

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

SECURITIES AND EXCHANGE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 1:18-cv-01262
)	
TODD ELLIOTT HITT, KIDDAR, ET AL.,)	
)	
Defendants.)	
)	
UNITED STATES OF AMERICA,)	
)	
v.)	Criminal No. 1:19-cr-43
)	
TODD ELLIOTT HITT,)	
)	
Defendant.)	
)	

**CONSENT MOTION FOR AN
ORDER CONFIRMING SETTLEMENT**

Bruce H. Matson, the court-appointed Receiver in the above-captioned civil matter, and the court-appointed Special Master in the above-captioned criminal matter (“**Movant**”), by counsel, hereby moves this Court for entry of an order, confirming a Settlement Agreement between the Receiver and The Hitt Family (“**THF**”). In support of the Motion, the Movant respectfully represents as follows:

BACKGROUND

1. On October 5, 2018, the Securities and Exchange Commission (“**SEC**”) commenced the civil case by filing a Complaint against Todd Elliott Hitt (“**Hitt**”) and certain corporate defendants for violations of federal securities laws.

2. By Order dated October 12, 2018, this Court appointed the Movant as Receiver in the civil case (the “**Receivership Order**”) vesting the Receiver with certain general powers and duties as provided in paragraphs 3 through 5 of that order.

3. On October 4, 2018, the United States commenced the criminal case by filing a Complaint against Hitt.

4. By Order dated February 13, 2019, this Court appointed the Movant as Special Master in the criminal case (“**Special Master Order**”). The Special Master Order provides that the Movant’s general powers and duties under the Receivership Order are extended to include Hitt’s personal property and that the Movant file recommendations with the Court with respect to restitution to victims in the criminal case.

5. By Order dated December 14, 2018, this Court approved the Receiver’s Motion To Establish A Claims Bar Date, Approve the Manner And Form Of Notice Of Claims Bar Date And Approve The Process for Submitting Claims (“**Bar Date Order**”). The Bar Date Order established January 28, 2019 (“**Bar Date**”) as the last day by which creditors must file claims against the Receivership Estates.

The Settlement

6. Shortly after his appointment, Movant began negotiations with THF regarding THF’s payment to the Movant of a sum of money to be utilized for payment to the victims and

creditors in the civil and criminal cases. Over the course of several months, the parties engaged in a series of discussions, including, among other things, an assessment of the assets and liabilities of the estate and the potential claims of victims and creditors. Following the Bar Date, the parties commenced a mutual review of the actual filed claims of creditors and victims. After intensive discussion and careful consideration, the parties reached an agreement embodied in the Settlement Agreement attached hereto as **Exhibit A** (“Settlement Agreement”).

7. In summary, the proposed settlement provides as follows:

- THF will contribute the sum of \$20 million (minus certain credits as described in the settlement) towards satisfying the claims of victims and creditors in the civil and criminal cases;
- In exchange for the payment from THF, the Movant will release and discharge THF and the THF Released Parties as provided in paragraph 9 of the Settlement Agreement; and
- The Movant will utilize the settlement funds to make distributions to the restitution claims of the victims and creditor claims against the estate pursuant to a plan of distribution to be reviewed by the SEC and the United States and approved by the Court, and in exchange, any recipients of such distributions shall release and discharge THF, the THF Released Parties, the Movant, and the estates in the form substantially similar to **Exhibit C** attached hereto.

8. The Movant, on behalf of himself and all victims and creditors whose interests he has been appointed to represent in the civil case and the criminal case, acknowledges and agrees that THF has engaged in no wrongdoing, did not benefit from TH’s conduct, and is under no

obligation (actual or alleged) to provide economic relief to those injured by TH's conduct and/or to the investor victims and creditors in the civil or criminal cases.

