimes Claim”) against BWI in the total amount of at least \$18,617,923.84, consisting of: (i) the principal amount of \$17,000,000; (ii) accrued interest of at least \$442,708.33 (through June 5, 2018); (iii) accrued default interest of at least \$764,090.50 (as of June 5, 2018); (iv) attorneys’ fees of at least \$400,000; and (v) other fees totaling at least \$11,125. *Id.* at ¶ 4. BWI disputes the amount of the Nimes Claim,

including, without limitation, the amount of default interest and attorneys' fees asserted by Nimes. *Id.* In addition, Nimes has indicated that, among other things, it may seek relief from this Court relative to certain actions and omissions of BWI and to otherwise protect the Nimes Claim, the Note and the Property, including, potentially, relief from the automatic stay in order to continue a foreclosure action (collectively, the "Nimes Relief"). *Id.* at ¶ 5. BWI has indicated that, absent entry into this Stipulation, it had reserved its asserted right to seek to restructure the Nimes Claim under a chapter 11 plan. *Id.*

6. On April 13, 2018, Nimes filed the *Motion of 805 Nimes Place, LLC for Order Authorizing Examination of Debtors Under Federal Rule of Bankruptcy Procedure 2004 and Local Rule of Bankruptcy Procedure 2004-1* [Docket No. 1264] (the "Nimes 2004 Motion"). On April 17, 2018, the Debtors filed the *Debtors' Motion for Entry of Order Under Bankruptcy Rule 2004 Directing Examination and Production of Documents from 805 Nimes Place, LLC* [Docket No. 1582] (the "Debtor 2004 Motion" and, together with the Nimes 2004 Motion, the "Rule 2004 Motions"). On April 27, 2018, the Bankruptcy Court entered orders granting each of the Rule 2004 Motions [Docket Nos. 1675 & 1676] (together the "Rule 2004 Orders"). The Rule 2004 Orders provide, *inter alia*, that the parties shall produce documents and make their designated representative available for deposition in accordance with the timelines set forth therein.

7. Nimes and BWI anticipate that discovery in connection with the Rule 2004 Motions and any future litigation concerning the Nimes Relief, the BWI Default, the Loan, Loan Agreement, Deed of Trust, the Nimes Claim, the Property, and confirmation of any chapter 11 plan, will require significant expense, including attorneys' fees. Sharp Decl. ¶ 6.

SUMMARY OF THE STIPULATION²

8. The Stipulation provides that within five business days after this Court’s entry of an order approving the Stipulation, the Debtors shall indefeasibly pay the following amounts to Nimes (collectively, the “Payoff Amount”): (i) the full \$17,000,000 principal balance owing on the Loan; *plus* (ii) accrued and unpaid interest at the non-default rate (which amount is \$442,708.33 as of June 5, 2018) *plus* (iii) per diem interest in the amount of \$3,493.15 for each calendar day after June 5, 2018 until Nimes is paid in full pursuant to this Stipulation; *plus* (iv) \$250,000 in respect of Nimes’s prepetition and postpetition attorneys’ fees (without the necessity of filing any fee application, motion, stipulation or other request by Nimes or its counsel). Stipulation at ¶ 2. As soon as practicable following receipt of the Payoff Amount, Nimes shall release its lien on the Property and shall execute such documents as are necessary to effectuate such lien release. *Id.* at ¶ 3. Under the Stipulation, the Debtors and Nimes have also provided mutual releases. *Id.* at ¶ 4.

RELIEF REQUESTED

9. By this Motion, the Debtors request the entry of an order, pursuant to section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019(a), authorizing and approving the Stipulation, and granting related relief.

BASIS FOR RELIEF

10. Section 105(a) of the Bankruptcy Code provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” *See* 11 U.S.C. § 105(a). Bankruptcy Rule 9019 provides, in pertinent part, that “on

² In the event of a conflict between any term addressed in this summary with any term in the Stipulation, the Stipulation will govern in all respects.

motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement.” *See* Fed. R. Bank. P. 9019(a).

