STIPULATION AND AGREEMENT OF SETTLEMENT

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This Stipulation and Agreement of Settlement ("Agreement") is entered into by and between Defendants Matt Martorello, Rebecca Martorello, Eventide Credit Acquisitions, LLC ("Eventide"), and BWH Texas, LLC (with the inclusion of the terminated Bluetech Irrevocable Trust, "BWH Texas"), (collectively, "Defendants"), on the one hand, and Plaintiffs Lula Williams, Gloria Turnage, George Hengle, Dowin Coffy, Marcella P. Singh (as administrator of the estate of Felix M. Gillison, Jr.), Renee Galloway, Dianne Turner, Dominique de la Bay, Lori Fitzgerald, Andrea Scarborough, Earl Browne, Rose Marie Buchert, Regina Nolte, Kevin Minor, Teresa Titus, Burry Pough, Lisa Martinez, Sonji Grandy, Anastasia Sherman, Jerry Avent, Lucinda Gray, Anthony Green, Linda Madison, Dennis ~~Derek~~ DG Geter, Keisha Hamm, Faith Thomas, Sharon Paavo, Latanya Tarleton, Richard Smith, and Dana Duggan, on the other hand, on behalf of themselves and all other similarly situated individuals, and as representatives of the Settlement Class, as these terms are defined in Section II.

I. <u>RECITALS</u>

The following recitals are material terms of this Agreement, and all capitalized terms are used as defined in Section II, below, except as otherwise defined herein. This Agreement is made in contemplation of the following facts and circumstances:

WHEREAS, on June 22, 2017, Lula Williams, Gloria Turnage, George Hengle, Dowin Coffy, and Felix M. Gillison, Jr., filed a class action complaint against certain parties to this agreement in the United States District Court for the Eastern District of Virginia, Case No. 3:17-cv-461 (*Williams v. Big Picture Loans, LLC*) (the "*Williams* Action");

WHEREAS on June 11, 2018, Renee Galloway, Dianne Turner, Dominique de la Bay, Lori Fitzgerald, Andrea Scarborough, Earl Browne, Rose Marie Buchert, Regina Nolte, Kevin Minor, Teresa Titus, Burry Pough, Lisa Martinez, Sonji Grandy, Anastasia Sherman, Jerry Avent, Lucinda Gray, Anthony Green, Linda Madison, Dennis ~~Derek~~ DG Geter, Keisha Hamm, Faith Thomas, Sharon Paavo, and Latanya Tarleton filed a class action complaint against certain parties in the United States District Court for the Eastern District of Virginia, Case No. 3:18-cv-406 (*Galloway v. Big Picture Loans, LLC*) (the "*Galloway I* Action");

WHEREAS on September 11, 2018, Richard Smith filed a class action complaint against certain parties in the United States District Court for the District of Oregon, Case No. 3:18-cv-01651 (*Smith v. Martorello*) (the "*Smith* Action");

WHEREAS on October 31, 2018, Dana Duggan filed a class action complaint against certain parties in the United States District Court for the District of Massachusetts, Case No. 1:18-cv-12277 (*Duggan v. Martorello*) (the "*Duggan* Action");

WHEREAS, on April 24, 2019, Renee Galloway, Dianne Turner, Dominique de la Bay, Lori Fitzgerald, Andrea Scarborough, Earl Browne, Rose Marie Buchert, Regina Nolte, Kevin Minor, Teresa Titus, Burry Pough, Lisa Martinez, Sonji Grandy, Anastasia Sherman, Jerry Avent, Lucinda Gray, Anthony Green, Linda Madison, Dennis ~~Derek~~ Geter, Keisha Hamm, Faith Thomas, Sharon Paavo, and Latanya Tarleton filed a class action complaint against certain defendants in the United States District Court for the Eastern District of Virginia, Case No. 3:19-cv-314 (*Galloway v. Martorello*) (the "*Galloway II* Action") (collectively, the *Williams* Action, the *Galloway I* Action, the *Smith* Action, the *Duggan* Action, and the *Galloway II* Action, are referred to as "the Actions");

WHEREAS, the Actions alleged various class claims for violations of various state and federal laws;

WHEREAS, Defendants deny any and all claims alleged by Plaintiffs in the Actions, further deny that any Plaintiffs or any members of the Settlement Class they purport to represent have suffered any injury or damage, and have to date vigorously defended against the Actions;

WHEREAS, Plaintiffs and Class Counsel have conducted an investigation of the legal claims at issue, by review and analysis of documents related to Defendants' respective roles in the alleged lending enterprise;

WHEREAS, Plaintiffs and Class Counsel have reviewed and processed, for the claims here, more than a million pages of documents in the original claims brought against Defendants, which documents formed the basis for Plaintiffs' allegations in the Actions;

WHEREAS, Plaintiffs and Class Counsel have concluded that it would be in the best interests of the Settlement Class to enter into this Agreement in order to avoid the uncertainties of litigation and to assure benefits to the Settlement Class and that the settlement contemplated hereby is fair, reasonable, adequate, and in the best interests of all members of the Settlement Class;

WHEREAS, Defendants deny all material allegations in the Actions; deny any jurisdiction in this Court save for purposes of enforcing this Settlement Agreement; deny any fault, wrongdoing, or liability whatsoever arising out of or related to their conduct; and affirmatively state that their conduct has been lawful and proper. Defendants deny that resolution of the merits of the Action is suitable for class treatment, and further deny liability to Plaintiffs or to others similarly situated, including all Settlement Class Members. Execution of this Settlement Agreement is not, and shall not be construed as, an admission of wrongdoing or liability by Defendants, an admission that Defendants violated any provision of federal, state, or tribal law, or an admission that Defendants concede that class treatment of the Action is appropriate. Defendants further deny that the lending activity of the Lac Vieux Desert Band of Lake Superior Chippewa Indians (the "Tribe") is subject to the laws and/or regulations of any State or in any way is unlawful. Defendants affirmatively state that the loans issued by Red Rock Tribal Lending, LLC

("Red Rock") and Big Picture Loans, LLC ("Big Picture" or "Big Picture Loans") are lawful, valid, and enforceable and provide a valuable lending option for some individuals;

WHEREAS, Defendant Matt Martorello affirmatively states that he believes in good faith that the loans are lawful based on advice and conduct of numerous legal counsel involved, through both privileged and non-privileged communications; the statements, actions, and collaborations of federal and state agencies regarding the Tribe's lending business and online tribal lending generally; the decision of the U.S. Court of Appeals for the Second Circuit in *Otoe-Missouria Tribe of Indians v. New York State Department of Financial Services*, 769 F.3d 105 (2d Cir. 2014); the district court decision in *FTC v. Payday Financial*, LLC, 935 F. Supp. 2d 926 (D.S.D. 2013); and several other factors, all of which inform his understanding today. He further states: (1) that, even though there was never any RICO enterprise, he withdrew from the Tribe's lending operation on January 26, 2016, when he sold Bellicose Capital to the Tribe and notified Tribe representatives that he would no longer provide support for their lending business; and (2) the sale was seller-financed through Eventide, and after that time, neither Eventide nor Mr. Martorello took any action outside of the Loan and Security Agreement—Eventide only received Tribal Economic Development, LLC's and Big Picture Loan's note payments on Bellicose Capital's sale to the Tribe, and Mr. Martorello acted only in his capacity as an Eventide executive. To that same end, on December 17, 2019, in *Eventide Credit Acquisitions, LLC v. Big Picture Loans, LLC et al.*, No. 2:19-cv-256 (W.D. Mich.), Eventide first sued Big Picture, Ascension Technologies, and Tribal Economic Development Holdings, LLC, for numerous defaults under the Loan and Security Agreement and has since brought claims against them, while Big Picture has instituted counterclaims of its own, in several other lawsuits;

WHEREAS, Defendants affirmatively state that Eventide has a lawful right to exercise its rights under the Loan and Security Agreement, including to collect and obtain payment from seizure of its collateral and/or from note payments stemming from that agreement and to distribute those proceeds to its members;

WHEREAS, Plaintiffs and Class Counsel have had numerous and exhaustive bilateral settlement negotiations with Defendants' counsel, including multiple mediations before then U.S. Magistrate Judge David Novak and Magistrate Judge Mark Colombell, as well as before a private mediator;

WHEREAS, the Parties understand, acknowledge, and agree that the execution of this Agreement constitutes the settlement and compromise of disputed claims that have been or could be brought by or on behalf of Plaintiffs or the Settlement Class relating to the conduct at issue in the Actions. This Agreement, related settlement negotiations, and any other facts surrounding the Agreement's entry by the Parties are inadmissible as evidence against any party for any reason except to enforce the terms of the Settlement, are not an admission of wrongdoing or liability on the part of any party to this Agreement, and are not an admission of any facts or other details set forth herein, except for the sole purpose of establishing a process for effectuating the terms of this Settlement; and

WHEREAS, the Parties have now reached a settlement of the Actions. The settlement also settles the litigation and proof of claims relating to the consumer borrowers filed in *In Re: Eventide Credit Acquisitions, LLC*, Case No. 9:23-bk-900007 (Bankr. N.D. Tex.), and in *In Re: BWH Texas, LLC*, Case No. 4:23-bk-43085 (Bankr. N.D. Tex.).

NOW, THEREFORE, in consideration of the promises and agreements set forth herein, it is hereby STIPULATED AND AGREED, subject to the District Court's approval, that the Actions have been resolved upon and subject to the following terms and conditions:

II. DEFINITIONS

2.1 "Actions" means *Williams v. Big Picture Loans, LLC*, Case No. 3:17-cv-461 (E.D. Va.); *Galloway v. Big Picture Loans, LLC*, Case No. 3:18-cv-406 (E.D. Va.); *Smith v. Martorello*, Case No. 3:18-cv-01651 (D. Or.); *Duggan v. Martorello*, Case No. 1:18-cv-12277 (D. Mass.); *Galloway v. Martorello*, Case No. 3:19-cv-314 (E.D. Va.); *In Re: Eventide Credit Acquisitions, LLC*, Case No. 9:23-bk-900007 (Bankr. N.D. Tex.); and *In Re: BWH Texas, LLC*, Case No. 4:23-bk-43085 (Bankr. N.D. Tex.).

2.2 "CAFA Notice" refers to the notice made pursuant to the requirements imposed by 28 U.S.C. § 1715(b).

2.3 "Cash Award" means a cash payment to an eligible Settlement Class Member pursuant to Section 3.9(b).

2.4 "Class Counsel" means Kelly Guzzo PLC, Consumer Litigation Associates, P.C., Berger Montague PC, Terrell Marshall Law Group PLLC, Caddell & Chapman, and Gupta Wessler, LLP.

2.5 "Defendants" means the defendants named in the introductory paragraph of this Agreement.

2.6 "Direct Notice" means the notice that will be provided pursuant to Sections 5.3(a) and 5.3(b), subject to approval by the District Court, substantially in the form attached hereto as "Exhibit 1."

2.7 "District Court" means the United States District Court for the Eastern District of Virginia.

2.8 "Effective Date" means the date that the Final Approval Order entered in the *Galloway II* Action becomes final for all purposes because either (i) the Final Approval Order has been entered without material change to the Parties' agreed-upon proposed Final Approval Order as described in Section VIII, no objection was filed or if filed has been withdrawn, and the time within which an objection may be filed has lapsed; (ii) the Final Approval Order has been entered without material change to the Parties' agreed-upon proposed Final Approval Order as described in Section VIII, an objection was timely filed, but no appeal has been filed in accordance with Rule 4(a) of the Federal Rules of Appellate Procedure and the time within which an appeal may be noticed and filed has lapsed; or (iii) if a timely appeal has been filed, the appeal is finally resolved, with no possibility of further appellate or other review, resulting in final judicial approval of this Settlement without material change. The Effective Date shall not be affected by any appeal or other proceedings regarding solely an application for attorneys' fees and expenses or an application for service awards for the Class Representatives.

2.9 "Escrow Account" means the bank account owned and/or controlled by the Escrow Agent into which the Settlement Fund will be deposited. The Escrow Account shall be a trust account that is under the exclusive control of the Settlement Administrator.

2.10 "Escrow Agent" refers to Huntington Bank, N.A., or such other escrow agent selected by Class Counsel and approved by Defendants' counsel, such approval shall not be unreasonably withheld or conditioned.

2.11 "Final Approval Order" means the Final Approval Order and Judgment to be entered by the District Court in the *Galloway II* Action finally approving this Settlement and resolving all issues between the Parties, as provided for in Section VIII below.

2.12 "Final Fairness Hearing" means the hearing at which the District Court will consider and finally decide whether to approve this Settlement, enter Judgments, and make such rulings as are contemplated by this Settlement.

2.13 "Internet Notice" means notice through the Internet website created pursuant to Section 5.3(b) of this Agreement.

2.14 "Named Plaintiffs" means Lula Williams, Gloria Turnage, George Hengle, Dowin Coffy, Marcella P. Singh (as administrator of the estate of Felix M. Gillison, Jr.), Renee Galloway, Dianne Turner, Dominique de la Bay, Lori Fitzgerald, Andrea Scarborough, Earl Browne, Rose Marie Buchert, Regina Nolte, Kevin Minor, Teresa Titus, Burry Pough, Lisa Martinez, Sonji Grandy, Anastasia Sherman, Jerry Avent, Lucinda Gray, Anthony Green, Linda Madison, ~~Derek~~ Dennis DS Geter, Keisha Hamm, Faith Thomas, Sharon Paavo, Latanya Tarleton, Richard Smith, and Dana Duggan.

2.15 "NCOA" means the United States Postal Service's National Change of Address database.

2.16 "Parties" means Defendants and the Named Plaintiffs, on their own behalf and on behalf of the Settlement Class.

2.17 "Preliminary Approval Order" means the order to be entered by the District Court, as provided for in Section 7.2 below, substantially in the form attached hereto as "Exhibit 2."

2.18 "Released Claims" means for any Settlement Class Member who is sent a payment from the Settlement Fund, any and all claims, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses and attorneys' fees of any nature whatsoever, whether arising under federal law, state law, common law or equity, tribal law, foreign law, territorial law, contract, rule, regulation, any regulatory promulgation (including, but not limited to, any opinion or declaratory ruling), or any other law, including Unknown Claims, whether suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, punitive or compensatory, as of the date of the Preliminary Approval Order, that relate to or arise out of loans made by and/or in the name of Red Rock or Big Picture from June 22, 2013 to May 1, 2024(with the sole exception of claims to enforce the Settlement or the Judgment). "Released Claims" for all other Settlement Class Members means their rights to bring a class action, collective action, or mass action against Released Parties based on any and all claims, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses, and attorneys' fees of any nature whatsoever, whether arising under federal law, state law, common law or equity, tribal law, foreign law, territorial law, contract, rule, regulation, any regulatory promulgation (including, without limitation, any opinion or declaratory ruling), or any other law, including Unknown Claims, whether suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, punitive or compensatory, as of the date of the Preliminary Approval Order, that relate to or arise out of loans made by and/or in the name of Red Rock or Big Picture from June 22, 2013 through May 1, 2024 (with the sole exception of claims to enforce the Settlement or the Judgment).

