

**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. No. 21665

**ORDER, PURSUANT TO SECTION 105(a) OF THE BANKRUPTCY CODE AND
BANKRUPTCY RULE 9019, AUTHORIZING AND APPROVING ENTRY INTO A
SETTLEMENT WITH ALEXANDER TOSI**

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 Entry into a Settlement with Alexander Tosi* (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 in the Motion and that such notice is adequate and no other or further notice need be given; and this Court

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, 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 counsel for the Debtors.

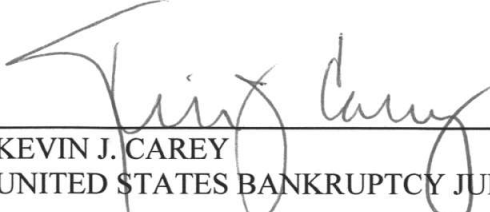
² Capitalized terms used, but not otherwise defined herein, have the meaning given to them in the Motion.

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 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 Settlement Agreement, in substantially the form attached hereto as **Exhibit 1**, which Settlement Agreement is authorized, approved in its entirety, and incorporated as an order of this Court.
3. Subject to the occurrence of its "Effective Date," the Debtors and Tosi, 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 Settlement Agreement.
4. Garden City Group, Inc. is directed to modify the official claims register it maintains to comport with the relief granted by this Order.
5. 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.
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 Settlement Agreement.

Dated: Oct 15, 2018
Wilmington, Delaware



KEVIN J. CAREY
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

Settlement Agreement

Settlement Agreement

This settlement agreement (the “Agreement”) is entered into as of September 25, 2018 (subject to the provisions regarding effectiveness herein) by and between Alexander Tosi (“Tosi”), on the one hand, and Woodbridge Group of Companies, LLC and its affiliated debtors and debtors in possession (the “Debtors,” and, together with Tosi, the “Parties,” and each individually a “Party”), on the other hand.

Recitals

A. The Debtors’ chapter 11 bankruptcy cases are pending in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”), jointly administered under the chapter 11 case entitled *In re Woodbridge Group of Companies, LLC, et al.*, No. 17-12560-KJC (the “Bankruptcy Cases”).

B. On August 22, 2018, the Debtors filed the *First Amended Joint Chapter 11 Plan of Liquidation of Woodbridge Group of Companies, LLC and its Affiliated Debtors* (Docket No. 2397) (as it may be amended, supplemented, or modified from time to time pursuant to the terms thereof, the “Plan”), and the *Disclosure Statement for the First Amended Joint Chapter 11 Plan of Liquidation of Woodbridge Group of Companies, LLC and its Affiliated Debtors* (Docket No. 2398) (as it may be amended, supplemented, or modified from time to time, the “Disclosure Statement”). On August 22, 2018, the Bankruptcy Court entered an order, *inter alia*, approving the Disclosure Statement (Docket No. 2396) (the “Disclosure Statement Order”).

C. Tosi filed claims in the Bankruptcy Cases against the Debtors as follows:

- a. Claim No. 5280 is a Note Claim (as defined in the Plan) against Debtor Woodbridge Mortgage Investment Fund 3A, LLC, in the amount of \$50,000. Claim No. 5280 is amended and superseded by Claim No. 7133 below.
- b. Claim No. 7133 is a Note Claim against Debtor Woodbridge Mortgage Investment Fund 3A, LLC, in the amount of \$50,000 (together with Claim No. 5280, the “Tosi Note Claim”).

D. According to the Debtors’ records, prior to the filing of the Bankruptcy Cases, Tosi received the following payments:

- a. Tosi received commission payments or other compensation from the Debtors in the aggregate amount of \$5,725.00 (the “Commission Payments”); and
- b. Tosi received Prepetition Distributions (as defined in the Plan) on account of his Tosi Note Claim in the aggregate amount of \$2,612.48.

E. The Debtors have advised Tosi that they believe that the preceding claims may be subject to disallowance and/or subordination. The Debtors have further advised Tosi that they believe they possess causes of action against him to avoid and recover the Commission Payments.

F. The Parties wish to resolve all of the matters set out above and to otherwise settle any and all other disputes between or among them, known and unknown, on the terms and conditions set out in this Agreement.

Now, therefore, in consideration of the foregoing, the Parties stipulate and agree as follows:

Agreement

1. The foregoing recitals, set out at paragraphs A through F, inclusive, are incorporated herein as an integral part of this Agreement.

2. The Parties warrant that they are authorized to enter into this Agreement and that by their signatures below, it will become a binding agreement, subject only to satisfaction of the conditions set forth in paragraph 5.

3. Subject to the conditions set forth in paragraph 5, upon the Effective Date (as defined below) the Tosi Note Claim shall be allowed as a single unsecured claim in the amount of \$37,845.85 (*i.e.*, the principal amount of the Tosi Note Claim (excluding the superseded Claim No. 5280) *less* (i) the Prepetition Distributions received on account of Notes held by Tosi and (ii) \$9,541.67, representing the Parties' agreed amount by which the Tosi Note Claim should be reduced in respect of the Commission Payments) (the "Allowed Note Claim").