11. “The federal courts have a well-established policy of encouraging settlement to promote judicial economy and limit the waste of judicial resources.” *Russian Standard Vodka (USA), Inc. v. Allied Domecq Spirits & Wine USA, Inc.*, 523 F. Supp. 2d 376, 384 (S.D.N.Y. 2007); *see also, e.g., U.S. Bancorp Mortg. Co. v. Bonner Mall P’ship*, 513 U.S. 18, 27–28 (1994) (discussing the general utility of settlement vis-à-vis judicial economy). The force of this established federal policy is particularly acute in the bankruptcy context, where compromises and settlements are “a normal part of the process of reorganization.” *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968). Indeed, in order to “minimize litigation and expedite the administration of a bankruptcy estate, ‘compromises are favored in bankruptcy.’” *Myers v. Martin (In re Martin)*, 91 F.3d 389, 393 (3d Cir. 1996) (quoting 9 COLLIER ON BANKRUPTCY ¶ 9019.03[1] (15th ed. rev. 1993)); *see also In re Penn. Cent. Transp. Co.*, 596 F.2d 1102 (3d Cir. 1979); *In re World Health Alts., Inc.*, 344 B.R. 291, 296 (Bankr. D. Del. 2006); *In re Culmtech, Ltd.*, 118 B.R. 237, 238 (Bankr. M.D. Pa. 1990).

12. The decision whether to approve a proposed settlement is committed to the discretion of the bankruptcy court, “which must determine if the compromise is fair, reasonable, and in the interest of the estate.” *In re Louise’s, Inc.*, 211 B.R. 798, 801 (D. Del. 1997). In exercising that discretion, the Third Circuit has stated that courts should consider “(1) the probability of success in litigation; (2) the likely difficulties in collection; (3) the complexity of the litigation involved and the expense, inconvenience and delay necessarily attending it; and (4) the paramount interest of the creditors.” *In re Martin*, 91 F.3d at 393; *see also Will v. Nw. Univ. (In re Nutraquest, Inc.)*, 434 F.3d 639, 644 (3d Cir. 2006); *In re Marvel Entm’t Grp., Inc.*,

222 B.R. 243 (D. Del. 1998). The proponent of a settlement is not required to demonstrate “that the settlement is the best possible compromise. Rather, the court must conclude that the settlement is ‘within the reasonable range of litigation possibilities.’” *In re World Health*, 344 B.R. at 296 (internal citations and quotation marks omitted); *see also, e.g., Nellis v. Shugrue*, 165 B.R. 115, 123 (S.D.N.Y. 1994) (Sotomayor, J.) (“[I]n assessing the fairness of the settlement, a judge does not have to be convinced that the settlement is the best possible compromise or that the parties have maximized their recovery.”); *In re Coram Healthcare Corp.*, 315 B.R. 321, 330 (Bankr. D. Del. 2004) (“[T]he court does not have to be convinced that the settlement is the best possible compromise.”).

13. The Debtors have determined, in consultation with the Committee and in an exercise of the Debtors’ sound business judgment, that the terms of the Stipulation are fair and reasonable and that the best interests of the Debtors’ estates and creditors will be served by the entry of the Proposed Order. Sharp Decl. ¶ 7. The terms of the Stipulation are the product of good faith, arm’s-length negotiations between the Debtors and Nimes, *id.*, and fall within the reasonable range of litigation possibilities. Turning to the *Martin* factors, *bona fide* disputes exist concerning the Loan, the Property, and the Rule 2004 Motions. As part of its claim, Nimes has asserted an entitlement to hundreds of thousands of dollars of default interest and attorneys’ fees. BWI disputes the amount of the Nimes Claim, including the amount of default interest and attorneys’ fees asserted by Nimes. The Debtors acknowledge that litigation of that claim would involve significant cost and expense and inherent risk and delay, and that the Debtors could ultimately lose and be compelled to pay more on account of the Nimes Claim than they are paying under the Stipulation. Given this uncertainty and the cost and expenses of litigation,

consideration of the probability of success in the litigation weighs in favor of approving the Stipulation.