2.19 "Released Parties" means Matt Martorello, Rebecca Martorello, Justin Martorello, Eventide, BWH Texas, Liont, LLC, Gallant Capital, LLC, the RLM 2018 Family Trust, the Martorello 2018 Children's Trust, Martorello Investments, LP, the RLM Management Trust, the Capstone Irrevocable Trust, the Bluetech Irrevocable Trust, Martorello 2023 Children's Trust, BVNT Children's Trust 1, BVNT Children's Trust 2, BVNT Childrens, LLC, Vroom Trust, Obsidian LLC, Capstone Holdings, LLC, Capstone Opportunities, LLC, GFLP Entity 1, LP, GFGP Entity 1, LP, Kairos Holdings, LLC, Promovere Inc., Braviant, LLC ("Braviant"), Woodside Special Opportunity PE Fund, LP, Promus Ventures II, LP, GreenKey Technologies, LLC, PV Rocket Labs I, LLC, Promus III, LP, PV Expansion Fund I, Dorado Analytics, LLC, and Lonnie Jeremy Davis, and any and all other persons, entities or trusts whether presently or previously in existence, that are directly or indirectly in any way now or heretofore owned by, controlled by, related to, or associated with the foregoing, together with any of their respective current, former or successor: parent companies, holding companies, subsidiaries, trusts, sub-trusts, trustees, beneficiaries, parents, guardians, children, estates, principals, protectors, grantors, settlors, officers, directors, agents, employees, attorneys, successors, affiliates, heirs, assignees, general partners, limited partners, managers, members, vendors, consultants, transferees, investors, creditors, accountants, insurers, and shareholders.

2.20 "Non-Released Parties" means Big Picture Loans, the Tribe, Tribal Economic Development, LLC, Tribal Acquisition Company, LLC, Duck Creek Tribal Financial, LLC, Ascension Technologies, LLC, Amlaur Resources, Columbia Pipe & Supply Co., Timothy Arenberg, Terrance Arenberg, and DTA Trinity Wealth Transfer Trust, and, to the extent that any such interpretation does not include any Released Parties, any and all other persons, entities, or trusts, whether presently or previously in existence, that are directly or indirectly in any way now or heretofore owned by, controlled by, related to, or associated with the foregoing, together with any of their respective current, former or successor: parent companies, holding companies, subsidiaries, trusts, sub-trusts, trustees, beneficiaries, parents, guardians, children, estates, principals, protectors, grantors, settlors, officers, directors, agents, employees, attorneys, successors, affiliates, heirs, assignees, general partners, limited partners, managers, members, vendors, consultants, transferees, investors, creditors, accountants, insurers, and shareholders.

2.21 "Settlement" means the settlement set forth in this Stipulation and Agreement of Settlement.

2.22 "Settlement Administrator" shall refer to American Legal Claims Services LLC, or such other Settlement Administrator selected by Class Counsel and approved by Defendants' counsel, such approval shall not be unreasonably withheld or conditioned.

2.23 "Settlement Class" means all persons within the United States who executed loan agreements with Red Rock or Big Picture from June 22, 2013 through May 1, 2024.

2.24 "Settlement Class Member" means a person in the Settlement Class who does not timely submit a valid request for exclusion from the Settlement Class.

2.25 "Settlement Fund" means the total sum of $65,000,000.00 (sixty-five million dollars) to be paid to the Escrow Agent as provided for in Section 3.4 of this Agreement, inclusive of payments to Settlement Class Members, attorneys' fees and costs, service awards to Named Plaintiffs, and costs of notice and administration.

2.26 "Unknown Claims" means any and all Released Claims that Plaintiffs and/or any other Settlement Class Member does not know or suspect to exist in her, his, or its favor at the time of the release of the Released Parties, which if known by him, her, or it might have affected her, his, or its decision(s) with respect to the Settlement, including the decision to seek exclusion from or object to the Settlement.

III. TERMS OF THE SETTLEMENT

3.1 Class Certification. Defendants dispute that a class would be manageable and further deny that a litigation class could be certified on the claims asserted in the Actions. However, solely for purposes of avoiding the expense and inconvenience of further litigation, Defendants do not oppose the District Court's certification of the Settlement Class for purposes of this Settlement only. No agreements made by Defendants in connection with this Agreement may be used by Plaintiffs, any Settlement Class Member, or any other person, to establish any of the elements of liability or class certification in this or any other proceeding. Preliminary certification of a Settlement Class for settlement purposes shall not be deemed a concession that certification of a class is appropriate, nor are the Released Parties estopped or otherwise precluded from challenging class certification in further or other proceedings if this Settlement is not finally approved.

3.2 Definition of the Settlement Class. Solely for the purposes of this Settlement, the Parties agree to preliminary certification of the following Settlement Class:

> All persons within the United States who executed loan agreements with Red Rock or Big Picture Loans from June 22, 2013through May 1, 2024.

Excluded from the Settlement Class are Class Counsel and their immediate family members and staff, and all judges and justices of the United States District Court for the Eastern District of Virginia, the United States Court of Appeals for the Fourth Circuit and the Supreme Court of the United States, as well as their immediate family members and staff.

Certification of the Settlement Class will be sought pursuant to Federal Rule of Civil Procedure 23(b)(3), and all Settlement Class Members shall have the right to exclude themselves by way of the opt-out procedure set forth in Section 7.3 of this Agreement and the Preliminary Approval Order.

3.3 Identification of the Settlement Class and Eligibility for Cash Award. The Parties agree to use the Class List used in *Galloway v. Williams, Jr.*, Case No. 3:19-cv-470 (E.D. Va.), as well as to obtain an update to the Class List pursuant to Paragraph 6.3 of the Class Action Settlement Agreement and Release.

3.4 Settlement Consideration. Pursuant to this Agreement, as full and complete consideration for the releases set forth below, the settlement consideration shall be a total sum of

$65,000,000.00 (sixty-five million dollars) to be paid to the Escrow Agent [redacted]

[redacted]

[redacted]

[redacted]

3.11 Payment from the Escrow Agent. Upon the Effective Date, the Escrow Agent shall immediately distribute the Settlement Fund (and all interest earned on such funds) to be administered and distributed by the Settlement Administrator. Upon payment or transfer of the Settlement Fund to the Settlement Administrator, the Escrow Agent shall be discharged from all duties.

3.12 Distribution by Settlement Administrator. The Settlement Administrator shall then distribute the Settlement Fund in the following order: First, to pay costs of notice and administration; second, to pay service awards to Named Plaintiffs approved by the District Court, and attorneys' fees and costs awarded by the District Court; and third, to pay Cash Awards.

a. Distributions to the Settlement Class. Cash Awards shall be calculated and distributed to Settlement Class Members as follows:

Tier 1: All payments made by Settlement Class Members in Arizona, Arkansas, Colorado, Connecticut, Idaho, Illinois, Indiana, Kansas, Kentucky, Massachusetts, Minnesota, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, Ohio, South Dakota, Vermont, Virginia, and Wisconsin so long as the Settlement Class Member paid the principal amount of his or her loan.

Tier 2: Payments made above the legal limits for Settlement Class Members in Alabama, Alaska, California, Delaware, Florida, Georgia, Hawaii, Iowa, Louisiana, Maine, Maryland, Michigan, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Washington, West Virginia, Washington D.C., and Wyoming.

Tier 3: Settlement Class Members in Nevada and Utah will not receive cash payments.

b. Distributions to the Settlement Class. Cash Awards shall be calculated and distributed to the Settlement Class Members as follows:

1. *Pro Rata* Calculations. Each Settlement Class Member who repaid the principal amount borrowed and is in Tier 1 or Tier 2, shall be entitled to a Cash Award based on a *pro rata* calculation. After calculation, Cash Awards shall be rounded down to the nearest

cent. Cash Awards will be paid to Settlement Class Members only if their calculated Cash Award is equal to or greater than two dollars ($2.00). For Settlement Class Members who took out more than one loan during the class period, their Claim Amount shall be calculated by determining the Claim Amount for each loan and adding them together

2. Payment of Cash Awards. Within 60 days after the Effective Date, the Administrator shall mail to each Settlement Class Member a check in the amount of such Settlement Class Member's Cash Award at the most recent address shown in the Tribal Officials' electronic records or identified by the Administrator using the NCOA or any equivalent database, or to any updated address provided by the Settlement Class Member to the Administrator. Settlement Class Members shall be advised that the checks must be deposited or cashed within ninety (90) days of the postmarked date. On the forty-fifth (45th) day following the mailing of all Cash Awards, the Administrator shall email all Settlement Class Members receiving a Cash Award a reminder to cash the check. After ninety (90) days from the date of mailing, each Cash Award check shall become void.

3. Remaining Funds. After the void date has passed, the Parties and the Administrator shall confer regarding the disposition of uncashed settlement payments. Specifically, the Parties and the

Administrator shall determine whether it is reasonable and feasible to make a second distribution to Settlement Class Members who cashed their initial checks. If it is determined by the Parties and the Administrator that it is reasonable and feasible, the Settlement Administrator shall distribute the remaining Fund using the same procedure detailed in Sections 3.12(a)–(b), except that second distribution payments shall not be made in amounts less than ten dollars ($10.00) to those Class Members who cashed their first check. If any residual funds remain in the Fund after the second distribution, then such residual funds shall be paid, with the approval of the District Court pursuant to the *cy pres* doctrine, to the Legal Aid Justice Center.

c. Monthly Reports Regarding Distribution of Settlement Fund. The Administrator will provide monthly reports to the Parties on the distribution of the Fund until such time as the Fund is fully paid to eligible recipients and depleted or distributed as set forth in this Section 3.12(a)–(b) and Section 5.2. The Administrator also shall notify counsel to the Parties in writing when settlement administration has been completed.

3.13 Named Plaintiffs' Service Awards. No later than thirty (30) days before the Final Fairness Hearing, Plaintiffs will apply to the District Court for Named Plaintiffs' service awards to each of the Class Representatives in *Williams*; to each of the Class Representatives in the *Galloway* matters; and to each of the Class Representatives in the *Smith* and *Duggan* matters. The requested service awards shall not exceed $20,000 per Class Representative and any applications for service awards shall take into account the Class Representative's contribution to the litigation including but not limited to whether the Class Representative has responded to discovery, been deposed, committed to testifying at trial, served on the creditor's committee, or was offered and declined an amount to settle any of these matters on an individual basis. The Named Plaintiffs' service awards will be paid from the Settlement Fund in the amounts approved by the District Court. The Settlement is not conditioned upon the District Court's approval of the service awards sought by Named Plaintiffs. The service awards, if any, shall be paid to Named Plaintiffs no earlier than the Effective Date and no later than ten (10) days after the Effective Date. Defendants agree not to oppose Named Plaintiffs' request for service awards.

3.14 Attorneys' Fees and Costs. No later than thirty (30) days before the Final Fairness Hearing, Class Counsel will apply to the District Court for an award of attorneys' fees and costs. Such attorneys' fees and costs will be paid from the Settlement Fund in an amount not to exceed one-third of the Settlement Fund—as approved by the District Court. The Settlement is not conditioned upon the District Court's approval of the attorneys' fees and costs sought by Class Counsel. The award of attorneys' fees and costs, if any, shall be paid to Class Counsel no earlier than the Effective Date and no later than ten (10) days after the Effective Date. Defendants agree not to oppose Class Counsel's request for attorneys' fees and costs. Regardless of Class Counsel's requests, and the District Court's approval, for fees and costs, under no circumstances shall Defendants or Released Parties be required to pay monetary or other consideration above their respective contributions to the Settlement Fund, as set forth in Section 3.4.

3.15 Injunctive Relief. After Final Approval of the Settlement, Defendants agree not to provide any services to Big Picture or its successors-in-interest in any form, including but not limited to any investment and capital management services, management, operations, or marketing consulting. Defendants agree that they will not participate or assist in the marketing, origination, or collection of any loans made by Big Picture, including any attempted collections by third parties, as of the Effective Date. Defendants further state that they have never, directly or indirectly, taken any of these actions relating to Big Picture. Nothing in this provision or Agreement limits or prevents Eventide from collecting or attempting to collect on, or enforcing its rights under, the Promissory Note and Loan and Security Agreement (the "Note") dated September 18, 2020, between Eventide and Big Picture, whether directly or through Eventide's or BWH Texas's bankruptcy proceedings.

3.16 Stipulation as to Rebecca Martorello. The Parties stipulate and agree that Defendant Rebecca Martorello resigned from Bellicose in 2013 and never had any substantive or non-ministerial role in that company, Eventide, their management companies, or, more broadly, the tribal-lending servicing industry. The parties further stipulate and agree that Rebecca Martorello: (1) had no control over, influence on, or involvement with Big Picture or Red Rock's loan terms, agreements, processes, or operations; (2) she had no role in either Big Picture's or Red Rock's lending operations; and (3) she had no involvement, directly or indirectly, in issuing, servicing, or collecting on any of Plaintiffs' or other Settlement Class members' loans. This stipulation will not take effect until the Effective Date.

3.17 Costs of Notice and Administration. Except as provided in Section 3.19, all costs of notice and administration are to be paid from the Settlement Fund. Defendants will not be responsible for payment of any additional costs of notice and administration beyond or separate from the amount each Defendant is required to contribute to the Settlement Fund.

3.18 Total Payments by Defendants. In no event shall Defendants be required to pay any more than the amounts in Section 3.4, inclusive of (i) the amount of the Settlement Fund as monetary consideration to the Settlement Class; (ii) notice and administration costs and expenses; (iii) Class Counsel's attorneys' fees and/or litigation costs; (iv) Named Plaintiffs' service awards; and (v) any other fees or costs associated with this Settlement. Defendants Matt and Rebecca Martorello shall bear the responsibility to send the CAFA notice to the appropriate federal and state governments at its or their own expense.

3.19 Advance of Costs of Notice and Administration. Defendant Matt Martorello agrees to advance the costs of notice and administration necessary to provide notice of this Settlement to the Settlement Class in accordance with Section 5.3. He agrees to advance up to a maximum of $250,000.00 to advance the costs of notice and administration necessary to provide notice of this Settlement to the Settlement Class. He further agrees to transfer $150,000.00 to the Escrow Account by April 1, 2024, and the remaining $100,000.00 in increments of $50,000 on July 1, 2024 and August 1, 2024, respectively. The funds are to be used solely to provide notice of this Settlement to the Settlement Class. Any unused amount shall be documented by the Settlement Administrator. Such advanced payment(s) shall be reimbursed by the $65 million due to be paid into the Settlement Fund, but are otherwise not recoverable from the Plaintiffs or Settlement Class. If additional amounts are required, the parties agree to submit the issue to United States Magistrate Judge Colombell for resolution.

IV. RELEASE AND DISMISSAL

4.1 Release. Following payment in full of the Settlement Fund, Plaintiffs and each Settlement Class shall be deemed to have fully, finally, and forever released and discharged the Released Parties from the Released Claims.

4.2 Released Claims. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date, the Releasing Plaintiffs shall expressly have, and by operation of the Judgment shall have, to the fullest extent permitted by law, expressly waived and relinquished any and all provisions, rights, and benefits conferred by any law or any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Plaintiffs and each Settlement Class Member understand and acknowledge the significance of these waivers of California Civil Code Section 1542 and/or of any other applicable law relating to limitations on releases. In connection with such waivers and relinquishment, Plaintiffs and each Settlement Class Member acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts that they now know or believe to be true with respect to the subject matter of the Settlement Agreement, but that they release fully, finally, and forever all Released Claims, and in furtherance of such intention, the release will remain in effect notwithstanding the discovery or existence of any such additional or different facts. Plaintiffs and Defendants acknowledge, and other Settlement Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims was separately bargained for and was a material element of the Settlement. Plaintiffs and each Settlement Class Member further covenant and agree that they will not sue or bring any action or cause of action, including by way of third-party claim, crossclaim, or counterclaim, against any of the Released Parties in respect of any of the Released Claims; they will not initiate or participate in bringing or pursuing any class action against any of the Released Parties in respect of any of the Released Claims; if involuntarily included in any such class action, they will use their best efforts to withdraw therefrom; and they will not assist any third party in initiating or pursuing a class action suit in respect of any of the Released Claims.

4.3 Scope of Release. The releases described in Sections 4.1 and 4.2 shall apply to and bind Named Plaintiffs and all Settlement Class Members as of the Effective Date of this Settlement. The scope of the release will not apply to future conduct of Defendants after the Preliminary Approval Order is filed, except that Plaintiffs, the Settlement Class, and Class Counsel agree that nothing in this provision or Agreement limits or prevents Eventide from collecting or attempting to collect on, or enforcing the rights that it may assert under the Note, whether directly or through Eventide's or BWH Texas's bankruptcy proceedings.