ARGUMENT

9. The well-established law encourages the approval of settlements to help resolve proceedings involving the administration of estates. For example, in *Meyers v. Martin (In re Martin)*, 91 F.3d 389 (3d Cir. 1996), the United States Court of Appeals for the Third Circuit noted that “[t]o minimize litigation and expedite the administration of a bankruptcy estate, compromises are favored . . .” *Id.* at 393, *see also Shaia v. Three Rivers Wood, Inc. (In re Three Rivers Wood, Inc.)*, Nos. 98-38685-T, 99-3020-T, 2001 WL 720620, at *5 (Bankr. E.D. Va. Mar. 20, 2001) (“Not surprisingly, compromises are favored in bankruptcy courts.”); *In re Frye*, 216 B.R. 166, 170 (Bankr. E.D. Va. 1997) (“Bankruptcy Rule 9019 governs compromise of a claim and permits a trustee to compromise or settle controversies to avoid the time and expense of litigating controversial claims.”).

10. In determining whether to approve a compromise, the Court must look at various factors and determine whether the compromise is in the best interests of the estate and whether it is fair and equitable to the creditors of the estate. *Frye*, 216 B.R. at 174. These factors include: (1) the probability of success in litigation; (2) the potential difficulties, if any, in collection; (3) the complexity of the litigation involved in the expense, inconveniences and delays necessarily attending it; and (4) the paramount interest of the creditors. *Id.*; *see also Three Rivers Wood*, 2001 WL 720620, at *6 (citing *In re Austin*, 186 B.R. 397, 400 (Bankr. E.D. Va. 1995)).

11. Applying these factors, the Movant concluded that the proposed settlement is in the best interests of the Receivership estates, their creditors, and the victims in the criminal case

considering, among other things, the potential claims held by and asserted against the estates, and the attendant cost and risk in litigating such claims; and the substantial impact of the settlement on the Movant's recommendations to the Court.

12. In light of the above considerations, the Court should approve the proposed settlement as reasonable, fair and equitable, as determined by an informed, independent judgment. *See Martin v. Kane (In re A & C Properties)*, 784 F.3d 1377 (9th Cir. 1986); *Drexel, Burham, Lambert, Inc. v. Flight Transportation Corp. (In re Flight Transp. Corp. Sec. Litig.)*, 730 F.2d 1128 (8th Cir. 1984); *American Can Co. v. Herpel (In re Jackson Brewing Co.)*, 624 F.2d 605 (5th Cir. 1980).

13. Further, paragraph 5(i) of the Receivership Order authorizes the Receiver to compromise claims and demands which may now be pending or which may be brought by or asserted against the Receivership estates.

14. The SEC and the United States do not oppose the relief sought herein.

NOTICE

15. The Movant will file an affidavit of service reflecting that he will provide notice of this Motion and the Settlement Agreement as follows:

Notice by Electronic Mail and Regular Mail. The Movant will serve this Motion on all known potential claimants and victims and their counsel by electronic mail, and by regular mail (to the extent both addresses are known).

Notice by Publication. The Receiver shall publish notice of this Motion and the Settlement Agreement on his dedicated receivership website maintained by ALCS.

Notice upon Inquiry. The Movant proposes to promptly provide a copy of this Motion and Settlement Agreement to any claimant or victim who makes a written request for such documents to the Receiver's electronic mail address: Kiddar@americanlegal.com, or physical addresses.

16. The Movant will set this Motion for a hearing on May 17, 2019, and will provide notice of the hearing in the same manner identified in Paragraph 15 above and file an affidavit of service thereof.

17. Because there are no novel issues of law presented in the Motion and all applicable authority is set forth therein, the Movant requests that the requirement that all motions be accompanied by a separate written memorandum of law be waived.

WHEREFORE, the Movant respectfully requests that the Court enter an Order substantially similar to the one attached as **Exhibit B**, approving the settlement agreed between the Settlement Parties.