14. In addition, absent approval of the Stipulation, the Debtors and Nimes would be forced to proceed with discovery in connection with the Rule 2004 Motions and any future litigation concerning the Loan or the Property, as well as briefing and argument, which would require time, attention, and resources from the Debtors and their management and professionals. *Id.* at ¶ 8. By contrast, the Stipulation settles the Nimes Claim at an amount well below the amount asserted by Nimes and resolves the parties' disputes in an efficient and consensual manner that will avoid costly and time-consuming litigation that would detract from the value of the estates and the recovery of creditors. *Id.* Moreover, the proposed consensual resolution of this dispute will free the Debtors to devote additional time and effort to the numerous other issues confronting the Debtors in these Chapter 11 Cases. *Id.* Therefore, consideration of the paramount interests of creditors as well as the complexity of litigation and the expense, inconvenience, and delay necessarily attending it further militate in favor of approving the Stipulation.

15. Accordingly, the Debtors respectfully submit that the Stipulation is fair, reasonable, and in the best interests of the estates and should therefore be approved under Bankruptcy Rule 9019 and Bankruptcy Code section 105(a).

REQUEST FOR WAIVER OF STAY

16. The Debtors seek a waiver of any stay of the effectiveness of the order approving this Motion. Pursuant to Bankruptcy Rule 6004(h), any "order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." *See* Fed. R. Bankr. P. 6004(h). The Debtors respectfully submit that a waiver of such stay is appropriate here because any delay in

consummating the settlement could jeopardize the consensus reached between the parties and therefore would be detrimental to the Debtors, their creditors, and their estates. Moreover, the Debtors will have to continue paying *per diem* interest to Nimes until the Debtors pay Nimes' claim under the Stipulation.

NOTICE

17. The Debtors have provided notice of this Motion to: (i) the Office of the United States Trustee for the District of Delaware; (ii) counsel for the DIP lender; (iii) counsel for the Committee; (iv) counsel for the Noteholder Group; (v) counsel for the Unitholder Group; (vi) Nimes; and (vii) all parties who have requested notice in the Chapter 11 Cases pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

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CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court (i) enter the Proposed Order granting the relief requested herein and (ii) grant such other and further relief as may be just and proper under the circumstances.

Dated: May 14, 2018
Wilmington, Delaware

/s/ Ian J. Bambrick

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*Counsel for the Debtors and
Debtors in Possession*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

WOODBIDGE GROUP OF COMPANIES, LLC,
et al.,¹

Debtors.

Chapter 11

Case No. 17-12560 (KJC)

(Jointly Administered)

Hrg. Date: June 5, 2018, at 11:00 a.m. (ET)

Obj. Deadline: May 29, 2018, at 4:00 p.m. (ET)

NOTICE OF MOTION

TO: (I) THE OFFICE OF THE UNITED STATES TRUSTEE FOR THE DISTRICT OF DELAWARE; (II) COUNSEL TO THE DIP LENDER; (III) COUNSEL FOR THE COMMITTEE; (IV) COUNSEL FOR THE NOTEHOLDER GROUP; (V) COUNSEL FOR THE UNITHOLDER GROUP; (VI) NIMES; AND (VII) ALL PARTIES THAT HAVE REQUESTED NOTICE IN THESE CHAPTER 11 CASES PURSUANT TO LOCAL RULE 2002-1.

PLEASE TAKE NOTICE that Woodbridge Group of Companies, LLC and its affiliated debtors and debtors in possession in the above-captioned cases (collectively, the “Debtors”) have filed the attached *Debtors’ Motion for Entry of an Order, Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, Authorizing and Approving Entry into a Settlement with 805 Nimes Place, LLC* (the “Motion”).