4.4 Dismissal. Provided that the Final Approval Order is entered, the Parties shall work together to file stipulations or other appropriate documents requesting dismissal of the Actions between Plaintiffs and Defendants with prejudice within ten (10) days of the Effective Date.

V. NOTICE AND SETTLEMENT ADMINISTRATION

5.1 Settlement Administrator. Subject to approval by the District Court, the Settlement Administrator shall be responsible for administering the Settlement in accordance with this Agreement and applicable orders from the District Court. The Settlement Administrator may disburse money from the Fund only in accordance with this Agreement and applicable orders of the District Court. The actions of the Settlement Administrator shall be governed by the terms of this Agreement. The Parties shall provide information reasonably requested by the Settlement Administrator pursuant to this Agreement.

5.2 Costs of Notice and Administration. Subject to Section 3.19, the costs of notice and administration shall be paid entirely from the Settlement Fund.

5.3 Class Notice. Notice consistent with the requirements of Rule 23 of the Federal Rules of Civil Procedure shall be provided within thirty (30) days following entry of the Preliminary Approval Order:

a. Direct Notice, substantially in the form attached hereto as Exhibit 1 or as modified by the District Court with the consent of all Parties, will be sent via electronic mail (email) to prospective Settlement Class Members within thirty (30) days after the date of entry of the Preliminary Approval Order at the most recent email address in the Settlement Administrator's electronic records. Direct Notice, substantially in the form attached hereto as Exhibit 1, or as modified by the District Court with the consent of all Parties, will be mailed via first class mail to prospective Settlement Class Members whose email notice results in a bounce-back email. Mailing addresses will be run once through the NCOA, or any other postal address verification database that the Settlement Administrator deems proper, prior to mailing. Returned Direct Notices will be re-mailed if they are returned within twenty (20) days of the postmark date of the Direct Notice and contain a forwarding address. No further emailed or mailed notice shall be required except as otherwise expressly provided herein.

b. The Settlement Administrator will establish and continue to maintain an Internet site on which will be posted the Direct Notice as well as the Class Action Complaints; this Agreement; any motions and memoranda seeking approval of this Settlement, approval of attorneys' fees and costs, or approval of Named Plaintiffs' service awards; any orders of the District Court relating to this Settlement; and any other information the Parties agree is necessary and appropriate. The Direct Notice shall direct recipients to the location of the Internet site. The website shall make available a form that allows Settlement Class Members to update their mailing addresses; Settlement Class Members may also contact the Settlement Administrator by telephone or mail to update their mailing addresses. Within thirty (30) days after entry of the Preliminary Approval Order, the website shall allow settlement Class Members to determine whether or not they are eligible for a Cash Award by entering their unique identifier (provided on the Direct Notice or available by calling the Settlement Administrator) and last name. The website shall be updated with this Settlement information within five (5) days after entry of the Preliminary Approval Order and shall remain active until Class Counsel deems it is appropriate to terminate the website.

c. The Parties shall have the right to audit the work of the Settlement Administrator at any time.

d. At Defendants' request, the Settlement Administrator shall provide the disclosures necessary for Defendants' compliance with the notice provisions of the CAFA.

5.4 Certification to the District Court. No later than twenty-one (21) days before the Final Fairness Hearing, the Settlement Administrator and/or its designees shall file a declaration with the District Court verifying that notice has been provided to the Settlement Class in accordance with this Agreement and the Preliminary Approval Order as entered by the District Court.

VI. DISPUTE RESOLUTION

6.1 Dispute Resolution. The Parties agree to meet and confer in good faith in regard to any dispute relating to this Settlement or to administration of this Settlement. Any dispute that cannot be resolved by the Parties shall be submitted, not earlier than thirty (30) days after written notice of the dispute was first given, to U.S. Magistrate Judge Mark Colombell for a decision. Judge Colombell's decision will be final and not appealable.

VII. STAY OF PROCEEDINGS, PRELIMINARY APPROVAL ORDER, AND FINAL FAIRNESS HEARING

7.1 Stay of Proceedings. Upon the execution of this Settlement Agreement, the Parties will jointly move for a stay of the Actions and their placement in abeyance, except that the Eventide bankruptcy proceeding, *In Re: Eventide Credit Acquisitions, LLC*, Case No. 9:23-bk-900007 (Bankr. N.D. Tex.), and the BWH Texas bankruptcy proceeding, *In Re: BWH Texas, LLC*, Case No. 4:23-bk-43085 (Bankr. N.D. Tex.), will move forward as they relate to all matters other than the consumer borrowers' proofs of claim.

7.2 Preliminary Approval Order. Class Counsel will seek the District Court's approval of this Settlement by filing an appropriate Motion for Preliminary Approval and seeking entry of the Preliminary Approval Order, substantially in the form attached hereto as Exhibit 2. Class Counsel shall not seek preliminary approval of this Settlement until May 21, 2024.

7.3 Opt-Out/Requests for Exclusion from Settlement.

a. Requests for Exclusion. Prospective Settlement Class Members shall be given the opportunity to opt out of the Settlement Class. All requests by prospective Settlement Class Members to be excluded must be in writing and mailed to the Settlement Administrator. All Settlement Class Members will have at least forty-five (45) days after entry of the Preliminary Approval Order to opt out of the Settlement. An appropriate written request for exclusion must be personally signed by the Settlement Class Member and must include: (i) the name of this case; (ii) the Settlement Class Member's name, address and telephone number; and (iii) the following statement: "I request to be excluded from the class settlement in this case." No Settlement Class Member, or any person acting on behalf of or in concert or participation with that Settlement Class Member, may exclude any other Settlement Class Member from the Settlement Class.

b. <u>Delivery to Parties/Filing with District Court.</u> The Settlement Administrator shall provide copies of the original requests for exclusion to the Parties by no later than five (5) days after the opt-out deadline. Not later than twenty-one (21) days before the Final Fairness Hearing, the Settlement Administrator shall file with the District Court a declaration that lists all of the opt-outs received.

c. <u>Effect.</u> All prospective Settlement Class Members who timely exclude themselves from the Settlement Class will not be eligible to receive any consideration pursuant to this Settlement and will not be bound by any further orders or judgment in the Actions, and will preserve their ability to independently pursue any individual claims they may have against the Released Parties. In the event of ambiguity as to whether a Settlement Class Member has requested to be excluded, the Settlement Class Member shall be deemed not to have requested exclusion.

7.4 <u>Objections to Settlement.</u>

a. <u>Right to Object.</u> Any Settlement Class Member who has not previously opted out as provided in Section 7.3 may appear at the Final Fairness Hearing(s) to argue that the proposed Settlement should not be approved, to oppose the application of Class Counsel for an award of attorneys' fees and costs, and/or to oppose the service awards to Named Plaintiffs. Any Settlement Class Member who wishes to object to the Settlement must file a written objection with the District Court no later than the date specified by subsection (b) of this Section. Settlement Class Members who fail to timely file and serve written objections shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to this Settlement.

b. Deadline. Any such objection must be filed in the District Court in writing. Settlement Class Members will have at least forty-five (45) days after entry of the Preliminary Approval Order to object to the Settlement. Notwithstanding this deadline, objections solely as to attorneys' fees or service awards may be made no later than fourteen (14) days after the filing of a motion for the award of attorneys' fees and/or service awards.

c. Content of Objections. All objections must include: (i) the name of this case; (ii) the objector's name, address, email address and telephone number; (iii) an explanation of the basis upon which the objector claims to be a Settlement Class Member; (iv) any factual basis and legal grounds for the objection to the Settlement; (v) the name of counsel for the objector (if any), including any former or current counsel who may seek compensation for any reason related to the objection to the Settlement, the fee application, or the application for service awards; and (vi) whether he or she intends to appear at the Final Fairness Hearing on his or her own behalf or through counsel. Counsel representing an objecting Settlement Class Member must enter an appearance in this case. No *pro se* objection shall be rejected merely because it does not fully comply with these instructions.

d. The right to object to the Settlement must be exercised individually by a Settlement Class Member or through his or her counsel, and not *en masse* or as a member of a group, class or subclass.

VIII. FINAL APPROVAL OF SETTLEMENT AND OTHER CONDITIONS

8.1 Final Approval Order. On a date to be set by the District Court, Plaintiffs will petition the District Court to enter the Final Approval Order in the Consolidated Action in a form that the Parties propose to the District Court which will provide:

a. That the case, for purposes of this Settlement, may be maintained as a class action on behalf of the Settlement Class;

b. That Named Plaintiffs fairly and adequately represent the interests of the Settlement Class;

c. That Class Counsel fairly and adequately represent Plaintiffs and the Settlement Class;

d. That the Direct Notice and Internet Notice satisfy the requirements of due process, the Federal Rules of Civil Procedure and any other applicable laws;

e. That the Settlement is fair, reasonable and adequate to the Settlement Class and that each Settlement Class Member shall be bound by the Settlement, including the releases contained in Section IV above;

f. That the Settlement represents a fair resolution of all claims asserted on behalf of the Settlement Class and fully and finally resolves all such claims;

g. That this Settlement should be, and is, approved;

h. The amounts of the attorneys' fees, costs, and Named Plaintiffs' service awards;

i. Confirmation of the opt-outs, if any, from the Settlement;

j. Overruling of objections, if any;

k. Dismissal, on the merits and with prejudice, of all claims and an injunction prohibiting all Settlement Class Members or their representatives or proxies from bringing, joining, or continuing to prosecute the Released Claims against any of the Released Parties and entering judgment thereon; and

l. Retention of jurisdiction over all matters relating to the modification, interpretation, administration, implementation, effectuation, and enforcement of this Settlement.

IX. TERMINATION OF SETTLEMENT

9.1 Right to Terminate. Any Party shall each individually have the right to terminate the Settlement and this Settlement Agreement by providing written notice of his, her, or its election to do so ("Termination Notice"), through counsel, to all other Parties hereto within fourteen (14) calendar days of any of the following occurrences:

a. The District Court declines to grant Final Approval of the Settlement, or the District Court (or any other court) requires material modifications of the Settlement Agreement, and the Parties do not jointly agree to accept the Settlement Agreement as judicially modified or are unable to jointly agree to modify the Settlement Agreement for resubmission to the District Court for approval; or

b. The Settlement Fund is not paid as set forth above within the period required.

9.2 No Force and Effect. If any Party terminates this Settlement Agreement, the Settlement Agreement shall be of no force and effect and the Parties' rights and defenses shall be restored, without prejudice, to their respective positions as if this Settlement Agreement had never been executed, and any orders entered by the District Court in connection with this Settlement

Agreement shall be vacated. In the event of termination of the Settlement, nothing in this Agreement, related settlement communications, [redacted] or filed in connection with seeking approval of the Settlement shall be construed as an admission or concession of any kind, including but not limited to any fault, wrongdoing, or liability, nor are the Released Parties estopped or otherwise precluded from challenging any of the allegations in further proceedings in the Actions or any other action. Moreover, the Parties and the Released Parties shall be deemed to have preserved all of their rights or defenses as of the dates that Plaintiffs initiated the Actions and shall not be deemed to have waived any substantive or procedural rights of any kind that they may have as to each other or any member of the Settlement Class. Likewise, in the event that this Settlement is approved without material modification by the District Court, but is later reversed or vacated on appeal, each of the Parties shall have the right to withdraw from this Settlement and return to the *status quo ante* as of the dates that the Actions were stayed for all litigation purposes, as if no agreement had been negotiated or entered into, and the Parties shall not be deemed to have waived any substantive or procedural rights of any kind that they may have as to each other or any member of the Settlement Class. This provision survives termination of the Settlement Agreement.

9.3 If the Settlement is terminated or not approved by the District Court, the Effective Date does not occur, or the Settlement otherwise fails for any reason:

a. The Settlement Administrator shall refund by wire transfer or check the amounts paid into the Settlement Fund (including the accrued interest thereon), in accordance with instructions provided by the trustee, within five (5) business days after the Settlement is terminated, the Settlement is not approved by the District Court and the 30-day meet-and-confer period covered in subsection (b) below ends without an agreement, the Effective Date does not occur, or the Settlement otherwise fails for any reason. This shall not include any funds paid pursuant to Section 3.19;

b. The Parties agree to work collaboratively to effectuate this Settlement. If for some reason it is not possible to do so, the Parties will work together in good faith to modify the terms herein as necessary, upon the Parties' agreement, to effectuate the Settlement Agreement. In the event the District Court disapproves or sets aside this Settlement Agreement or any material part hereof for any reason, then the Parties shall request that the Actions continue to be stayed for a period of thirty (30) days to allow the Parties to meet and confer in good faith with regard to how to address any questions raised and/or changes required by the District Court, including whether to accept the Agreement as modified by the District Court or modify the Agreement for resubmission to the District Court for approval. The Parties may agree by stipulation executed by counsel to modifications of the Exhibits to this Settlement Agreement to effectuate the purpose of this Settlement Agreement and/or to conform to guidance from the District Court with regard to the contents of such Exhibits without need for further amendment of this Settlement Agreement. Any such stipulation shall be filed with the District Court.

9.4 Right to Withdraw for Excessive Opt-Outs. If the number of Settlement Class Members who request exclusion exceeds five percent (5%) , any one of the Defendants may withdraw from this Agreement in his, her, or its sole discretion, and Plaintiffs and such withdrawing Defendant(s) shall be returned to the *status quo ante* as to such withdrawing Defendant(s) as of the time that Plaintiffs initiated the Action for all litigation purposes, as if no settlement had been negotiated or entered into with such withdrawing Defendant(s). If one or more of the Defendants exercises this right to withdraw from this Agreement, it shall provide Class Counsel with written notice of this election no later than ten (10) days after the opt-out deadline. The withdrawal of a Defendant from this Settlement pursuant to this section shall not affect the Settlement's validity, enforceability, or terms as to the remaining Parties.

X. TAX TREATMENT OF THE FUND

10.1 The dollar amounts of the Fund held in the Escrow Account shall be deemed to be in the custody of the District Court until the Effective Date. After that date, the funds in the Escrow Account shall belong to the beneficiaries of the Settlement, for the payment of attorney's fees and costs, taxes (if any), Plaintiffs' service awards, and funding of Cash Awards to Settlement Class Members. Such funds shall not escheat and shall remain subject to the jurisdiction of the District Court until such time as the money in the Fund shall be disbursed pursuant to the terms of this Agreement, or further Order of the District Court.

10.2 The Fund shall be established and maintained in accordance with Treasury Regulation §1.468B-1 *et seq.* by the Settlement Administrator subject to the terms of this Agreement and the District Court's preliminary and final approval orders. The Parties agree that the Escrow Account is intended to be maintained as a "qualified settlement fund" within the meaning of Treasury Regulation § 1.468B-1. The Settlement Administrator shall timely make, or cause to be made, such elections as necessary or advisable to carry out the provisions of this Paragraph, including the "relation-back election" (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such election shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the sole responsibility of the Settlement Administrator to timely and properly prepare and deliver, or cause to be prepared and delivered, the necessary documentation for signature by all necessary parties, and thereafter take all such actions as may be necessary or appropriate to cause the appropriate filing(s) to occur.

a. For the purposes of Section 468B of the Internal Revenue Code of 1986, as amended, and Treasury Regulation § 1.468B promulgated thereunder, the "administrator" shall be the Settlement Administrator, who shall be responsible for timely and properly filing, or causing to be filed, all informational and other federal, state, or local tax returns necessary or advisable with respect to the earnings on the Fund deposited in the Escrow Account (including without limitation the returns described in Treas. Reg. § 1.468B-2(k)). Those tax returns (as well as the election described above) shall be consistent with this subparagraph and in all events shall reflect that all Taxes (including any estimated taxes, earnings, or penalties) on income earned on the Funds deposited in the Escrow Account (if any) shall be paid out as provided in this Agreement. Notwithstanding this obligation, the Parties agree that the Fund will not earn income.

b. All Taxes shall be paid by the Escrow Agent out of the Settlement Fund.

c. Taxes (if any) shall be treated as, and considered to be, a cost of administration of the Settlement and shall be timely paid, or caused to be paid, by the Escrow Agent out of the Fund without prior order from the District Court, and the Escrow Agent and the Settlement Administrator shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to eligible Settlement Class Members any funds necessary to pay such amounts (as well as any amounts that may be required to be withheld under Treasury Regulation § 1.468B-2(1)(2)).

d. Settlement Class Members shall provide any and all information that the

Settlement Administrator may reasonably require or that is required by applicable law regarding Taxes and filings and reporting for Taxes, before any distributions are made to Settlement Class Members as contemplated hereby, and the Settlement Administrator may, without liability to the Settlement Class Members, delay those distributions unless and until such information is provided in the form required by the Settlement Administrator. The Settlement Administrator shall take all reasonable steps to minimize the disclosure and submission burden on Settlement Class Members.