4. The Allowed Note Claim will participate in ratable distributions with all other Note Claims that are allowed in the Bankruptcy Cases. For purposes of the Plan, the Allowed Note Claim shall be classified and treated as a Class 3 claim, with the "Net Note Claim" (as defined in the Plan) of such claim equal to \$37,845.85. For the avoidance of doubt, the Allowed Note Claim shall be the sole and exclusive right to payment or any other relief that Tosi, and his predecessors, successors, or assigns shall have to any distribution or recovery in the Bankruptcy Case or any chapter 7 bankruptcy case into which the Bankruptcy Case is converted, and shall not be entitled to priority under Bankruptcy Code section 507.

5. This Agreement is not effective unless and until all of the following have occurred:

a. The Debtors have filed a motion (the "Compromise Motion") in the Bankruptcy Cases pursuant to Bankruptcy Code § 105 and Rule 9019 of the Federal Rules of Bankruptcy Procedure seeking approval of this Agreement.

b. The Bankruptcy Court has granted the Compromise Motion and entered an order (the "Compromise Order") thereon.

c. The time to commence an appeal of the Compromise Order pursuant to Rule 8002(a) of the Federal Rules of Bankruptcy Procedure has run and no appeal has been filed, or any such appeal has been dismissed or resolved by the highest court to which the order or judgment was appealed or from which review, rehearing, remand, or a writ of certiorari was sought.

d. The Compromise Order has not been stayed pursuant to Rule 8007 of the Federal Rules of Bankruptcy Procedure.

The first date on which all the preceding (paragraphs 5.a above through 5.d, inclusive) have occurred is the "Effective Date." Upon the Effective Date, this Agreement shall become effective and shall be binding upon the Parties.

6. To the maximum extent permitted by law, Tosi, on behalf of himself, his agents, successors, assigns, attorneys, and representatives (collectively, the "Tosi Releasing Parties"), hereby release, acquit, and discharge, and covenant and agree that they will refrain and forbear from commencing, instituting, prosecuting, or continuing, any lawsuit, action, claim, right, demand, cause of action, suit or other proceeding (including filing any further claim) against the Debtors, their estates, their affiliates, predecessors, successors, assigns, and assignees, except for any claims to enforce rights, obligations, and duties arising out of this Agreement.

7. To the maximum extent permitted by law, the Debtors and their predecessors, successors, assigns, and assignees (the "Woodbridge Releasing Parties") hereby release, acquit, and discharge, and covenant and agree that they will refrain and forbear from commencing, instituting, prosecuting, or continuing, any lawsuit, action, claim, right, demand, cause of action, suit or other proceeding against Tosi, his affiliates, predecessors, successors, assigns, and assignees, except for any claims to enforce rights, obligations, and duties arising out of this Agreement.

8. The Parties hereby acknowledge that it is their intention that the releases set forth in paragraphs 6 and 7 shall be effective as a full and final release of and as a bar with prejudice to each and every claim as set forth therein that the Tosi Releasing Parties and Woodbridge Releasing Parties have or had against the parties whom they are releasing in paragraphs 6 and 7. In connection with such waiver and relinquishment, the Parties acknowledge that they or their attorneys may hereafter discover facts different from or in addition to the facts that they now know or believe to be true with respect to the subject matter of this Agreement, but that it is their intention to hereby fully, finally, absolutely, and forever release any and all claims released pursuant to paragraphs 6 and 7, which now do exist, may exist or heretofore have existed between them, and that in furtherance of such intentions the release as given herein by the Parties, shall be and remain in effect as a full and complete release of the claims released, notwithstanding the discovery of any such different or additional facts.

Notwithstanding the discovery of any such additional or different facts, the Parties certify that they have read Section 1542 of the California Civil Code set forth below:

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 waive application of Section 1542 of the California Civil Code, to the extent applicable, and any other statutes, common law rights, rules or the like which may operate to limit the intent of this Agreement with respect to the claims released above. The Parties

understand and acknowledge the significance and consequence of this waiver of Section 1542 of the California Civil Code is that even if the Releasing Parties should eventually suffer additional damages on account of the claims released above, they will not be permitted to make any claim for such damages.

It is expressly understood and agreed by the Parties that the facts with respect to this Agreement may turn out to be different from the facts now known or believed by the Parties to be true. Each of the Parties expressly assumes the risk of the facts turning out to be different and agrees that this Agreement will be in all respects effective and not subject to termination or rescission by reason of any such differences.

9. Tosi agrees, so long as he is entitled to vote on the Plan and his votes have been properly solicited pursuant to the Disclosure Statement Order (or any subsequent order governing solicitation procedures with respect to any other chapter 11 plan), to vote the Allowed Note Claim in favor of and to accept any chapter 11 plan in which the treatment of Standard Note Claims is no less favorable than the treatment proposed in the Plan as of the date of this Agreement. The Parties acknowledge and understand that this Agreement is not and shall not be deemed to be a solicitation of or votes for the acceptance or rejection of any bankruptcy plan for the purposes of Bankruptcy Code §§ 1125 and 1126 or otherwise.