PLEASE TAKE FURTHER NOTICE that responses or objections to the Motion must be filed on or before **May 29, 2018, at 4:00 p.m. (ET)** (the “Objection Deadline”) with the United States Bankruptcy Court for the District of Delaware, 3rd Floor, 824 North Market Street, Wilmington, Delaware 19801. At the same time, you must serve a copy of any response or objection upon the undersigned counsel to the Debtors so as to be received on or before the Objection Deadline.

PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE MOTION WILL BE HELD ON JUNE 5, 2018, AT 11:00 A.M. (ET) BEFORE THE HONORABLE KEVIN J. CAREY IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 NORTH MARKET STREET, 5TH FLOOR, COURTROOM NO. 5, WILMINGTON, DELAWARE 19801.

¹ The last four digits of Woodbridge Group of Companies, LLC’s federal tax identification number are 3603. The mailing address for Woodbridge Group of Companies, LLC is 14140 Ventura Boulevard #302, Sherman Oaks, California 91423. Due to the large number of debtors in these cases, which are being jointly administered for procedural purposes only, a complete list of the Debtors, the last four digits of their federal tax identification numbers, and their addresses are not provided herein. A complete list of this information may be obtained on the website of the Debtors’ noticing and claims agent at www.gardencitygroup.com/cases/WGC, or by contacting the undersigned counsel for the Debtors.

PLEASE TAKE FURTHER NOTICE THAT, IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED, AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THEN THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR A HEARING.

Dated: May 14, 2018
Wilmington, Delaware

/s/ Ian J. Bambrick
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*Counsel for the Debtors and
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EXHIBIT A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

WOODBRIIDGE GROUP OF COMPANIES, LLC,
et al.,¹

Debtors.

Chapter 11

Case No. 17-12560 (KJC)

(Jointly Administered)

Ref. Doc. Nos. ____

**ORDER, PURSUANT TO SECTION 105(a) OF THE BANKRUPTCY CODE AND
BANKRUPTCY RULE 9019, AUTHORIZING AND APPROVING THE DEBTORS'
ENTRY INTO A SETTLEMENT WITH 805 NIMES PLACE, LLC**

Upon the *Debtors' Motion for Entry of an Order, Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, Authorizing and Approving the Debtors' Entry into a Settlement with 805 Nimes Place, LLC* (the "Motion")² filed by the above-captioned debtors and debtors in possession (collectively, the "Debtors"); and this Court having found that it has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that venue of these cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having determined that it may enter a final order consistent with Article III of the United States Constitution; and it appearing that notice of the Motion has been given as set forth

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² Capitalized terms used, but not otherwise defined herein, have the meaning given to them in the Motion.

in the Motion and that such notice is adequate and no other or further notice need be given; and this Court having found and determined that the relief sought in the Motion is in the best interest of the Debtors, their estates, and their creditors; and that the legal and factual bases set forth in the Motion, the *Declaration of Bradley D. Sharp in Support of Debtors' Motion for Entry of an Order, Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, Authorizing and Approving the Debtors' Entry into a Settlement with 805 Nimes Place, LLC*, and the entire record of the Chapter 11 Cases establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. Pursuant to section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, the Debtors are authorized to enter into the Stipulation, in substantially the form attached hereto as Exhibit 1, which Stipulation is authorized, approved in its entirety, and incorporated as an order of this Court.
3. The Debtors and Nimes, as applicable, are authorized and empowered to take any and all actions necessary or appropriate to consummate, carry out, effectuate, or otherwise enforce the terms, conditions, and provisions of the Stipulation.
4. The fourteen (14) day stay of effectiveness imposed by Bankruptcy Rule 6004(h) is hereby waived and the relief granted herein shall take effect immediately upon the entry of this Order.
5. The Stipulation shall be binding upon and shall inure to the benefit of the parties thereto and their respective successors and assigns.