10.3 Upon written mutual agreement and subject to Court Approval by Magistrate Judge Colombell, the Parties will allow for reasonable modifications to the deadlines in this Settlement Agreement to promote tax efficiency for the Settlement Fund, whether before or after it is deposited into the Escrow Account.

XI. MISCELLANEOUS PROVISIONS

11.1 Vacatur. The parties agree that this Settlement is conditioned upon the vacatur of the Final Judgment Order dated September 22, 2023, ECF No. 1407, in the *Williams* Action. If the judgment is not vacated by the Effective Date, this Stipulation and Agreement of Settlement shall be void. The Parties agree that exceptional circumstances exist justifying vacatur here: (1) the settlement will permanently end years-long litigation in many cases in the Eastern District of Virginia, the U.S. Court of Appeals for the Fourth Circuit, and across the country; (2) the vacatur will impact no third parties; (3) all parties to the settlement desire vacatur because settlement would otherwise be impossible; and (4) this settlement serves the public interest by making available a significant amount of previously committed judicial resources to deal with other matters, advancing the efficiency of the federal courts.

11.2 Fourth Circuit Appeal. On March 19, 2024, the Parties shall jointly move to stay the appeal in *Williams v. Martorello*, Case No. 23-2097 (4th Cir.) after Matt Martorello files his reply brief. Within ten (10) days after the Effective Date, the Parties shall jointly move to dismiss the appeal as moot.

11.3 *Smith* Action. Upon the execution of this this Stipulation and Agreement of Settlement by all Parties, Defendants and Plaintiff Smith shall jointly move to stay the *Smith* Action. Within ten (10) days after the Effective Date, those parties shall jointly move to dismiss the *Smith* Action with prejudice.

11.4 *Duggan* Action. Upon the execution of this this Stipulation and Agreement of Settlement by all Parties, Defendants and Plaintiff Duggan shall jointly move to stay the *Duggan* Action. Within ten (10) days after the Effective Date, those parties shall jointly move to dismiss the *Duggan* Action with prejudice.

11.5 *Eventide* Bankruptcy. Upon the execution of this this Stipulation and Agreement of Settlement by all Parties, the Parties shall jointly move to stay the *Eventide* bankruptcy case as to the consumer borrowers' interests in the bankruptcy and their proofs of claims. Upon the Effective Date, all matters relating to the consumer borrowers in the *Eventide* bankruptcy case shall be dismissed.

11.6 *BWH Texas* Bankruptcy. Upon the execution of this this Stipulation and Agreement of Settlement by all Parties, the Parties shall jointly move to stay the *BWH Texas* bankruptcy case as to the consumer borrowers' interests in the bankruptcy and their proofs of claims. Upon the Effective Date, all matters relating to the consumer borrowers in the *BWH Texas* bankruptcy case shall be dismissed.

11.7 Further Assurance. Each of the Parties shall execute all documents and perform all acts required by the terms of this Agreement.

11.8 No Admission of Liability. It is expressly recognized and accepted by Plaintiffs that the Released Parties deny any liability and that Defendants are settling solely to avoid the cost and inconvenience of litigation.

11.9 Evidentiary Preclusion. Neither this Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement, is or may be deemed to be or may be used as an admission or evidence in any way other than to support this Settlement and Agreement, including but not limited to: (a) an admission of, or evidence of, the validity of any claim, or of any wrongdoing or liability of the Released Parties; or (b) any fault or omission of the Released Parties in any proceeding, including but not limited to any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. In addition, except for purposes of demonstrating the validity of this Agreement or its terms, neither the fact of, nor any documents relating to, any Defendant's withdrawal from the Agreement, any failure of the District Court to approve the Agreement, and/or objections or interventions may be used as evidence for any purpose whatsoever. The Released Parties may file this Agreement and/or Judgment in any action or proceeding that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, dismissal, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim. This provision survives termination of the agreement.

11.10 Entire Agreement. This Agreement constitutes the entire agreement between and among the Parties with respect to the Settlement of the Actions. This Agreement supersedes all prior negotiations and agreements with respect to the Parties. The Parties, and each of them, represent and warrant that no other party or any agent or attorney of any of the Parties has made any promise, representation, or warranty whatsoever not contained in this Agreement and the other documents referred to in this Agreement to induce them to execute the same. The Parties, and each of them, represent and warrant that they have not executed this Agreement, or the other documents referred to in this Agreement, in reliance on any promise, representation or warranty not contained in this Agreement and the other documents referred to in this Agreement.

11.11 Confidentiality. Subject to order of the District Court, any and all drafts of this Agreement and other settlement documents relating to the negotiations between the Parties will remain confidential and will not be disclosed or duplicated except as necessary to obtain preliminary and/or final court approval. This provision will not prohibit the Parties from submitting this Agreement to the District Court in order to obtain preliminary and/or final approval of the settlement.

11.12 No Public Statement. No Party or counsel for a Party shall issue or cause to be issued any press release or other media statement regarding the Settlement. This provision is not intended to limit communications between Settlement Class Counsel with any client, Settlement Class Member, or other person involved in this case. Nor is this provision intended to limit communications by Defendants with their employees, shareholders, trustees, protectors, grantors, settlors, or beneficiaries.

11.13 Non-Solicitation/Representation. Class Counsel represents and warrants that they will not solicit or suggest, directly or indirectly, personally or through other actions, other lawyers, law firms, nonprofit entities, or governmental or regulatory authorities the filing of new actions against any of the Released Parties. Class Counsel also expressly represents and warrants that they will not represent any members of the Settlement Class who opt-out against the Released Parties. This provision does not prohibit Class Counsel from representing Plaintiffs or the

Settlement Class in disputes relating to this Settlement or to administration of this Settlement.

11.14 Released Parties' Ability to Defend. The Parties and Class Counsel agree that nothing in this Settlement or Settlement Agreement prevents the Released Parties from raising any factual or legal argument in any later action, lawsuit, arbitration, or other proceeding in any jurisdiction, venue, or forum.

11.15 Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the heirs, successors, and assigns of the Parties and the Released Parties.

11.16 Competency of the Parties. The Parties, and each of them, acknowledge, warrant, represent, and agree that in executing and delivering this Agreement, they do so freely, knowingly, and voluntarily, that they had an opportunity to and did discuss its terms and their implications with legal counsel of their choice, that they are fully aware of the contents and effect of this Agreement, and that such execution and delivery is not the result of any fraud, duress, mistake, or undue influence whatsoever.

11.17 Authority. The persons signing this Agreement on behalf of an entity warrant and represent that they are authorized to sign on the respective entity's behalf. Each of the Named Plaintiffs has personally signed this Agreement.

11.18 Modification. No modification of or amendment to this Agreement shall be valid unless it is in writing and signed by all Parties hereto or agreed to on the record in the District Court.

11.19 Time Periods. The time periods and dates described herein are subject to Court approval and may be modified upon written stipulation of the Parties.

11.20 Construction. Each of the Parties has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the Agreement shall not be construed against any of the Parties. Before declaring any provision of this Agreement invalid, the District Court shall first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedent so as to find all provisions of this Agreement valid and enforceable. After applying this rule of construction and still finding a provision invalid, the District Court shall thereupon interpret the invalid provision to the fullest extent possible to otherwise enforce the invalid provision. The invalidity of any one provision shall not render this Agreement otherwise invalid and unenforceable unless the provision found to be invalid materially affects the terms of this Agreement after application of the rules of construction set forth in this paragraph. Any invalidity of the Consent to Settle and Release shall be a material term that invalidates the entire Agreement.

11.21 No Waiver. The failure of any of the Parties to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, or any other provision, nor in any way to affect the validity of this Agreement or any part hereof, or the right of any of the Parties thereafter to enforce that provision or each and every other provision. No waiver of any breach of this Agreement shall constitute or be deemed a waiver of any other breach.

11.22 Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Virginia, including all matters of construction, validity, performance, and enforcement and without giving effect to the principles of conflict of laws. By agreeing to this provision, Defendants do not consent to the application of Virginia law in any other context.

11.23 Notices/Communications. All requests, demands, claims, and other communications hereunder shall: (a) be in writing; (b) delivered by U.S. mail and electronic mail;

(c) be deemed to have been duly given on the date received; and (d) be addressed to the intended recipient as set forth below:

If to Plaintiffs or the Settlement Class:

Kristi C. Kelly
KELLY GUZZO, PLC
3925 Chain Bridge Road, Suite 202
Fairfax, Virginia 22030
kkelly@kellyguzzo.com

If to Matt Martorello, Eventide Credit Acquisitions, Inc., and BWH Texas, LLC :

Joseph F. Brophy
Brophy & Bland, PLLC
The Overlook at Barton Creek
317 Grace Lane, Suite 210
Austin, Texas 78746
Joe@bdlawpllc.com

If to Eventide Credit Acquisitions, Inc. – Bankruptcy Attorney

Jeff P. Prostok
Forshey & Prostok, LLP
777 Main St., Suite 1550
Ft. Worth, TX 76102
jprostok@forsheyprostok.com

If to BWH Texas, LLC – Bankruptcy Attorney

Gregory W. Mitchell
Freeman Law
1412 Main Street, Suite 500
Dallas, TX 75202
greg@mitchellps.com

If to Rebecca Martorello:

William Jackson
440 Monticello Avenue, Suite 2200
Norfolk, Virginia 23510
wjackson@wilsav.com

Each of the Parties may change the address to which requests, demands, claims, or other communications hereunder are to be delivered by giving the other Parties notice in the manner set forth herein. Any Party may, by written notice to all the other Parties, change its designated recipient(s) or notice address provided above. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections received in relation to this Settlement Agreement.

11.24 Counterparts. This Agreement may be executed in one or more counterparts and, if so executed, the various counterparts shall be and constitute one instrument for all purposes and shall be binding on each of the Parties that executed it, provided, however, that none of the Parties shall be bound unless and until all Parties have executed this Agreement. For convenience, the several signature pages may be collected and annexed to one or more documents to form a complete counterpart. Photocopies of executed copies of this Agreement may be treated as originals.

11.25 Cooperation. The Parties, and their respective counsel, agree to cooperate with each other and do all things reasonably necessary to obtain preliminary approval of the Settlement; to obtain final approval of the Settlement; and to otherwise ensure that a fully effective final approval of the Settlement occurs.

11.26 Destruction and Non-Use of Discovery Materials. Class Counsel agree, upon written request, to destroy all materials produced by Defendants, any Released Party, and/or any third parties and designated upon that production as confidential upon entry of the Final Order or upon final resolution of the Actions, or any related actions brought against a party that is not a Released Party, whichever is later; subject to good faith discussion between counsel for the Parties as necessary. Class Counsel agree to be bound by the requirements of the protective orders entered in the Actions, even following their disposal of the materials. Any disputes will be arbitrated by U.S. Magistrate Judge Mark Colombell.

***

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set forth below.

Dated: Mar 6, 2024, 2024 By: [signature] Lula Williams (Mar 6, 2024 12:24 EST)
Lula Williams
Plaintiff

Dated: ______, 2024 By: ______
Gloria Turnage
Plaintiff

Dated: ______, 2024 By: ______
George Hengle
Plaintiff

Dated: ______, 2024 By: ______
Dowin Coffy
Plaintiff

Dated: ______, 2024 By: ______
Marcella P. Singh
Plaintiff

Dated: ______, 2024 By: ______
Renee Galloway
Plaintiff

Dated: ______, 2024 By: ______
Diane Turner
Plaintiff

Dated: ______, 2024 By: ______
Dominque de lay Bay
Plaintiff

Dated: ______, 2024 By: ______
Lori Fitzgerald
Plaintiff

***

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set forth below.

Dated: ______________________, 2024 By: ______________________
Lula Williams
Plaintiff

Dated: March 6, 2024 By: Gloria Turnage
Gloria Turnage
Plaintiff

Dated: ______________________, 2024 By: ______________________
George Hengle
Plaintiff

Dated: ______________________, 2024 By: ______________________
Dowin Coffy
Plaintiff

Dated: ______________________, 2024 By: ______________________
Marcella P. Singh
Plaintiff

Dated: ______________________, 2024 By: ______________________
Renee Galloway
Plaintiff

Dated: ______________________, 2024 By: ______________________
Diane Turner
Plaintiff

Dated: ______________________, 2024 By: ______________________
Dominque de lay Bay
Plaintiff

Dated: ______________________, 2024 By: ______________________
Lori Fitzgerald
Plaintiff

***

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set forth below.

Dated: ______________________, 2024 By: ______________________
Lula Williams
Plaintiff

Dated: ______________________, 2024 By: ______________________
Gloria Turnage
Plaintiff

Dated: Mar 6, 2024 , 2024 By: George Hengle
George Hengle (Mar 6, 2024 13:56 EST)
George Hengle
Plaintiff

Dated: ______________________, 2024 By: ______________________
Dowin Coffy
Plaintiff

Dated: ______________________, 2024 By: ______________________
Marcella P. Singh
Plaintiff

Dated: ______________________, 2024 By: ______________________
Renee Galloway
Plaintiff

Dated: ______________________, 2024 By: ______________________
Diane Turner
Plaintiff

Dated: ______________________, 2024 By: ______________________
Dominque de lay Bay
Plaintiff

Dated: ______________________, 2024 By: ______________________
Lori Fitzgerald
Plaintiff

***

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set forth below.

Dated: ________________, 2024 By: ____________________
Lula Williams
Plaintiff

Dated: ________________, 2024 By: ____________________
Gloria Turnage
Plaintiff

Dated: ________________, 2024 By: ____________________
George Hengle
Plaintiff

Dated: Mar 7, 2024, 2024 By: Dowin Coffy (Mar 7, 2024 12:16 CST)
Dowin Coffy
Plaintiff

Dated: ________________, 2024 By: ____________________
Marcella P. Singh
Plaintiff

Dated: ________________, 2024 By: ____________________
Renee Galloway
Plaintiff

Dated: ________________, 2024 By: ____________________
Diane Turner
Plaintiff

Dated: ________________, 2024 By: ____________________
Dominque de lay Bay
Plaintiff

Dated: ________________, 2024 By: ____________________
Lori Fitzgerald
Plaintiff

***

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set forth below.

Dated: ______________________, 2024 By: ______________________
Lula Williams
Plaintiff

Dated: ______________________, 2024 By: ______________________
Gloria Turnage
Plaintiff

Dated: ______________________, 2024 By: ______________________
George Hengle
Plaintiff

Dated: ______________________, 2024 By: ______________________
Dowin Coffy
Plaintiff

Dated: Mar 6, 2024, 2024 By: [signature]
Marcella Singh (Mar 6, 2024 12:42 EST)
Marcella P. Singh
Plaintiff

Dated: ______________________, 2024 By: ______________________
Renee Galloway
Plaintiff

Dated: ______________________, 2024 By: ______________________
Diane Turner
Plaintiff

Dated: ______________________, 2024 By: ______________________
Dominque de lay Bay
Plaintiff

Dated: ______________________, 2024 By: ______________________
Lori Fitzgerald
Plaintiff

***

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set forth below.