Dated: May 8, 2019

BRUCE H. MATSON, RECEIVER AND
SPECIAL MASTER

/s/

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Christopher L. Perkins (Virginia Bar No. 41783)
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Counsel for the Receiver and Special Master

EXHIBIT A

Settlement Agreement

The Settlement Agreement is made this 7th day of May 2019 between Bruce H. Matson as Receiver and as Special Master (as defined below) and The Hitt Family (“THF” or the “Accommodation Party”). The Parties hereto have agreed as follows:

Background

A. The Securities Exchange Commission (“SEC”) filed an action against Todd Hitt (“TH”) and various of his Kiddar entities in the U.S. District Court, Eastern District of Virginia (the “Court”) – Civil Action No. 1:18-cv-01262 (the “Civil Action”).

B. In the Civil Action the Court entered an order (i) establishing a receivership over certain assets and entities (collectively, the “Receivership”) and (ii) appointing Bruce H. Matson (“Matson”) as receiver in and for those receiverships (the “Receiver”).

C. In an effort to identify the claims and interests of various claimants involved in or related to the Receivership, the Receiver has met with and continues to meet with investors, employees, creditors and other the parties involved in and/or impacted by the various alleged investment opportunities developed by TH.

D. At the time of the entry of the order creating the Receivership, Kiddar Herndon Station, LLC (“HS, LLC”) was not included as an entity over which the Receiver had authority. Due to the need to address urgent business needs and the potential for the magnitude of the harm to investors and others concerning HS, LLC, the Receiver, THF, HS, LLC, and the investors in HS, LLC reached a settlement (the “Herndon Station Settlement”) that provided for the entry of an order placing HS, LLC into the Receivership and a process by which parties in interest would have notice of a resolution of all of the restitution and any related issues resolved. Among the terms of the Herndon Station Settlement are that THF would facilitate restitution payments in the following amounts (the “Herndon Station Payments”):

- \$ 932,000 to HS, LLC
- \$1,200,000 to Woodfield Investment Company
- \$1,600,000 to VR, Investments

A copy of the term sheet containing all of the terms and conditions of the Herndon Station Settlement is attached hereto as Exhibit A. By Order dated March 8, 2019 the Court approved the Herndon Station Settlement.

E. On or about February 13, 2019 the United States District Court in the matter of *USA v. Hitt*, Criminal Docket No. 1:19-CR-43 (the “Criminal Case”), in accepting a plea agreement between TH and the United States appointed Matson to serve as “Special Master” for purposes of assessing TH’s restitution obligations (the “Special Master”). For purposes of this Settlement Agreement there is not intended to be any difference between the Receiver and the Special

Master; the term “Special Master” is used herein for convenience and shall refer to the appropriate role if distinct.

F. THF’s objective is to provide the Receiver/Special Master with a specific amount of money to provide economic relief to those who were injured by TH’s conduct as alleged in the Civil Action and the Criminal Case. To that end, THF is willing to provide a fund for purposes of providing restitution for parties that are deemed as victims in the Criminal Case, and thus legally entitled to restitution in that case, as well as victims and creditors deemed entitled to compensation by the Receiver in the Civil Action.

G. The Special Master/Receiver, on behalf of himself and all victims and creditors whose interests he has been appointed to represent in the Civil action and the Criminal Case, acknowledges and agrees that THF has engaged in no wrongdoing, did not benefit from TH’s conduct, and is under no obligation (actual or alleged) to provide economic relief to those injured by TH’s conduct and to the creditors in the Civil Action.

Hitt Family Settlement

1. THF will contribute \$20 million towards satisfying TH’s restitution obligations in the Criminal Case as well as compensation to victims and creditors in the Civil Action as deemed appropriate by the Receiver by delivering such amount (less certain amounts specified below) to the Special Master (the “Settlement Fund”) within seven (7) days of this settlement being approved by the Court.