6. The Court shall retain jurisdiction and power over any and all matters arising from or related to the interpretation or implementation of this Order and the Stipulation.

Dated: _____, 2018
Wilmington, Delaware

KEVIN J. CAREY
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

Stipulation

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

WOODBRIIDGE GROUP OF COMPANIES, LLC,
et al.,¹

Debtors.

Chapter 11

Case No. 17-12560 (KJC)

(Jointly Administered)

**STIPULATION RESOLVING DISPUTE BETWEEN
805 NIMES PLACE, LLC AND BISHOP WHITE INVESTMENTS, LLC**

Bishop White Investments, LLC, a debtor and debtor in possession in the above-captioned bankruptcy cases (“BWI”) and its debtor-affiliates including without limitation the Woodbridge Group of Companies, LLC (together with BWI, the “Debtors”), on the one hand, and 805 Nimes Place, LLC (“Nimes” and, together with the Debtors, the “Parties”), on the other hand, by and through the undersigned counsel, hereby stipulate (this “Stipulation”) and agree as follows:

RECITALS

A. **WHEREAS**, pursuant to that certain *Loan Agreement*, dated as of May 31, 2017 (the “Loan Agreement”), Nimes loaned the original principal amount of \$20,000,000 (the “Loan”) to BWI to finance BWI’s purchase of the real property commonly known as 805 Nimes Place, Los Angeles, California 90077 (the “Property”) from Nimes;

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B. **WHEREAS**, the Loan is evidenced by, among other things, that certain *Promissory Note*, dated as of May 31, 2017, as amended by that certain *First Amendment to Promissory Note and Other Loan Documents*, dated as of August 10, 2017 and that certain *Second Amendment to Promissory Note and Other Loan Documents*, dated as of November 2, 2017 (collectively, the “Note”);

C. **WHEREAS**, BWI’s obligations under the Loan Agreement and the Note are secured by that certain Deed of Trust, Security Agreement and Financing Statement signed by BWI and recorded against the Property on May 31, 2017 (“Deed of Trust”);

D. **WHEREAS**, BWI defaulted under the Loan Agreement, the Note and the Deed of Trust as noticed to BWI and evidenced by that certain Notice of Default and Election to Sell Under Deed of Trust recorded against the Property on December 1, 2017 (the “BWI Default”).

E. **WHEREAS**, as of the date hereof, the principal amount owing on the Loan is \$17,000,000;

F. **WHEREAS**, Nimes asserts a secured claim (the “Nimes Claim”) against BWI in the total amount of at least \$18,617,923.84, consisting of: (i) the principal amount of \$17,000,000; (ii) accrued interest of at least \$442,708.33 (through June 5, 2018); (iii) accrued default interest of at least \$764,090.50 (as of June 5, 2018); (iv) attorneys’ fees of at least \$400,000; and (v) other fees totaling at least \$11,125;

G. **WHEREAS**, BWI disputes the amount of Nimes’s asserted secured claim, including, without limitation, the amount of default interest and attorneys’ fees asserted by Nimes;

H. **WHEREAS**, Nimes has indicated that, among other things, it may seek relief from the above-captioned bankruptcy court (the “Bankruptcy Court”) relative to certain actions

and omissions of BWI and to otherwise protect the Nimes Claim, the Note and the Property, including, potentially, relief from the automatic stay in order to continue a foreclosure action (collectively, the “Nimes Relief”);

I. **WHEREAS**, BWI has indicated that, absent entry into this Stipulation, it had reserved its alleged right to seek to restructure the Nimes Claim under a chapter 11 plan;

J. **WHEREAS**, on April 13, 2018, Nimes filed the *Motion of 805 Nimes Place, LLC for Order Authorizing Examination of Debtors Under Federal Rule of Bankruptcy Procedure 2004 and Local Rule of Bankruptcy Procedure 2004-1* [Docket No. 1264] (the “Nimes 2004 Motion”);