Dated: ____________________, 2024 By: ______________________________
Lula Williams
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Gloria Turnage
Plaintiff

Dated: ____________________, 2024 By: ______________________________
George Hengle
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Dowin Coffy
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Marcella P. Singh
Plaintiff

Dated: 3/6/2024, 2024 By: DocuSigned by: Renee Galloway 62482F982F2D4D8...
Renee Galloway
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Diane Turner
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Dominque de lay Bay
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Lori Fitzgerald
Plaintiff

***

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set forth below.

Dated: ______________________, 2024 By: ______________________
Lula Williams
Plaintiff

Dated: ______________________, 2024 By: ______________________
Gloria Turnage
Plaintiff

Dated: ______________________, 2024 By: ______________________
George Hengle
Plaintiff

Dated: ______________________, 2024 By: ______________________
Dowin Coffy
Plaintiff

Dated: ______________________, 2024 By: ______________________
Marcella P. Singh
Plaintiff

Dated: ______________________, 2024 By: ______________________
Renee Galloway
Plaintiff

Dated: Mar 6, 2024, 2024 By: Dianne Turner
Dianne Turner (Mar 6, 2024 14:31 EST)
Diane Turner
Plaintiff

Dated: ______________________, 2024 By: ______________________
Dominque de lay Bay
Plaintiff

Dated: ______________________, 2024 By: ______________________
Lori Fitzgerald
Plaintiff

***

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set forth below.

Dated: ____________________, 2024 By: ______________________________
Lula Williams
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Gloria Turnage
Plaintiff

Dated: ____________________, 2024 By: ______________________________
George Hengle
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Dowin Coffy
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Marcella P. Singh
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Renee Galloway
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Diane Turner
Plaintiff

Dated: 3/6/2024, 2024 By: DocuSigned by: 795BB551B5E34F5...
Dominque de lay Bay
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Lori Fitzgerald
Plaintiff

***

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set forth below.

Dated: ________________, 2024 By: ____________________
Lula Williams
Plaintiff

Dated: ________________, 2024 By: ____________________
Gloria Turnage
Plaintiff

Dated: ________________, 2024 By: ____________________
George Hengle
Plaintiff

Dated: ________________, 2024 By: ____________________
Dowin Coffy
Plaintiff

Dated: ________________, 2024 By: ____________________
Marcella P. Singh
Plaintiff

Dated: ________________, 2024 By: ____________________
Renee Galloway
Plaintiff

Dated: ________________, 2024 By: ____________________
Diane Turner
Plaintiff

Dated: ________________, 2024 By: ____________________
Dominque de lay Bay
Plaintiff

Dated: 03/07/2024, 2024 By: Lori N Fitzgerald
Lori Fitzgerald
Plaintiff

Dated: 3/12/2024, 2024 By: DocuSigned by: Andrea Scarborough 8C81E01794BC4E8...
Andrea Scarborough
Plaintiff

Dated: ____________, 2024 By: ____________
Earl Browne
Plaintiff

Dated: ____________, 2024 By: ____________
Rose Marie Buchert
Plaintiff

Dated: ____________, 2024 By: ____________
Regina Nolte
Plaintiff

Dated: ____________, 2024 By: ____________
Kevin Minor
Plaintiff

Dated: ____________, 2024 By: ____________
Teresa Titus
Plaintiff

Dated: ____________, 2024 By: ____________
Burry Pough
Plaintiff

Dated: ____________, 2024 By: ____________
Lisa Martinez
Plaintiff

Dated: ____________, 2024 By: ____________
Sonji Grandy
Plaintiff

Dated: ______________, 2024 By: ______________________
Andrea Scarborough
Plaintiff

Dated: March 6, 2024 By: Earl Browne
Earl Browne
Plaintiff

Dated: ______________, 2024 By: ______________________
Rose Marie Buchert
Plaintiff

Dated: ______________, 2024 By: ______________________
Regina Nolte
Plaintiff

Dated: ______________, 2024 By: ______________________
Kevin Minor
Plaintiff

Dated: ______________, 2024 By: ______________________
Teresa Titus
Plaintiff

Dated: ______________, 2024 By: ______________________
Burry Pough
Plaintiff

Dated: ______________, 2024 By: ______________________
Lisa Martinez
Plaintiff

Dated: ______________, 2024 By: ______________________
Sonji Grandy
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Andrea Scarborough
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Earl Browne
Plaintiff

Dated: 3/7/2024, 2024 By: DocuSigned by: ______________________________
Rose Marie Buchert
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Regina Nolte
Plaintiff

Dated: 3/6/2024, 2024 By: DocuSigned by: ______________________________
Kevin Minor
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Teresa Titus
Plaintiff

Dated: 3/5/2024, 2024 By: DocuSigned by: ______________________________
Burry Pough
Plaintiff

Dated: 3/5/2024, 2024 By: DocuSigned by: LISA MARIE MARTINEZ
Lisa Martinez
Plaintiff

Dated: 3/5/2024, 2024 By: DocuSigned by: Sonji Grandy
Sonji Grandy
Plaintiff

Dated: ______________, 2024 By: ______________________
Andrea Scarborough
Plaintiff

Dated: ______________, 2024 By: ______________________
Earl Browne
Plaintiff

Dated: ______________, 2024 By: ______________________
Rose Marie Buchert
Plaintiff

Dated: Mar 6, 2024, 2024 By: Regina Nolte
Regina Nolte (Mar 6, 2024 15:43 EST)
Regina Nolte
Plaintiff

Dated: ______________, 2024 By: ______________________
Kevin Minor
Plaintiff

Dated: ______________, 2024 By: ______________________
Teresa Titus
Plaintiff

Dated: ______________, 2024 By: ______________________
Burry Pough
Plaintiff

Dated: ______________, 2024 By: ______________________
Lisa Martinez
Plaintiff

Dated: ______________, 2024 By: ______________________
Sonji Grandy
Plaintiff

Dated: ____________________, 2024 By: ____________________
Andrea Scarborough
Plaintiff

Dated: ____________________, 2024 By: ____________________
Earl Browne
Plaintiff

Dated: ____________________, 2024 By: ____________________
Rose Marie Buchert
Plaintiff

Dated: ____________________, 2024 By: ____________________
Regina Nolte
Plaintiff

Dated: ____________________, 2024 By: ____________________
Kevin Minor
Plaintiff

DocuSigned by:

Dated: 3/5/2024, 2024 By: Teresa S Titus
14E1388DAE1D47D
Teresa Titus
Plaintiff

Dated: ____________________, 2024 By: ____________________
Burry Pough
Plaintiff

Dated: ____________________, 2024 By: ____________________
Lisa Martinez
Plaintiff

Dated: ____________________, 2024 By: ____________________
Sonji Grandy
Plaintiff

Dated: 3/5/2024, 2024 By: Anastasia Sherman
Anastasia Sherman
Plaintiff

Dated: 3/5/2024, 2024 By: Jerry Avent
Jerry Avent
Plaintiff

Dated: 3/5/2024, 2024 By: Lucinda Gray
Lucinda Gray
Plaintiff

Dated: 3/5/2024, 2024 By: ANTHONY GREEN
Anthony Green
Plaintiff

Dated: ____________, 2024 By: ____________
Linda Madison
Plaintiff

Dated: ____________, 2024 By: ____________
Derek Geter
Plaintiff

Dated: 3/5/2024, 2024 By: Keisha Hamm
Keisha Hamm
Plaintiff

Dated: 3/5/2024, 2024 By: Faith Thomas
Faith Thomas
Plaintiff

Dated: ____________, 2024 By: ____________
Sharon Paavo
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Anastasia Sherman
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Jerry Avent
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Lucinda Gray
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Anthony Green
Plaintiff

Dated: March 6, 2024, 2024 By: Linda Madison
Linda Madison
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Derek Geter
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Keisha Hamm
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Faith Thomas
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Sharon Paavo
Plaintiff

Dated: ______________, 2024 By: ______________
Anastasia Sherman
Plaintiff

Dated: ______________, 2024 By: ______________
Jerry Avent
Plaintiff

Dated: ______________, 2024 By: ______________
Lucinda Gray
Plaintiff

Dated: ______________, 2024 By: ______________
Anthony Green
Plaintiff

Dated: ______________, 2024 By: ______________
Linda Madison
Plaintiff

Dated: 3-7, 2024 By: ______________
Dennis ~~Derek~~ Geter
DS
Plaintiff

Dated: ______________, 2024 By: ______________
Keisha Hamm
Plaintiff

Dated: ______________, 2024 By: ______________
Faith Thomas
Plaintiff

Dated: ______________, 2024 By: ______________
Sharon Paavo
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Anastasia Sherman
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Jerry Avent
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Lucinda Gray
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Anthony Green
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Linda Madison
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Derek Geter
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Keisha Hamm
Plaintiff

Dated: ____________________, 2024 By: ______________________________
Faith Thomas
Plaintiff

Dated: March 11, 2024 By: Sharon Paavo
Sharon Paavo
Plaintiff

Dated: 3/5/2024, 2024 By: LaTanya Tarleton
DocuSigned by:
DC788174CDAB4DE
Latanya Tarleton
Plaintiff

Dated: ____________, 2024 By: ____________
Richard Smith
Plaintiff

Dated: ____________, 2024 By: ____________
Dana Duggan
Plaintiff

Dated: March 4, 2024 By: ____________
Matt Martorello
Defendant

Dated: March 4, 2024 By: ____________
Rebecca Martorello
Defendant

Dated: March 4, 2024

EVENTIDE CREDIT ACQUISITIONS, LLC.

By: ____________

Its: Manager

Dated: March 4, 2024

BWH TEXAS, LLC

By: ____________

Its: President of its Manager

Dated: ________________, 2024 By: ____________________
Latanya Tarleton
Plaintiff

Dated: 3-9-24, 2024 By: ____________________
Richard Smith
Plaintiff

Dated: ________________, 2024 By: ____________________
Dana Duggan
Plaintiff

Dated: March 4, 2024 By: ____________________
Matt Martorello
Defendant

Dated: March 4, 2024 By: ____________________
Rebecca Martorello
Defendant

Dated: March 4, 2024

EVENTIDE CREDIT ACQUISITIONS, LLC.

By: ____________________

Its: Manager

Dated: March 4, 2024

BWH TEXAS, LLC

By: ____________________

Its: President of its Manager

Dated: ______________, 2024 By: ______________
Latanya Tarleton
Plaintiff

Dated: ______________, 2024 By: ______________
Richard Smith
Plaintiff

Dated: March 7, 2024 By: ______________
Dana Duggan
Plaintiff

Dated: March 4, 2024 By: ______________
Matt Martorello
Defendant

Dated: March 4, 2024 By: ______________
Rebecca Martorello
Defendant

Dated: March 4, 2024 EVENTIDE CREDIT ACQUISITIONS, LLC.

By: ______________

Its: Manager

Dated: March 4, 2024 BWH TEXAS, LLC

By: ______________

Its: President of its Manager

APPROVED AS TO FORM:

Dated: March 7, 2024

KELLY GUZZO, PLC

By: Andrew J. Guzzo

Attorneys for Plaintiffs

Dated: March 4, 2024

CONSUMER LITIGATION ASSOCIATES, P.C.

By: Leonard A. Bennett

Attorneys for Plaintiffs

Dated: ________________, 2024

BERGER MONTAGUE PLLC

By: ________________
Michelle Drake

Attorneys for Plaintiffs

Dated: March 12, 2024

TERRELL MARSHALL LAW GROUP PLLC

By: Beth Terrell

Attorneys for Plaintiffs

Dated: ________________, 2024

CADDELL & CHAPMAN

By: ________________
Michael Caddell

Attorneys for Plaintiffs

APPROVED AS TO FORM:

Dated: ______________, 2024

KELLY GUZZO, PLC

By: ______________
Andrew J. Guzzo

Attorneys for Plaintiffs

Dated: March 4, 2024

CONSUMER LITIGATION ASSOCIATES, P.C.

By: ______________
Leonard A. Bennett

Attorneys for Plaintiffs

Dated: 3/12/2024, 2024

BERGER MONTAGUE PLLC

By: DocuSigned by: ______________
Michelle Drake

Attorneys for Plaintiffs

Dated: ______________, 2024

TERRELL MARSHALL LAW GROUP PLLC

By: ______________
Beth Terrell

Attorneys for Plaintiffs

Dated: ______________, 2024

CADDELL & CHAPMAN

By: ______________
Michael Caddell

Attorneys for Plaintiffs

APPROVED AS TO FORM:

Dated: ____________________, 2024

KELLY GUZZO, PLC

By: ______________________________
Andrew J. Guzzo

Attorneys for Plaintiffs

Dated: March 4, 2024

CONSUMER LITIGATION ASSOCIATES, P.C.

By: ______________________________
Leonard A. Bennett

Attorneys for Plaintiffs

Dated: ____________________, 2024

BERGER MONTAGUE PLLC

By: ______________________________
Michelle Drake

Attorneys for Plaintiffs

Dated: ____________________, 2024

TERRELL MARSHALL LAW GROUP PLLC

By: ______________________________
Beth Terrell

Attorneys for Plaintiffs

Dated: March 6, 2024

CADDELL & CHAPMAN

By: Michael Caddell
Michael Caddell

Attorneys for Plaintiffs

Dated: March 12, 2024

GUPTA WESSLER, PLLC

By: ______________________
Matthew Wessler

Attorneys for Plaintiffs

Dated: MArch 4, 2024

WILCOX SAVAGE

By: ______________________
William B. Jackson

Attorneys for Rebecca Martorello

Dated: March 4, 2024

BROPHY & BLAND, PLLC

By: ______________________
Joseph F. Brophy

Attorneys for Matt Martorello, ~~Eventide Credit Acquisitions, LLC, and BWH Texas, LLC~~

Dated: ______________, 2024

FREEMAN LAW

By: ______________________
Gregory W. Mitchell

Bankruptcy Attorneys for Eventide Credit Acquisitions, LLC

Dated: ______________, 2024

FORSHEY & PROSTOK, LLP

By: ______________________
Jeff P. Prostok

Bankruptcy Attorneys for BWH Texas, LLC

Dated: ____________________, 2024

GUPTA WESSLER, PLLC

By: ______________________________
Matthew Wessler

Attorneys for Plaintiffs

Dated: MArch 4, 2024

WILCOX SAVAGE

By: ______________________________
William B. Jackson

Attorneys for Rebecca Martorello

Dated: March 4, 2024

BROPHY & BLAND, PLLC

By: ______________________________
Joseph F. Brophy

Attorneys for Matt Martorello, ~~Eventide Credit Acquisitions, LLC, and BWH Texas, LLC~~

Dated: March 11, 2024

FREEMAN LAW

By: ______________________________
Gregory W. Mitchell

Bankruptcy Attorneys for BWH Texas, LLC

Dated: 3/9/, 2024

FORSHEY & PROSTOK, LLP

By: ______________________________
Jeff P. Prostok

Bankruptcy Attorneys for ~~BWH Texas, LLC~~ Eventide Credit Acquisitions, LLC

Exhibit 1

Return Address Box 123
Return City, ST 12345-6789

E1234 0000001 P01 T00001 ************5-DIGIT 12345
John Q. Sample
123 Any Street
Any Town, PA 12345-6789

If You Obtained a Big Picture or Castle Payday Loan You Could Get a Cash Payment.

A federal court ordered this notice. This is not a solicitation from a lawyer.