2. The Special Master shall review and make recommendations to the Court regarding any and all claims of any victims as contemplated by the order appointing the Special Master, including the direction that the Special Master’s actions thereunder complement and work consistent with his duties and powers as Receiver in the Civil Action. Notwithstanding the foregoing, the Special Master will make recommendations: (i) determining the amount of the restitution claims and/or obligations held by persons harmed as the result of TH’s conduct in the Criminal Case and the Civil Action, including investors, employees, and creditors (the “Restitution Claims”) and (ii) the usage of the Settlement Fund to make payment in respect of the Restitution Claims. In determining his recommendations regarding the amount and validity of any claim for restitution in the Criminal Case, the Special Master will not be precluded from recognizing and allowing a claim (subject to the Court’s approval) solely because the claimant does not have an agreement or relationship with an entity that was excluded from the Receivership.

3. As a further condition of this settlement, the Special Master will implement the terms and conditions of the Herndon Station Settlement as such terms relate to the Special Master and as such terms provide for the payment of the Herndon Station Payments, which payments the Special Master will make from the Settlement Fund on behalf of the Accommodation Party. Each of the arrangements and settlements detailed in this term sheet below is a condition to this global settlement and THF’s contribution of the Settlement Fund. The payments made as part of

the Herndon Station Settlement by the Accommodation Party are a credit against the actual amount to be delivered to the Special Master as the Settlement Fund.

4. Prior to commencement of the Civil Action, THF made payments in the sum of \$2,553,899 as follows:

- \$ 473,898 to Herndon Station, LLC for TI Allowance owed to Booz Allen.
- \$1,180,000 to Matt Bullock for funds owed pursuant to a note (includes interest of \$180,000)
- \$900,000 to Glenn Ferguson (\$600,000 for escrow on Bowl America property and \$300,000 for escrow on State Theatre property)

This sum is a credit against the actual amount to be delivered to the Special Master as the Settlement Fund.

5. Based upon the foregoing, the amount required to fund fully the Settlement Fund is the sum of \$13,714,101 (which the Special Master will use first (i) to pay the administrative costs of the Receivership (including the approved fees and costs of the professionals for the Receiver) and the activities of the Special Master (including the approved fees and costs of the professionals for the Special Master) and then (ii) to pay the Restitution Claims, subject to recommendation of the Receiver and approval by the Court of the amount (and any priority) of each Restitution Claim.

6. In an effort to maximize the equitable treatment of claims relating to TH's activities, including payment of the Restitution Claims in the Criminal Case at the highest possible amount/percentage, the Special Master is authorized to act on behalf of TH and/or on behalf of any entity controlled by him (or by an entity in the Receivership) to resolve issues and claims relating to Broad & Washington, LLC ("Broad & Washington"), 300 West Broad Street, LLC (the "Motor Lodge"), Kiddar Aquicore, LLC ("KA, LLC"), as well as any other entity in which TH was involved as a promoter, organizer or otherwise (the "Misc. TH Entities"). In connection herewith, the Special Master may seek Court approval of separate and further agreements with the parties, creditors, and/or investors of Broad & Washington, the Motor Lodge, KA, LLC and/or any Misc. TH Entity in an effort to resolve and otherwise satisfy any Restitution Claims relating to any such entities.

7. Nothing about this settlement is intended to limit the Special Master in any manner concerning his rights, powers and/or duties as Receiver and/or Special Master, unless any such right or power has been specifically settled, resolved and/or released in the Herndon Station Settlement or this Settlement. Accordingly, the Special Master shall be entitled to all of the rights and powers at law or in equity to fulfill his obligations under the court orders appointing him as Receiver and/or Special Master or as otherwise provided in this settlement and the Order approving this settlement.

8. THF assumes no responsibility for any additional payments, including for expenses of the Receivership, beyond the sum being tendered to fund the Settlement Fund as provided herein.