K. **WHEREAS**, on April 17, 2018, the above-captioned debtors and debtors in possession (the “Debtors”) filed the *Debtors’ Motion for Entry of Order Under Bankruptcy Rule 2004 Directing Examination and Production of Documents from 805 Nimes Place, LLC* [Docket No. 1582] (the “Debtor 2004 Motion” and, together with the Nimes 2004 Motion, the “Rule 2004 Motions”);

L. **WHEREAS**, on April 27, 2018, the Bankruptcy Court entered orders granting each of the Rule 2004 Motions [Docket Nos. 1675 & 1676] (together the “Rule 2004 Orders”);

M. **WHEREAS**, the Rule 2004 Orders provide, *inter alia*, that each of the Parties shall produce documents and make their designated representative available for deposition in accordance with the timelines set forth therein;

N. **WHEREAS**, the Parties anticipate that discovery in connection with the Rule 2004 Motions and any future litigation concerning the Nimes Relief, the BWI Default, the Loan, Loan Agreement, Deed of Trust, the Nimes Claim or the Property will require significant expense, including attorneys’ fees; and

O. **WHEREAS**, the Parties desire to resolve their disputes concerning the Loan, the Nimes Claim, the Property, the Nimes Relief, the BWI Default, the Deed of Trust, the Loan Agreement and the Rule 2004 Motions pursuant to the terms set forth below.

STIPULATION

NOW, THEREFORE, the Parties hereby stipulate and agree as follows:

1. The Recitals stated above constitute and form an integral part of this Stipulation and are incorporated by reference as if set forth herein in full.
2. On or before the fifth business day after entry by the Bankruptcy Court of an order approving this Stipulation (the "Payoff Date"), the Debtors shall indefeasibly pay via wire transfer (pursuant to wiring instructions to be provided by Nimes) the following amounts to Nimes (collectively, the "Payoff Amount"): (i) the full \$17,000,000 principal balance owing on the Loan; *plus* (ii) accrued and unpaid interest at the non-default rate (which amount is \$442,708.33 as of June 5, 2018) *plus* (iii) per diem interest in the amount of \$3,493.15 for each calendar day after June 5, 2018 until Nimes is paid in full pursuant to this Stipulation; *plus* (iv) \$250,000 in respect of Nimes's prepetition and postpetition attorneys' fees (without the necessity of filing any fee application, motion, stipulation or other request by Nimes or its counsel).
3. As soon as practicable following receipt of the Payoff Amount, Nimes shall release its lien on the Property and shall execute such documents as are necessary to effectuate such lien release.
4. Excepting only those claims and obligations arising under this Stipulation (if any):
 - (a) The Debtors, on behalf of themselves and their estates (collectively, the foregoing are referred to as the "Woodbridge Releasors"), hereby release and

forever discharge Nimes and its current and future officers, managers, directors, agents, attorneys, employees, successors, assigns, subsidiaries, and affiliates, from any and all claims, demands, costs, liabilities, obligations, actions and causes of action of every nature, kind or description, whether legal or equitable, known or unknown, liquidated or unliquidated, contingent or non-contingent, suspected or unsuspected, with respect to any conduct, acts, omissions, facts, matters, transactions or oral or written statements or occurrences relating to or arising out of the sale of the Property, the Loan, or the Property that are owned or assertable by or for the benefit of the Woodbridge Releasors.

(b) Nimes hereby releases and forever discharges each of the Woodbridge Releasors and each of their current and future officers, managers, directors, agents, attorneys, employees, successors, assigns, subsidiaries, and affiliates, from any and all claims, demands, costs, liabilities, obligations, actions and causes of action of every nature, kind or description, whether legal or equitable, known or unknown, liquidated or unliquidated, contingent or non-contingent, suspected or unsuspected, with respect to any conduct, acts, omissions, facts, matters, transactions or oral or written statements or occurrences relating to or arising out of the sale of the Property, the Loan, or the Property that are owned or assertable by or for the benefit of Nimes.