10. Each Party shall bear its own attorneys' fees and costs in connection with the Bankruptcy Cases through the Effective Date, including the negotiation, documentation, execution, delivery, and performance of this Agreement. Notwithstanding the preceding sentence, should any action, suit or proceeding be commenced by any Party to this Agreement to enforce any provision hereof, the prevailing Party shall be entitled to recover reasonable attorneys' fees and costs and expenses incurred in said action, suit or proceeding, including any appeal.

11. To the best of Tosi's knowledge, following reasonable inquiry, as of the date of this Agreement set forth above, Tosi represents and warrants that the only claim or right to payment of which he is aware that he has against the Woodbridge Releasing Parties or their bankruptcy estates is represented by the claims listed in Recital C above. In the event the Parties discover subsequently that there exists any other claim or action, Tosi will take all necessary action to withdraw or dismiss it forthwith upon request by the Debtors.

12. The Parties acknowledge that this Agreement represents a compromise of disputed claims and that, by entering into this Agreement, none of the Parties admits or acknowledges the existence of any liability or wrongdoing.

13. Each Party represents and warrants to all of the other Parties and each of them, that it has not assigned or transferred any of the claims or interests addressed in this Agreement. Each Party agrees to defend and indemnify all of the other Parties and each of them against any claim based upon, arising out of, or arising in connection with any such alleged or actual assignment or transfer.

14. The Parties hereby provide assurances of cooperation to each other and agree to take any and all necessary and reasonable steps, including executing any other and further documents or

instructions and performing any other and further acts, appropriate to effect the intent of this Agreement.

15. The Parties specifically consent to the jurisdiction and power of the Bankruptcy Court to determine any dispute relating to this Agreement, including any claim for breach, and to the authority of the Bankruptcy Court to enter a final judgment in connection therewith.

16. The Parties may give notice to each other by sending a written communication by overnight mail or e-mail to the Parties at the addresses set forth below.

a. To Tosi:

Alexander Tosi
9 Somerset Ave.
Bernardsville, New Jersey 07924
Email: atosi2000@yahoo.com

b. To the Debtors:

Woodbridge Group of Companies, LLC
14140 Ventura Boulevard, #302
Sherman Oaks, California 91423
Email: bsharp@dsi.biz
Attention: Bradley D. Sharp, Chief Restructuring Officer

with a copy (which shall not constitute notice) to:

Klee, Tuchin, Bogdanoff & Stern LLP
1999 Avenue of the Stars, 39th Floor
Los Angeles, California 90067
Email: mtuchin@ktbslaw.com and jweiss@ktbslaw.com
Attention: Michael L. Tuchin, Esq. and Jonathan M. Weiss, Esq.

Any Party wishing to change the address or email address at which he, she or it receives notices or payments may do so by giving notice as provided in this paragraph 16.

17. This Agreement 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.

18. This Agreement 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 Agreement. No other representations, covenants, undertakings, or other earlier or contemporaneous agreements respecting these matters may be deemed in any way to exist or bind any of the Parties. The Parties acknowledge that they have not executed this Agreement in reliance on any promise, representation, or warranty other than those contained in this Agreement.

19. This Agreement is the product of negotiation among the Parties and represents the jointly conceived and bargained-for language mutually determined by the Parties to express their intentions in entering into this Agreement. Any ambiguity or uncertainty in this Agreement is therefore to be deemed to be caused by or attributable to the Parties collectively and is not to be construed against any particular Party. Instead, this Agreement is to be construed in a neutral manner, and no term or provision of this Agreement as a whole is to be construed more or less favorably to any one Party. Furthermore, the Parties hereby waive California Civil Code § 1654.

20. If the Bankruptcy Court declines to approve this Agreement despite the Parties' efforts to obtain such approval, then (i) this Agreement will be null and void and of no force or effect; (ii) no Party shall have any obligations to any other Party arising out of this Agreement; and (iii) the Parties' respective rights and remedies with respect to all matters addressed by this Agreement will be fully reserved and the Parties will be restored to their respective positions, *status quo ante*, as of the date on which this Agreement was executed.

21. This Agreement may not be modified except as mutually agreed to in a writing signed by all the Parties.

22. No waiver, forfeiture or forbearance of or concerning any provision of this Agreement shall be deemed or shall constitute a waiver, forfeiture or forbearance of or concerning any of the other provisions hereof, or a continuing waiver, forfeiture or forbearance.

23. If, for any reason, any provision of this Agreement is determined to be invalid or unenforceable, such provision shall be automatically reformed to embody the essence of that provision to the maximum extent permitted by law, and the remaining provisions of this Agreement shall be construed, performed and enforced as if the reformed provision had been included in this Agreement at inception.

24. This Agreement 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 Agreement. Facsimiles of signatures may be taken as the actual signatures.

[Remainder of page intentionally left blank]

WOODBIDGE GROUP OF COMPANIES, LLC,
ET AL.

By:

Name: Bradley D. Sharp

Title: Chief Restructuring Officer

ALEXANDER TOSI

Alex Tosi 9/29/18

172333.1

2