9. The Special Master/Receiver, on behalf of himself and all victims and creditors whose interests he has been appointed to represent in the Civil Action and the Criminal Case, including, but not limited to, the claimants involved in or related to the Receivership and the Allowed Restitution Claimants (the "Special Master Releasers"), hereby releases and forever discharges all members and affiliates of THF, including, but not limited to, (i) Russell and Joan Hitt, (ii) their children other than Todd Hitt (TH), (iii) TH to the extent limited in Paragraph 10 below, (iv) their children's spouses (including TH's spouse), (v) their grandchildren (including TH's children), (vi) their heirs (other than TH), executors, successors, and assigns, (vii) the December 1, 2008 Todd E. Hitt Family Dynasty Trust and the August 27, 2018 Trust T Agreement, and the trustees of such trusts, and (viii) all corporations, partnerships, limited liability companies, businesses, and other entities owned, directly or indirectly, by Russell or Joan Hitt or any other THF Member (other than TH) (the "THF Released Parties"), from and against any and all actions, causes of action, claims, demands, suits, debts, obligations and any and all liabilities of any nature, past or present - - whether in contract or in tort or under any statute, or under any other legal theory, whether at law or in equity, matured or unmatured, fixed or contingent, known or unknown, suspected or unsuspected, foreseen or unforeseen, and whether asserted as part of any legal proceeding or not -- which the Special Master Releasers have or may have had against the THF Released Parties arising out of, or based in any way on, any event, action, inaction or occurrence from the beginning of the world to the date of this Agreement. The Special Master warrants and represents that he has not assigned any right of claim against the THF Released Parties to any other firm, person, or entity.

10. To the extent that any disgorgement or restitution obligations imposed on TH as part of the Civil Action or the Criminal Case are not satisfied from the monetary contribution from THF, the foregoing Release in Paragraph (9) does not release TH from liability for that shortfall. Furthermore, any victim retains all of his or her rights under the Crime Victims Rights Act (the "CVRA"), 18 U.S.C. Section 3771 or the Mandatory Restitution Act (the "MRA"), 18 U.S.C. Section 3663A (including the right to obtain judgment pursuant to 18 U.S.C. Section 3774(m)). The Special Master agrees to procure the release of the THF Released Parties in connection with the Court's approval of a distribution plan for (and the payment of) restitution and creditor claims to be paid from the Settlement Fund (the "Allowed Restitution Claimants") by having each such Allowed Restitution Claimant execute a Release substantially in the form attached as Exhibit B as a condition of receipt of any payment from the Settlement Fund.

11. Notwithstanding anything contained herein, nothing in this Settlement shall limit the ability of the Court to (i) determine the identity of and amount of restitution owed to victims; and (ii) levy criminal and/or civil fines in connection with TH's sentencing.

12. Effective February 28, 2019, the Special Master agrees to assume (without assuming liability for the principle and interest with respect to any mortgage loans) any responsibility TH or THF had for making all payments concerning the mortgage and utilities for the real property known commonly as 2901 N. Kensington Avenue pending the Special Master's sale of such property.

13. This settlement is subject to approval by the United States District Court responsible for supervising the Receivership, including the entry of an order substantially in the form of Exhibit

B attached hereto, which court shall have jurisdiction to enforce compliance with this settlement agreement.

14. Todd Hitt agrees to be responsive to and cooperate fully with the Special Master with respect to any matter concerning this Settlement Agreement and/or relating to his duties as Special Master (including all duties as Receiver).

WHEREFORE the parties hereto hereby execute this agreement indicating their intention to be bound to the terms hereof.


BRUCE H. MATSON, RECEIVER

By: 
Michael Holm, Counsel

Michael W. Holm
Christopher L. Perkins
LeClairRyan, LLP
919 East Main Street – Suite 2400
Richmond, VA 23219

THE ACCOMMODATION PARTY:

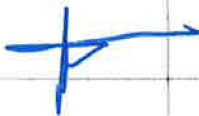
THE HITT FAMILY

By: 
Barry Boss, Counsel

Barry Boss
Cozen O'Connor
1200 19th Street, NW, 3rd Floor
Washington D.C. 20036

Todd Hitt joins in this Settlement Agreement solely for purposes of consenting to the terms hereof and to confirm his express agreements and undertakings in paragraph 13 hereof.