5. With respect to the foregoing releases in paragraph 4, each Party hereby knowingly, voluntarily, and expressly waives any and all rights such Party may have pursuant to section 1542 of the California Civil Code, which reads as follows:

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.

The Parties acknowledge that they may hereafter discover facts different from or in addition to those now known or believed to be true with respect to the matters released hereunder, and agree that this Stipulation and the releases provided in paragraph 4 above, shall remain effective in all respects notwithstanding the discovery or existence of any such different or additional facts.

6. Following execution of this Stipulation, the Debtors shall file a motion (the “9019 Motion”) and proposed order (in form and content acceptable to Nimes, the “Approval Order”) seeking Bankruptcy Court approval of this Stipulation, which 9019 Motion and Approval Order shall be filed on or before May 15, 2018 and shall be scheduled to be heard on or before the June

5, 2018 omnibus hearing. This Stipulation is not effective unless and until such time as this Stipulation is approved by the Approval Order.

7. The Parties agree that upon full execution of this Stipulation, all dates, deadlines, and requirements pertaining to document production and examinations set forth in the Rule 2004 Orders shall be stayed pending the earlier of (a) June 11, 2018, or (b) Bankruptcy Court's ruling on the 9019 Motion. Upon entry by the Bankruptcy Court of the Approval Order, each of the Parties shall be deemed to have complied in full with any and all obligations set forth in the Rule 2004 Orders. In the event that the Bankruptcy Court does not approve the 9019 Motion, the Parties shall produce documents pursuant to the Rule 2004 Orders by June 21, 2018, and confer in an attempt to establish mutually agreeable dates between June 26 and June 29, 2018, for the taking of depositions pursuant to the Rule 2004 Orders; if the Parties cannot reach agreement on such dates, one or both Parties may seek the involvement of the Bankruptcy Court on an expedited basis pursuant to a telephonic conference.

8. This Stipulation is to be construed under and governed by the internal laws of the State of California (without regard to conflict of laws principles) and, as applicable, the Bankruptcy Code.

9. The undersigned are duly authorized and empowered to execute this Stipulation on behalf of the respective Parties and their releasors.

10. Each Party represents and warrants that such Party has not assigned or encumbered, and will not assign or encumber, any claims or rights released under this Stipulation.

11. The Parties have participated in and jointly consented to the drafting of this Stipulation, and any claimed ambiguity shall not be construed for or against either of the Parties on account of such drafting.

12. This Stipulation and all of its terms shall be binding upon and shall inure to the benefit of the Parties and each of their respective executors, heirs, permitted successors and assigns, and all persons and entities claiming by or through the Parties.

13. During the pendency of the Bankruptcy Case, the Parties expressly consent and submit to the exclusive jurisdiction of the Bankruptcy Court over any actions or proceedings relating to the enforcement or interpretation of this Stipulation and any Party bringing such action or proceeding shall bring such action or proceeding in the Bankruptcy Court. The Parties consent to the Bankruptcy Court entering a final judgment determining such matter and agree that a final judgment in any such action or proceeding, including all appeals, shall be conclusive and may be enforced in other jurisdictions (including any foreign jurisdictions) by suit on the judgment or in any other manner provided by applicable law.

14. This Stipulation contains the entire agreement and understanding among the Parties concerning the matters set forth herein and supersedes all prior or contemporaneous stipulations, negotiations, representations, understandings, and discussions among the Parties or their respective counsel with respect to the subject matter of this Stipulation.

15. This Stipulation may be executed in several counterparts, and any and all such executed counterparts, taken together, will constitute a single agreement binding on all Parties to this Stipulation. Facsimiles of signatures may be taken as the actual signatures.

Dated: May 11, 2018



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