- Read this Notice. It states your rights and provides you with information regarding the settlement of a proposed nationwide Class Action ("Settlement") against individuals and entities involved with the making of online loans in the name of Big Picture Loans and Red Rock Tribal Lending d/b/a Castle Payday. The settling parties, listed below, are referred to here as "Defendants."
- This Notice is a summary of information about the Settlement and explains your legal rights and options because you are a member of the class of borrowers who will be affected if the Settlement is approved by the Court. The complete terms of the proposed Settlement are available at the Settlement website, INSERT. You may also contact Class Counsel for further details and advice.
- The Settlement covers all individuals who obtained a Big Picture or Castle Payday loan from June 22, 2013 to May, 1, 2024. The lawsuit claimed that Defendants participated in an enterprise to offer loans through these entities at annual interest rates greater than what is permitted by state laws and the Racketeer Influenced and Corrupt Organizations Act. Defendants deny all allegations in this lawsuit.
- The lawsuit follows an earlier suit that resulted in cancellation of the loans at issue and cash payments to some Class Members, except those Class Members who "opted out" of the earlier settlement.
- As part of the proposed Settlement, Defendants have agreed to pay into a settlement fund, which will be used to make cash payments to some Class Members who meet specific criteria. Defendants have also agreed not to provide support to Big Picture Loans, Red Rock Tribal Lending, or to assist with collection of any loans at issue in this lawsuit.
- The completion and final approval of this settlement is conditioned upon the Defendants successfully funding the payment by October 21, 2024. If the settlement is not funded, you will receive a separate notice and your claim will not be settled.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	You will remain a member of the Settlement Class and may be eligible for benefits, including cash payments. You will give up rights to ever sue Defendants and other, related parties about the legal claims that are in or could have been brought in this lawsuit.
EXCLUDE YOURSELF	You can opt out of the Settlement and you will not be eligible for any benefits, including any cash payments. This is the only option that allows you to keep any rights you have to bring, or to become part of, another lawsuit involving the claims being settled. There is no guarantee that another lawsuit would be successful or would lead to a larger or better recovery than this Settlement.
OBJECT TO THE SETTLEMENT	If you do not exclude yourself from the Settlement, you may write to the Court about why you don't like the Settlement or why the Court should not approve it.

1. WHY IS THERE A NOTICE?

This Notice is about a proposed nationwide Settlement that will be considered by the United States District Court in Richmond, Virginia (the "Court"). The Settlement must be approved by the Court.

The Plaintiffs' claims are being settled in the United States District Court for the Eastern District of Virginia in the case styled, *Galloway v. Martorello,* Case No. 3:19-cv-314.

2. WHAT IS THIS LAWSUIT ABOUT?

The claims involved in the Settlement arise out of loans made in the name of Red Rock Tribal Lending d/b/a/ Castle Payday and Big Picture Loans, which are owned by the Lac Vieux Desert Band of Lake Superior Chippewa Indians, a federally recognized Native American tribe (the "Tribe").

The Plaintiffs in this case claim that Defendants, who are non-Tribal individuals and entities, violated federal and state laws by making and collecting loans with annual interest rates in excess of the amount allowed by state laws.

Defendants vigorously deny any wrongdoing and Plaintiffs' claims. They assert that the loans are legal because, among other reasons, (1) the rates and terms were authorized under the respective laws of the Tribe, and (2) the borrowers each explicitly agreed that tribal laws governed the loan(s). Defendants also defend against the Plaintiffs' claims on numerous other grounds, including the expiration of the applicable statutes of limitation and that they were uninvolved in the operation or management of the lending enterprise. Notwithstanding the denials of liability and alleged unlawful conduct, Defendants have decided it is in their best interest to settle the Lawsuit to avoid the burden, expense, risk, and uncertainty of continuing in litigation.

Important case documents, including the Complaint, may be accessed at the Settlement Website, INSERT.

3. WHY IS THIS A CLASS ACTION?

In a class action or proceeding, one or more people, called class representatives, bring an action on behalf of people who have similar claims. All of the people who have claims similar to the class representatives are a class or class members, except for those who exclude themselves from the class. Here, the Plaintiffs have filed a lawsuit on behalf of the Class against the Defendants based on the Defendants' alleged involvement in, and support of, the lending scheme.

4. HOW DO I KNOW IF I AM INCLUDED IN THE SETTLEMENT?

You are a member of the Settlement Class and will be affected by the Settlement if you obtained a Big Picture or Castle Payday loan from June 22, 2013, to May 1, 2024.

If you received this Notice, we believe you are a member of the Settlement Class and you will be a Settlement Class Member unless you exclude yourself.

5. WHAT DOES THE SETTLEMENT PROVIDE?

Defendants have agreed to provide the following benefits and others more fully described at the Settlement website, www.upperlakesettlement.com:

Cash Payments: A $65,000,000 fund will be created from contributions by the Defendants to provide additional cash payments to Class Members. If the Court approves the Settlement, and if you are entitled to any payment, a check for your portion will be automatically mailed to you. The completion and final approval of this settlement is conditioned upon the Defendants successfully funding the payment by October 21, 2024. If the settlement is not funded, you will receive a separate notice and your claim will not be settled.

The amount of any cash payment to you will depend on what you paid in principal and/or what you paid in interest above your state's legal limits, as well as the amount of money available in the settlement fund. The list of rates by state used in this Settlement is available on the Settlement Website, INSERT. You will only get a proportionate share of the recovery because the total amount of the settlement funds available likely will not be enough to pay everyone the full amount paid on their loan. You may also go to the website to determine if you will receive a payment, and you can contact the Settlement Administrator using the contact information below to get an estimate of the amount you likely would receive if the Settlement is approved. The cash payments made as part of this Settlement are in addition to the cash payment(s), if any, that you may have received as part of the separate settlement of the earlier, related litigation in *Renee Galloway v. James Williams, et al.*, Civil Action No. 3:19-cv-470 (E.D. Va.), unless you excluded yourself from (or "opted out" of) that settlement.

The Settlement Administrator will mail a check with your cash payment, if any, to the same address as this Notice, so please update your address if you move.

You will **not** receive a cash payment, but will receive other benefits, if you:

- Did not make any payments on your loan with Big Picture or Castle Payday; or
- Lived in Arizona, Arkansas, Colorado, Connecticut, Idaho, Illinois, Indiana, Kansas, Kentucky, Massachusetts, Minnesota, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, Ohio, South Dakota, Vermont, Virginia, and Wisconsin and did not make payments above the full principal amount of your loan; or
- Lived in Alabama, Alaska, California, Delaware, Florida, Georgia, Hawaii, Iowa, Louisiana, Maine, Maryland, Michigan, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Washington, West Virginia, Washington D.C., and Wyoming and did not pay interest above your state's legal limits; or
- Lived in Utah or Nevada (which had no interest rate restrictions).

Other Benefits: Defendants will agree not to provide capital, services, or assistance to Big Picture or Red Rock Tribal Lending, as well as their successors, and will not participate in the collection of any of the loans at issue in the lawsuit, regardless of whether you have made any payments on those loans.

6. WHAT DO I HAVE TO DO TO RECEIVE THE BENEFITS OF THE SETTLEMENT?

Nothing. If the Court approves the Settlement, the benefits described above will happen automatically. The Settlement Administrator will send an email after Final Approval to update you on what happened at the hearing. You can also check the website for an update or contact the Settlement Administrator or Class Counsel if you have additional questions.

7. WHAT AM I GIVING UP TO GET A BENEFIT AND STAY IN THE SETTLEMENT CLASS?

Unless you exclude yourself, you are a member of the Settlement Class, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against the Defendants concerning the claims relating to your Big Picture or Castle Payday loans. This means that you will not be able to pursue or recover any additional money from the Defendants beyond the benefits of this Settlement. The Released Parties, including the Defendants, are: Matt Martorello, Rebecca Martorello, Justin Martorello, Eventide, BWH Texas, Liont, LLC, Gallant Capital, LLC, the RLM 2018 Family Trust, the Martorello 2018 Children's Trust, Martorello Investments, LP, the RLM Management Trust, the Capstone Irrevocable Trust, the Bluetech Irrevocable Trust, Martorello 2023 Children's Trust, BVNT Children's Trust 1, BVNT Children's Trust 2, BVNT Childrens, LLC, Vroom Trust, Obsidian LLC, Capstone Holdings, LLC, Capstone Opportunities, LLC, GFLP Entity 1, LP, GFGP Entity 1, LP, Kairos Holdings, LLC, Promovere Inc., Braviant, LLC, Woodside Special Opportunity PE Fund, LP, Promus Ventures II, LP, GreenKey Technologies, LLC, PV Rocket Labs I, LLC, Promus III, LP, PV Expansion Fund I, Dorado Analytics, LLC, and Lonnie Jeremy Davis, and any and all other persons, entities or trusts whether presently or previously in existence, that are directly or indirectly in any way now or heretofore owned by, controlled by, related to, or associated with the foregoing, together with any of their respective current, former or successor: parent companies, holding companies, subsidiaries, trusts, sub-trusts, trustees, beneficiaries, parents, guardians, children, estates, principals, protectors, grantors, settlors, officers, directors, agents, employees, attorneys, successors, affiliates, heirs, assignees, general partners, limited partners, managers, members, vendors, consultants, transferees, investors, creditors, accountants, insurers, and shareholders.

The complete Release can be found in the Settlement Agreement, which is available on the Settlement website at INSERT.

Staying in the Class also means that any Court orders pertaining to this Settlement will apply to you and legally bind you

8. HOW DO I EXCLUDE MYSELF FROM THE SETTLEMENT?

To be excluded from (or to "opt out" of) this Settlement, you must send an "Exclusion Request" by mail. You may download a form to use from the Settlement website or you may send your own letter which must include:

- The name of this Action: "*Galloway v. Martorello*, No. 3:19-cv-314 (E.D. Va.)";
- Your name, address, and telephone number;
- Last four digits of your social security number, or your account number with Big Picture Loans or Castle Payday;
- A statement that you want to be excluded: "I request to be excluded from the class settlement in this case"; and
- Your Signature.

Your Exclusion Request must be **postmarked** no later than Month ##, 2024, to:

Galloway Settlement
c/o Settlement Administrator
P.O. Box ####
City, State #####-####

9. HOW DO I TELL THE COURT THAT I OBJECT TO AND DO NOT LIKE THE SETTLEMENT?

Objecting to the Settlement is different than Excluding yourself from the Settlement.

If you are a Settlement Class Member and you do not exclude yourself from the Settlement, you can object to the Settlement if you think the Settlement is not fair, reasonable, or adequate, and that the Court should not approve the Settlement. You also have the right to appear personally and be heard by the Court and the parties. The Court and Class Counsel will consider your views carefully.

To object, you must send a letter stating your views to each of the parties listed below:

COURT	SETTLEMENT ADMINISTRATOR
Clerk of the Court	Galloway Settlement
United States District Court	c/o Settlement Administrator
Eastern District of Virginia	P.O. Box ####
701 E. Broad St.	City, State #####-####
Richmond, VA 23219	

You should include the docket number on the front of the envelope and letter you file to the Court: "EDVA USDC Case No. 3:19-cv-314".

All objections must include:

- The name of this Action: "*Galloway v. Martorello*, No. 3:19-cv-314(E.D. Va.)";
- Your name, address, and telephone number;
- A sentence confirming that you are a Settlement Class Member;
- The factual basis and legal grounds for the objection to the Settlement; and
- A list of any prior cases in which you or your counsel have objected to a class settlement. Counsel representing an objecting Settlement Class Member must enter an appearance in these cases. If you or your counsel want to appear personally at the hearings, you must state that in your Objection.

Objections must be filed with the above Court no later than Month ##, 2024, and served on the above parties so that they are postmarked no later than Month ##, 2024.

10. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Court will hold a hearing to decide whether to approve the Settlement.

The Eastern District of Virginia will hold a final hearing on the fairness of the Settlement on Month ##, 2024 at ##:00 a.m. in the courtroom of Judge Robert E. Payne of the United States District Court for the Eastern District of Virginia, 701 E. Broad St., Richmond, VA 23219. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate.

If there are objections or comments, the Court will consider them at that time. The hearing may be moved to a different date or time without additional notice. Please check www.#############.com or call 1-8##-###-#### to be kept up-to-date on the date, time, and location of the hearing.

11. DO I HAVE TO COME TO THE HEARING?

No. But you are welcome to come at your own expense. As long as you mailed your written objection on time, the Court will consider it. You may also retain a lawyer to appear on your behalf at your own expense.

12. DO I HAVE A LAWYER IN THE CASE?

Yes. The Court has appointed these law firms in these cases as "Class Counsel" to represent you and all other members of the Settlement Class: Consumer Litigation Associates, P.C., Kelly Guzzo PLC, Terrell Marshall Law Group PLLC, Berger & Montague PC, Caddell & Chapman, Gupta Wessler PLLC and Tycko & Zavareei LLP.

These lawyers will not separately charge you for their work on the case. If you want to be represented by your own lawyer, you may hire one at your own expense.
.

13. HOW WILL THE LAWYERS BE PAID?

Class Counsel are permitted to ask the Court for an award of attorneys' fees not to exceed one third of the amount paid by Defendants, which is ________. The amount awarded by the Court will reduce the distributions to Class Members.

Class Counsel will ask the Court to approve payments for the Class Representatives. None of these awards will exceed $25,000 per Class Representative. The Class Representatives made substantial contributions in the prosecution of this lawsuit for the benefit of the Class. The Court will ultimately decide how much the individual Class Representatives will be paid.

14. HOW DO I GET MORE INFORMATION?

This Notice summarizes the proposed Settlement. You can get a copy of the Settlement Agreement and other relevant case-related documents by visiting www.upperlakesettlement.com, by calling the Settlement Administrator at 1-8##-###-####, Class Counsel at ###-###-####, or by contacting Class Counsel at the addresses above or by email to INSERT

PLEASE DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO THE CLERK OF THE COURT, THE JUDGE, THE DEFENDANTS OR THE DEFENDANTS' COUNSEL. THEY ARE NOT PERMITTED TO ANSWER YOUR QUESTIONS.

Exhibit 2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

RENEE GALLOWAY, *et al., on behalf of themselves and all others similarly situated,*

Plaintiffs,

v. Case No: 3:19-cv-00314-REP

JUSTIN MARTORELLO, *et al.*,

Defendants.

[PROPOSED] ORDER
GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Plaintiffs Lula Williams, Gloria Turnage, George Hengle, Dowin Coffy, Marcella P. Singh (as administrator of the estate of Felix M. Gillison, Jr.), Renee Galloway, Dianne Turner, Dominique de la Bay, Lori Fitzgerald, Andrea Scarborough, Earl Browne, Rose Marie Buchert, Regina Nolte, Kevin Minor, Teresa Titus, Burry Pough, Lisa Martinez, Sonji Grandy, Anastasia Sherman, Jerry Avent, Lucinda Gray, Anthony Green, Linda Madison, Derek Geter, Keisha Hamm, Faith Thomas, Sharon Paavo, Latanya Tarleton, Richard Smith, and Dana Duggan (collectively, "Plaintiffs") have moved the Court for preliminary approval of a proposed class action settlement with Defendants Matt Martorello, Rebecca Martorello, Justin Martorello, Eventide Credit Acquisitions, Inc., and BWH Texas, LLC (collectively, "Defendants," and together with Plaintiffs, the "Parties"). The terms and conditions of the proposed settlement are set forth in the Stipulation and Agreement of Settlement filed with the Court on INSERT, 2024 ("Settlement Agreement") as an exhibit to Plaintiffs' Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Motion").

Upon review and consideration of Plaintiffs' Preliminary Approval Motion, the Settlement Agreement, and the exhibits attached to the foregoing, it is hereby ORDERED as follows:

1. This Preliminary Approval Order incorporates the Settlement Agreement, and the capitalized terms used herein, unless stated otherwise, shall have the meanings and/or definitions given to them in the Settlement Agreement, as if fully set forth in this Order.