TODD HITT



SETTLEMENT AGREEMENT - EXHIBIT A

Term Sheet – Herndon Station

Objectives:

A. Release Kiddar Herndon Station, LLC (“HS, LLC”) and/or its real property (the “Office Building”) from any entanglement with Kiddar Capital, LLC (collectively with Kiddar Group Holdings, Inc., “Kiddar”), Todd Hitt (“TH”) or any affiliates of Kiddar and/or TH (collectively, the “Kiddar Entities”) and the receivership concerning the Kiddar Entities (the “Receivership”).

B. Permit HS, LLC to deal freely with their assets, particularly the renegotiation/renewal of its primary tenant’s lease.

C. Avoid an increase in the damage or loss suffered by parties investing or dealing with TH concerning a potential investment in HS, LLC.

D. Identify the parties asserting valid claims or interests in HS, LLC to the HS, LLC enterprise (the “HS Investors”).

E. Resolve any interest that the Kiddar, TH, the Kiddar Entities and/or Bruce H. Matson as Receiver (the “Receiver”) have in HS, LLC or the Office Building.

F. Resolve any claim that any of the HS Investors may have against Kiddar, TH (except for claims for restitution and, if necessary, reducing such claim to judgment, for any shortfall arising out of the plea and sentencing of TH), the Kiddar Entities, the Receiver, the Receivership, and/or the members of the Hitt Family other than TH (“Accommodation Party”) on account of any investment relating to HS, LLC.

G. Resolve any claim that Woodfield Investment Company (“Woodfield”) or VR Investments (“VR”) may have to HS, LLC or the Office Building; and confirm conclusively that, other than any claim provided expressly in this settlement, neither Woodfield nor VR have any claim against or interest in Kiddar, TH, the Kiddar Entities, the Receiver, the Receivership, and/or the Accommodation Party arising out of HS, LLC or the Office Building.

Implementation Terms:

1. Consistent with the terms of the HS Settlement (defined immediately below), all parties as necessary will consent to, and cooperate to facilitate, the imposition of a receivership over HS, LLC as further provided herein.

2. HS, LLC, each of the HS Investors, the Receiver, Woodfield, VR, and the Accommodation Party agree to the terms stated herein as a global settlement of the claims and interests in and/or relating to HS, LLC and/or the Office Building (the “HS Settlement”). The parties will work together to prepare, execute, and implement any additional, ancillary, and/or separate documents, instruments, and/or agreements reasonably required or necessary to fully and properly implement the terms of the HS Settlement. To the extent that a dispute develops

concerning an interpretation of the HS Settlement or the terms of any agreement or document contemplated hereunder, the parties all agree that the United States District Court in the Civil Action (defined below) shall have jurisdiction to resolve any such disputes.

3. The parties will consent to the entry of an order (the "SEC Order"), acceptable to the Securities Exchange Commission (the "SEC"), in the action brought by the SEC against TH and various of his Kiddar Entities pending in the United States District Court, Eastern District of Virginia (the "Court") – Civil Action No. 1:18-cv-01262 (the "Civil Action"), which order will (i) grant the SEC's request for the imposition of a receivership (the HS Receivership"), including the appointment of the Receiver as the receiver in the HS Receivership and (ii) provide for or permit the immediate consideration by the Court of a motion (the "HS Settlement Motion") to be filed within 10 days of the entry of the SEC Order, requesting approval of the HS Settlement, including entry of the SEC Order. A copy of the proposed order (subject to final SEC approval) is attached hereto as Exhibit A.