2. The Settlement, on the terms and conditions stated in the Settlement Agreement, is preliminarily approved by this Court as being fair, reasonable and adequate, free of collusion or indicia of unfairness, and within the range of possible final judicial approval. In making this determination, the Court has considered the current posture of this litigation and the risks and benefits to the Parties involved in both settlement of these claims and the continuation of the litigation, and the fact that Defendants deny liability and have indicated their intent to vigorously defend the litigation. The Court further finds that the settlement between the Parties was arrived at through arm's-length negotiations and exchange of information by experienced counsel.

CONDITIONAL CERTIFICATION OF SETTLEMENT CLASS AND APPOINTMENT OF CLASS REPRESENTATIVES AND CLASS COUNSEL

3. For purposes of the Settlement, and conditioned upon the Settlement receiving final approval following the Final Fairness Hearing, this Court hereby conditionally certifies a Class for settlement purposes only (the "Settlement Class"), defined as follows and subject to the stated exclusions below:

> All persons within the United States who executed loan agreements with Red Rock or Big Picture Loans from June 22, 2013, to May 1, 2024.

4. The Court preliminarily finds that, for settlement purposes and conditioned upon the entry of the Final Approval Order and the occurrence of the Effective Date, that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil

Procedure have been satisfied. The Court finds, in the specific context of this Settlement, that the following requirements are met: (a) the number of Settlement Class Members is so numerous that joinder is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) Plaintiffs' claims are typical of the claims of the Settlement Class; (d) Plaintiffs have fairly and adequately represented the interests of the Settlement Class and will continue to do so, and Plaintiffs have experienced counsel to represent them; (e) the questions of law and fact common to the Settlement Class predominate over any questions affecting any individual Settlement Class Member; and (f) a class action provides a fair and efficient method for settling the controversy under the criteria set forth in Rule 23 and is superior to alternative means of resolving the claims and disputes at issue in this Action. The Court also concludes that, because this Action is being settled rather than litigated, the Court need not consider manageability issues that might be presented by the trial of a class action in this case.

5. The Court finds that the Settlement falls within the range of reasonableness because it provides for meaningful remediation relative to the merits of Plaintiffs' claims and Defendants' defenses.

6. If the Settlement Agreement is not finally approved, is not upheld on appeal, or is otherwise terminated for any reason, then the Settlement Class shall be decertified; the Settlement Agreement and all negotiations, proceedings, and documents prepared, and statements made in connection therewith, shall be without prejudice to any party and shall not be deemed or construed to be an admission or confession by any party of any fact, matter, or proposition of law; and all parties shall stand in the same procedural position as if the Settlement Agreement had not been negotiated, made, or filed with the Court.

7. For purposes of Settlement only, the Court finds and determines that Plaintiffs have and will fairly and adequately represent the interests of the Settlement Class in enforcing

the rights of the Settlement Class in this Action, and thus hereby appoints Lula Williams, Gloria Turnage, George Hengle, Dowin Coffy, Marcella P. Singh (as administrator of the estate of Felix M. Gillison, Jr.), Renee Galloway, Dianne Turner, Dominique de la Bay, Lori Fitzgerald, Andrea Scarborough, Earl Browne, Rose Marie Buchert, Regina Nolte, Kevin Minor, Teresa Titus, Burry Pough, Lisa Martinez, Sonji Grandy, Anastasia Sherman, Jerry Avent, Lucinda Gray, Anthony Green, Linda Madison, Derek Geter, Keisha Hamm, Faith Thomas, Sharon Paavo, Latanya Tarleton, Richard Smith, and Dana Duggan as representatives of the conditionally certified Settlement Class ("Class Representatives").

8. For purposes of the Settlement only, the Court appoints as Class Counsel the law firms of Kelly Guzzo PLC, Consumer Litigation Associates, P.C., Berger Montague PC, Terrell Marshall PLLC, Cadell & Chapman, Gupta Wessler LLP, and Tycko & Zavareei LLP. For purposes of these settlement approval proceedings, the Court finds that these law firms are competent and capable of exercising their responsibilities as Class Counsel and have fairly and adequately represented the interests of the Settlement Class for settlement purposes.

CLASS NOTICE AND SETTLEMENT ADMINISTRATION

9. As the Settlement Agreement is within the range of reasonableness and possible final approval, notice shall be provided to the Settlement Class under the Settlement Agreement. The Court approves, as to form and content, the Class Notice submitted with Plaintiffs' Preliminary Approval Motion, attached as Exhibit 1 to the Settlement Agreement.

10. The Court appoints American Legal Claims Services, LLC, as the Settlement Administrator. The Settlement Administrator shall abide by the terms and conditions of the Settlement Agreement that pertain to the Settlement Administrator. As further set forth in the Settlement Agreement, the Settlement Administrator shall be responsible for, without limitation: (a) disseminating Notice to the Settlement Class; (b) handling returned e-mail notice and mail

delivered to members of the Settlement Class; (c) receiving and maintaining requests for exclusion from the Settlement Class; (d) fielding inquiries about the Settlement Agreement; (e) establishing a Settlement Website with relevant case documents to which members of the Settlement Class may refer for information about the Settlement; (f) establishing a toll-free telephone line to receive calls from Settlement Class Members; (g) assisting Defendants with providing the notices required by the Class Action Fairness Act; and (h) carrying out such other responsibilities as are provided for in the Settlement Agreement or agreed to by the Parties.

11. The Court directs the Settlement Administrator, in accordance with the Settlement Agreement, to cause a copy of the Class Notice to be sent in substantially the same form attached to Plaintiffs' Preliminary Approval Motion to the Settlement Class by a combination of e-mail notice to verified e-mail addresses and/or by U.S. mail, postage prepaid, to each Settlement Class Member identified on the Class List. The Settlement Administrator shall use best practices to ensure that notice is received by Class Members and will act in accordance with the process stated within the Settlement Agreement.

12. The Court further directs the Settlement Administrator to maintain and update the Settlement Website and secure a toll-free telephone number as set forth in the Settlement Agreement, which shall be updated within ten (10) days after the Court enters this Preliminary Approval Order.

13. No later than thirty (30) days before the Final Fairness Hearing, the Settlement Administrator will file a declaration with the Court verifying that notice has been provided to the Settlement Class in accordance with the Settlement Agreement and this Order.

14. The Court finds that the Class Notice accompanying Plaintiffs' Motion for Preliminary Approval, specifically, and more generally, the Notice Program described above and set forth in the Settlement Agreement constitutes the best notice practicable under the

circumstances and satisfies due process and Rule 23 of the Federal Rules of Civil Procedure. The Court finds that the language of the proposed Class Notice is plain and easy to understand and provides neutral and objective information about the nature of the Settlement. Furthermore, the Court finds that the notice program complies with Rule 23(e) of the Federal Rules of Civil Procedure as it is a reasonable manner of providing notice to those Settlement Class Members who would be bound by the settlement of the pendency of this Action and their right to participate in, object to, or exclude themselves from the Settlement. The Court also finds that the Notice Program complies with Rule 23(c) as it provides for individual notice to all Settlement Class Members and is thus the best notice practicable under the circumstances. In addition, Settlement Class Members will have access to the Settlement Website and a toll-free telephone line for purposes of obtaining additional information about the Settlement.

15. Class Notice and Settlement administration costs as set forth in the Settlement Agreement shall be paid from the Settlement Fund.

REQUESTS FOR EXCLUSION

16. Settlement Class Members may elect to exclude themselves or "opt out" from the Settlement Agreement by following the procedures set forth in the Settlement Agreement for doing so. In the event a Settlement Class Member wishes to be excluded from the Settlement and not to be bound by the Settlement Agreement, that person must, prior to the Opt-Out Deadline, advise the Class Administrator in writing of that intent. In the written request for exclusion, the Settlement Class Member must state the name of this Action and his or her full name, address, telephone number, and the last four digits of his or her social security number, or his or her account number with Big Picture Loans or Castle Payday. Further, the Settlement Class Member must include a statement in the written request stating, "I request to be excluded from the class

settlement in this case," or terms of equal effect. The request must also be signed by the Settlement Class Member.

17. Any request for exclusion or to opt out must be in writing and mailed to the Administrator, postmarked no later than __________ [forty-five (45) calendar days before the Final Fairness Hearing] (the "Opt-Out Deadline"). The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted. The Court retains jurisdiction to resolve any disputed exclusion requests.

18. A Settlement Class Member who opts out of the Settlement may opt back in so long as the opt-in request is received prior to the Opt-Out Deadline.

19. No one shall be permitted to exercise any exclusion rights on behalf of any other person, whether as an agent or representative of another or otherwise, except upon proof of a legal power of attorney, conservatorship, trusteeship, or other legal authorization, and no one may exclude other persons within the Settlement Class as a group, class, or in the aggregate.

20. Any member of the Settlement Class who submits a valid and timely request for exclusion will not be a Settlement Class Member, shall not be bound by the terms of the Settlement Agreement, and shall relinquish their rights to benefits with respect to the Settlement Agreement, should it be finally approved, and may not file an objection to the Settlement Agreement or to any application for reimbursement of attorneys' fees and costs or Service Awards or otherwise intervene in the Actions.

21. Any Settlement Class Member who does not submit a valid and timely request for exclusion shall be bound by all the terms and provisions of the Settlement Agreement, including any Release set forth therein, the Final Approval Order, and the Final Judgment, whether or not such Settlement Class Member objected to the settlement.

22. The Settlement Administrator shall provide copies of any requests for exclusion to the Parties as provided in the Settlement Agreement.

OBJECTIONS

22. Any Settlement Class Member who does not opt out of the Settlement and intends to object to any aspect of the proposed Settlement, request for reimbursement of attorneys' fees and costs, or Service Awards, must file a written objection signed by the Settlement Class Member with the Court no later than ______________ [forty-five (45) calendar days before the Final Fairness Hearing] (the "Objection Deadline"). For an objection to be considered by the Court, the objection must also set forth and include the following:

a. the name of this Action;
b. the Objector's name, address, and telephone number;
c. a statement confirming that the Objector qualifies as a Settlement Class Member;
d. the reasons for his or her objection, accompanied by any legal or factual support for the objection;
e. the name of counsel for the Objector (if any);
f. information about other objections the Objector or his or her counsel have made in other class action cases; and
g. whether he or she intends to appear at the Final Fairness Hearing on his or her own behalf or through counsel.

23. A Settlement Class Member may not both opt out of the Settlement and object. If a Settlement Class Member submits both a request for exclusion and objection, the request for exclusion will control.

24. No member of the Settlement Class or counsel retained by such a member of the Settlement Class shall be entitled to be heard at the Final Fairness Hearing unless the Objector or his or her attorneys who intend to make an appearance at the Final Fairness Hearing state their intention to appear in the objection filed with the Court in accordance with the preceding

paragraphs. Counsel for any such member of the Settlement Class must enter his or her appearance with the Court by the Objection Deadline.

25. Any Settlement Class Member who fails to file and serve a valid and timely written objection in the manner specified above shall be deemed to have waived all objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement, including but not limited to the benefits to Settlement Class Members, the Service Awards, or the Final Judgment.

FINAL FAIRNESS HEARING

26. A Final Fairness Hearing shall be held on ________________ at _________ before this Court of the Robinson-Merhige Federal Courthouse, 701 East Broad Street, Richmond, VA 23219. At the Final Fairness Hearing, the Court will: (1) determine whether the Settlement Agreement should be finally approved as fair, reasonable, and adequate; (2) determine whether a final judgment should be entered dismissing the claims of the Settlement Class with prejudice, as required by the Settlement Agreement; (3) rule on any objections to the Settlement Agreement; (4) rule on the validity of any opt-out requests; (5) determine whether Class Counsel's requested attorneys' fees and the requested Service Awards to the Class Representatives should be approved; and (6) rule on such matters as the Court may deem appropriate. The date of the Final Fairness Hearing may be continued by the Court from time to time without further notice to the Settlement Class.

27. Any Settlement Class Member may enter an appearance in this Action at his or her own expense, individually or through counsel. However, if a Settlement Class Member wishes to object to the Settlement at the Final Fairness Hearing (either personally or through counsel), the Settlement Class Member must submit a written objection as set forth in the

Settlement Agreement and this Order. All Settlement Class Members who do not enter an appearance will be represented by Class Counsel.

28. The motion for final approval of the Settlement Agreement and any papers the Parties wish to submit in support of final approval of the Settlement Agreement, shall be filed with the Court no later than thirty (30) calendar days prior to the Final Fairness Hearing. Any response to any Objection to the Settlement Agreement shall be filed with the Court no later than fourteen (14) calendar days prior to the Final Fairness Hearing.

STAY OF LITIGATION

29. Pending the Final Fairness Hearing, all proceedings in this Action are stayed and suspended until further order of this Court, except such actions as may be necessary to carry out or enforce the terms and conditions of the Settlement Agreement and this Preliminary Approval Order.

OTHER PROVISIONS

30. For the benefit of the Settlement Class and to protect this Court's jurisdiction, this Court retains continuing jurisdiction over the Settlement proceedings relating to the interpretation, administration, implementation, effectuation, and enforcement of this Settlement.

31. Any deadlines set in this Preliminary Approval Order may be extended by order of the Court, for good cause shown, without further notice to the Settlement Class, except that notice of any such extensions shall be posted to the Settlement Website. Members of the Settlement Class should check the Settlement Website regularly for updates, changes, and/or further details regarding extensions of these deadlines.

32. The Parties are directed to carry out their obligations under the Settlement Agreement, and are hereby authorized to use all reasonable procedures in connection with

approval and administration of the Settlement that are not materially inconsistent with this Order or the Settlement Agreement, including making, without further approval of the Court, minor changes to the Settlement Agreement or to the form or content of the Class Notice that the Parties jointly agree are reasonable or necessary, and which do not limit the rights of Settlement Class Members under the Settlement Agreement.

Let the Clerk file a copy of this Order electronically and notify all counsel of record.

It is so ORDERED.

/s/
Hon. Robert E. Payne
United States District Judge

Richmond, Virginia
Dated: ___________

Exhibit 3

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

RENEE GALLOWAY, *et al.*, *on behalf of themselves and all others similarly situated,*

Plaintiffs,

v. Case No: 3:19-cv-00314-REP

JUSTIN MARTORELLO, *et al.*,

Defendants.

[PROPOSED] ORDER
GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND ENTERING JUDGMENT

This matter comes before the Court on the Motion for Final Approval of the Settlement and Final Certification of the Settlement Class ("Final Approval Motion") filed by Plaintiffs Lula Williams, Gloria Turnage, George Hengle, Dowin Coffy, Marcella P. Singh (as administrator of the estate of Felix M. Gillison, Jr.), Renee Galloway, Dianne Turner, Dominique de la Bay, Lori Fitzgerald, Andrea Scarborough, Earl Browne, Rose Marie Buchert, Regina Nolte, Kevin Minor, Teresa Titus, Burry Pough, Lisa Martinez, Sonji Grandy, Anastasia Sherman, Jerry Avent, Lucinda Gray, Anthony Green, Linda Madison, Derek Geter, Keisha Hamm, Faith Thomas, Sharon Paavo, Latanya Tarleton, Richard Smith, and Dana Duggan (collectively, "Plaintiffs"), on behalf of themselves and the preliminarily certified Settlement Class.

The Court has reviewed the papers filed in support of the Final Approval Motion, the Settlement Agreement filed with Plaintiff's Preliminary Approval Motion, the memoranda and arguments submitted on behalf of the Settlement Class, and all supporting exhibits and declarations thereto, as well as the Court's Preliminary Approval Order. The Court held a

Final Fairness Hearing on ________________, at which time the Parties and other interested persons were given an opportunity to be heard in support of and in opposition to the proposed settlement. Based on the papers filed with the Court and the presentations made at the Final Fairness Hearing, the Court finds that the Settlement Agreement is fair, reasonable, and adequate.

Accordingly, the Court hereby ORDERS, ADJUDGES, and DECREES as follows:

1. This Final Approval Order incorporates herein and makes a part hereof the Settlement Agreement and the Preliminary Approval Order. Unless otherwise provided herein, the capitalized terms used herein shall have the same meanings and/or definitions given to them in the Preliminary Approval Order and the Settlement Agreement.

2. This Court has jurisdiction over matters relating to the Settlement, including, without limitation, the administration, interpretation, effectuation, and enforcement of the Settlement, the Settlement Agreement, and this Final Order and Judgment.

CERTIFICATION OF THE SETTLEMENT CLASS AND APPOINTMENT OF CLASS COUNSEL AND CLASS REPRESENTATIVES

3. In the Preliminary Approval Order, this Court previously certified, for settlement purposes only, a Settlement Class defined as follows:

> All persons within the United States who executed loan agreements with Red Rock or Big Picture Loans from June 22, 2013, to May 1, 2024.

4. Certification of the Settlement Class is hereby reaffirmed as the final Settlement Class pursuant to Federal Rule of Civil Procedure 23. For the reasons set forth in the Preliminary Approval Order, the Court finds, on the record before it, that the Action, for purposes of this Settlement, may be maintained as a class action of the Settlement Class.

5. In the Preliminary Approval Order, this Court previously appointed the above-identified Plaintiffs Lula Williams, Gloria Turnage, George Hengle, Dowin Coffy, Marcella P. Singh (as administrator of the estate of Felix M. Gillison, Jr.), Renee Galloway, Dianne Turner, Dominique de la Bay, Lori Fitzgerald, Andrea Scarborough, Earl Browne, Rose Marie Buchert, Regina Nolte, Kevin Minor, Teresa Titus, Burry Pough, Lisa Martinez, Sonji Grandy, Anastasia Sherman, Jerry Avent, Lucinda Gray, Anthony Green, Linda Madison, Derek Geter, Keisha Hamm, Faith Thomas, Sharon Paavo, Latanya Tarleton, Richard Smith, and Dana Duggan as Class Representatives and hereby reaffirms that appointment, finding, on the record before it, that the Class Representatives have and continue to adequately represent the Settlement Class.

6. In the Preliminary Approval Order, this Court previously appointed the law firms of Kelly Guzzo PLC, Consumer Litigation Associates, P.C., Berger Montague PC, Terrell Marshall PLLC, Cadell & Chapman, Gupta Wessler LLP, and Tycko & Zavareei LLP, as Class Counsel for settlement purposes only and hereby reaffirms that appointment, finding on the record before it that Class Counsel have and continue to adequately and fairly represent the Settlement Class.

CLASS NOTICE

7. The record shows, and the Court finds, that Class Notice has been given to the Settlement Class in the manner approved by the Court in its Preliminary Approval Order. The Court finds that such Notice constitutes: (i) the best notice practicable to the Settlement Class under the circumstances; (ii) notice that was reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of this Action and the terms of the Settlement Agreement, their rights to exclude themselves from the Settlement or to object to any part of

the Settlement, their rights to appear at the Final Fairness Hearing (either on their own or through counsel hired at their own expense), and the binding effect of the Final Order and Final Judgment, whether favorable or unfavorable, on all persons who do not exclude themselves from the Settlement Class; (iii) due, adequate, and sufficient notice to all persons or entities entitled to received notice; and (iv) notice that fully satisfies the requirements of the United States Constitution (including the Due Process Clause), Federal Rules of Civil Procedure 23(c)(2(B) and 23(e)(1), and any other applicable law.

8. Due and adequate notice of the proceedings having been given to the Settlement Class and a full opportunity having been offered to the Settlement Class Members to participate in the Final Fairness Hearing, it is hereby determined that all Settlement Class Members except those who timely opted out, as identified in Exhibit A to this Final Approval Order, are bound by this Order and the Final Judgment. No Settlement Class Members, other than those listed in Exhibit A, are excluded from the Settlement Class, from the terms of the Settlement Agreement, or from the effect of this Final Approval Order and Final Judgment.

FINAL APPROVAL OF THE SETTLEMENT AGREEMENT

9. Pursuant to Rule 23(e), the Court hereby finally approves in all respects the Settlement as set forth in the Settlement Agreement and finds that the Settlement, the Settlement Agreement, the benefits to the Settlement Class Members, and all other parts of the Settlement are, in all respects, fair, reasonable, and adequate, and in the best interest of the Settlement Class, within a range that responsible and experienced attorneys could accept considering all relevant risks and factors and the relative merits of Plaintiffs' claims and any defenses of the Defendants, and are in full compliance with all applicable requirements of the Federal Rules of Civil Procedure, the Due Process Clause, and the Class Action Fairness Act.

Accordingly, the Settlement shall be consummated in accordance with the terms and provisions of the Settlement Agreement, with each Settlement Class Member bound by the Settlement Agreement, including any releases therein.

10. Specifically, the Court finds that the Settlement is fair, reasonable, and adequate given the following factors, among others:

a. This Action was complex and time consuming and would have continued to be so through summary judgment and/or trial if it had not settled;

b. Defendants have denied liability and have indicated their intent to continue to defend the litigation vigorously had it not settled;

c. Class Counsel had a well-informed appreciation of the strengths and weaknesses of the Action while negotiating the Settlement;

d. The monetary relief provided for by the Settlement is well within the range of reasonableness in light of the best possible recovery and the risks the Parties would have faced if the case had continued to verdicts as to jurisdiction, liability, and damages;

e. The Settlement was the result of arm's-length good faith negotiations and exchange of information by experienced counsel; and,

f. The reaction of the Class to the Settlement has been positive, with only ______ potential class members timely requesting to opt out and no objections to the Settlement.

11. Accordingly, the Settlement shall be consummated in accordance with the terms and provisions of the Settlement Agreement.

MONETARY RELIEF

12. The Court approves the Parties' plan to distribute the monetary benefits provided for by the Settlement Agreement to the Settlement Class Members as set forth in the Settlement Agreement.

13. The Court also approves the agreements reached in the Settlement Agreement, including that: (1) Defendants will not provide any services to Big Picture Loans, LLC, or its successors-in-interest, including but not limited to any investment and capital management services, management, operations, or marketing consulting, and (2) Defendants will not participate or assist in the collection of any loans made by Red Rock Tribal Lending, LLC, or Big Picture Loans, LLC, including any attempted collections by third parties, as of the Effective Date of the Settlement Agreement and as further set forth in the Settlement Agreement.

14. The relief provided by the Settlement is significant. All Settlement Class Members who have made qualifying payments on the loans in question will receive cash payments. Defendants have also agreed not to participate in the collection of any loans issued by the Big Picture Loans, LLC, Red Rock Tribal Lending, LLC or their successors, and to halt their financial and in-kind support of any additional loans issued by Big Picture Loans, LLC, as set forth in the Settlement Agreement. Further, Class members will receive their eligible payment without having to prove any harm or take any affirmative actions. In other words, Class Members will not be required to submit any forms or claims for payment.

DISMISSAL OF CLAIMS AND RELEASES

15. This Action and all Released Claims of Settlement Class Members are hereby DISMISSED WITH PREJUDICE and, except as otherwise provided herein or in the Settlement Agreement, without costs to any Party.

16. Pursuant to the Settlement Agreement, as of the Effective Date of this Settlement, the Released Claims are effective for the Released Parties.

AWARD OF ATTORNEYS' FEES AND COSTS AND SERVICE AWARDS

17. At the conclusion of a successful class action, class counsel may apply to a court for an award of attorneys' fees. *See* Fed. R. Civ. P. 23(h). Pursuant to the Settlement Agreement, Class Counsel may request reasonable attorneys' fees and reimbursement of costs to be paid from the Fund, provided that the total amount requested does not exceed one third of the Fund provided to Settlement Class Members.

18. Because this is a common fund case, it is appropriate to employ a percentage of the fund method for calculating a proper fee award. When a representative party confers a substantial benefit upon a class, counsel is entitled to attorneys' fees based on the benefit obtained. *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *see also, e.g.*, *Milbourne v. JRK Residential America, LLC*, No. 3:12-cv-861-REP, ECF No. 324 (ED. Va. Jan. 4, 2017); *Mayfield v. Memberstrust Credit Union*, No. 3:07-cv-506-REP, ECF No. 22 (E.D. Va. Nov. 7, 2008); *Conley v. First Tennessee*, No. 1:10-cv-1247-JFA, ECF No. 37 (E.D. Va. Aug. 18, 2011); *Lengrand v. Wellpoint*, No. 3:11-cv-333-HEH, ECF No. 42 (E.D. Va. Nov. 13, 2012).

19. No class member or Government entity has objected to Class Counsel's request.

20. The Court, having reviewed the declarations, exhibits, and points and authorities submitted in support of and opposition to Class Counsel's request for attorneys' fees and reimbursement of costs, approves the award of attorneys' fees and costs to Class Counsel in the amount of ______________ ("Fee and Expense Award"). The Court finds that the Fee and Expense Award is reasonable and appropriate under all the circumstances presented.

21. The Settlement Agreement also provides that Plaintiffs may request a Service Award to be paid from the Fund.

22. Courts routinely grant service awards to compensate named plaintiffs for the services they provided and the risks they incurred during the course of the class action litigation. *See, e.g.*, *Manuel v. Wells Fargo Bank*, No. 3:14-cv-238-DJN, 2016 WL 1070819, at *6 (E.D. Va. Mar. 15, 2016) (explaining that service awards are "intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general"). Here, the Court finds that the requested Service Awards are reasonable and within the range of awards granted by courts in this and other circuits, and reflect the Class Representatives' contributions to the Settlement. *See, e.g.*, *id.* (approving $10,000 award); *Lemus v. H & R Block Enters. LLC*, No. 09-cv-3179, 2012 WL 3638550, at *5-6 (N.D. Cal. Aug. 22, 2012) (approving $15,000 service awards). Moreover, these Service Awards are justified by the time and effort expended by the Class Representatives on behalf of the Settlement Class Members and the risk each assumed in bringing this action. Accordingly, the Court makes the following awards:

Lula Williams ________________

Gloria Turnage ________________

George Hengle ________________

Dowin Coffy ________________

Marcella P. Singh ________________
(as administrator of the estate of Felix M. Gillison, Jr.)

Renee Galloway ________________

Dianne Turner	____________________
Dominique de la Bay	____________________
Andrea Scarborough	____________________
Earl Browne	____________________
Rose Marie Buchert	____________________
Regina Nolte	____________________
Kevin Minor	____________________
Teresa Titus	____________________
Burry Pough	____________________
Lisa Martinez	____________________
Sonji Grandy	____________________
Anastasia Sherman	____________________
Jerry Avent	____________________
Lucinda Gray	____________________
Derek Geter	____________________
Keisha Hamm	____________________
Sharon Paavo	____________________
Latanya Tarleton	____________________
Richard Smith	____________________
Dana Duggan	____________________

23. The Court further notes that the percentage of requested attorneys' fees and reimbursement of costs and the maximum amount of an individual Service Award was included in the notice materials disseminated to the Settlement Class.

24. The award of attorneys' fees and costs and Service Awards shall be paid by the Defendants from the Fund, as set forth in the Settlement Agreement.

25. The Parties' distribution plan of payments to the Class Members in *pro rata* allocations of the Settlement Fund, following the above deductions, is approved for implementation. Should funds remain after all distributions are made and the check negotiation period provided for in the Settlement Agreement has passed, the Parties' chosen *cy pres*, the Virginia Poverty Law Center, a nonprofit organization, is approved for receiving such balance.

OTHER PROVISIONS

26. The Court has jurisdiction to enter this Final Order and Final Judgment. Without in any way affecting the finality of this Final Order or the Final Judgment, and by consent of the Parties, the Court expressly retains exclusive and continuing jurisdiction over the Settlement and the Settlement Agreement, including all matters relating to the administration, consummation, validity, enforcement, and interpretation of the Settlement Agreement or the Final Order and Judgment, including without limitation, for the purpose of:

a. Enforcing the terms and conditions of the Settlement Agreement and resolving any disputes, claims, or causes of action that, in whole or in part, are related to or arise out of the Settlement Agreement, the Final Order, or the Final Judgment (including whether a person or entity is or is not a Settlement Class Member);

b. Entering such additional orders, if any, as may be necessary or appropriate to protect or effectuate the Final Order, the Final Judgment, or the Settlement Agreement, or to ensure the fair and orderly administration of the Settlement; and,

c. Entering any other necessary or appropriate orders to protect and effectuate this Court's retention of continuing jurisdiction over the Settlement Agreement, the Final Order, or the Final Judgment.

27. Without affecting the finality of this Order or the Final Judgment, the Defendants, each Settlement Class Member, and the Administrator hereby irrevocably submit to the exclusive jurisdiction of the Court for the limited purpose of any suit, action, proceeding, or dispute arising out of the Settlement Agreement or the applicability of the Settlement Agreement, including any suit, action, proceeding, or dispute relating to the Release provisions herein.

28. The Parties are hereby directed to carry out their obligations under the Settlement Agreement.

29. Without further order of the Court, the Parties may agree to reasonably necessary extensions of time to carry out any of the provisions of the Settlement Agreement. Likewise, the Parties may, without further order of the Court or notice to the Settlement Class, agree to and adopt such amendments to the Settlement Agreement (including exhibits) as are consistent with this Final Order and the Final Judgment that do not limit the rights of the Settlement Class Members under the Settlement Agreement.

30. In the event that the Settlement becomes null and void, certification of the Settlement Class shall be automatically vacated and this Final Approval Order and Final Judgment, as well as all other orders entered and releases delivered in connection with the Settlement Agreement, shall be vacated and shall become null and void, shall be of no further force and effect, and the Parties' rights and defenses shall be restored, without prejudice, to their respective positions as if the Settlement Agreement had never been executed.

31. Because the settlement is being reached as a compromise to resolve this litigation, including before a final determination of the merits of any issue in this case, none of the Settlement Class Members may invoke the doctrines of *res judicata*, collateral estoppel, or any state law equivalents to those doctrines in connection with any further litigation against Defendant in connection with the claims settled by the Class.

32. This Final Approval Order and Final Judgment is final for purposes of appeal and may be appealed immediately, and the Clerk is hereby directed to enter judgment thereon.

This case is now CLOSED.

Let the Clerk file a copy of this Order electronically and notify all counsel of record.

It is so ORDERED.

/s/
Hon. Robert E. Payne
United States District Judge

Richmond, Virginia
Dated: ___________

Exhibit 4

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Case No. 3:19-cv-314

EXCLUSION REQUEST FORM

Must be postmarked by XXXX

THIS IS NOT A CLAIM FORM. This form removes you from the settlement. If you submit this form, you will not be eligible for any benefits pursuant to the settlement, including a cash payment.

COMPLETE AND RETURN THIS FORM BY **XXXX** only if you do **not** want to be part of the settlement of this case, or if you intend to file a separate lawsuit on your own for the claims alleged in this class action case. The attorneys who represent the class do not represent you with respect to any such claims if you exclude yourself.

BY COMPLETING THIS FORM, you are **excluding** yourself from participation in the settlement in this case, you will not receive any money if you are entitled. If you submit this form and want to obtain any money you will then have to file your own lawsuit. You may need to retain your own attorney. You must file your own lawsuit before time runs out to do so and you should consult your own attorney to make certain you file a complaint in the appropriate court within the time provided by the applicable statutes of limitations.

Section I: Exclusion

☐ I request to be excluded from the Class Settlement in *Galloway et al. v. Martorello et al.*, No. 3:19-cv-314 (E.D. Va.).

Section II: Contact Information

Full Name: ______________________________

Current Address: ______________________________

____

____

Phone Number: ______________________________

Last Four Digits of SSN: ______________________________

Section III: Signature

Signature: ______________________________

Date: ______________________________

Exclusion Request Forms must be mailed to:

GallowaySettlement
c/o Settlement Administrator
P.O. Box XXXX
City, State XXXXX