4. Promptly after entry of the SEC Order, HS, LLC and the Receiver will file the HS Settlement Motion and schedule it for a hearing with notice given to all parties to this agreement as well as to all parties known to the Receiver and the Accommodation Party having any investment relationship with HS, LLC, and general notice of publication through the Receiver's claims agent designed to advise any unknown parties, and providing for 21 days for objections.

5. The HS Settlement provides as follows:

- a. The Receiver will release any interest in or claim against HS, LLC and/or the Office Building. The Receiver will cooperate and provide further assurances in the future as reasonably necessary to permit the business of HS, LLC and/or the Office Building to operate free from the receivership proceedings.
- b. HS will agree to indemnify and hold the Receivership and the Receiver harmless on account of any claim asserted by a party not currently known by and/or disclosed to the parties hereto that assert any claim against the Receivership on account of an alleged investment in HS, LLC. HS will incorporate such investor into the LLC or challenge the claim as invalid in which case the Receiver will cooperate with HS, LLC concerning such claim objection.
- c. HS, LLC and each HS Investor will release the Receiver, Kiddar, TH (except as provided below), the Kiddar Entities, Woodfield, VR and the Accommodation Party from any claims of any nature *on account of their investment in HS, LLC*, which release will include an acknowledgement by each such HS Investor of the amount of its claim and/or interest(s) in HS, LLC and/or the Office Building. HS, LLC acknowledges the receipt, prior to the institution of the Receivership, of \$473,898 from the Accommodation Party and that as a result of that payment and the provisions hereof, the Accommodation Party has restored to HS, LLC any funds that may have been misappropriated by TH concerning HS, LLC. Furthermore, HS, LLC will cooperate with the Receiver and provide further assurances in the future as reasonably necessary to permit the Receiver to perform his duties concerning the Receivership.

- d. If VR Investment does not receive 100% repayment of their investment funds (\$6 million) prior to the time TH is sentenced, then VR may pursue any such shortfall as restitution in the criminal case, including, if necessary, reducing such restitution amount to a judgment.
- e. HS, LLC will procure the consent of Eagle Bank to the settlement and its terms, which consent the Receiver shall reasonably approve.
- f. Upon entry of an order (the "HS Settlement Order") approving the HS Settlement, the Accommodation Party shall make the following payments:
 - \$ 932,000 to HS, LLC (of which \$500,000 is designated for Glenn Ferguson)
 - \$1,200,000 to Woodfield (the "Woodfield Payment")
 - \$1,600,000 to VR ("VR Payment")
- g. VR will have an allowed claim in the Receivership in the amount of the difference between \$6 million and the VR Payment (the "Residual VR Claim").
- h. The Receiver and VR agree that VR is permitted to pursue in this Civil Action, or such other action as may be appropriate, a claim that the funds held by the Receiver in the approximate amount of \$4.4 million at Union Bank are VR's funds and that the funds should be returned to VR, and that the funds should not be used for restitution or repayment to other investors besides or in addition to VR. VR agrees to wait at least 60 days after approval of the HS Settlement before instituting such cause of action. (By waiting, it allows all of the parties to see if such action will even be necessary.) The Receiver agrees not disburse any of the approximate \$4.4 million of funds that VR claims are its funds for 60 days, after which time, if the Receiver determines to use any of the \$4.4 million (for example, to pay the Receiver's expenses, or any claims), then the Receiver will give VR at least 15 days prior notice.
- i. Unless VR successfully pursues a claim to recover the \$4.4 million as described above and that money is returned to VR, VR and the Receiver shall enter into such agreements as appropriate to confirm that the Residual VR Claim will be paid in accordance with and upon the approval of the Receiver's Final Report in the Receivership (or any interim distribution request made by the Receiver and approved by the Court).
- j. All parties agree that any of the Receiver's costs or expenses concerning the HS Settlement shall be paid as part of the Receivership costs and expenses. Pursuant to an anticipated agreement between the Receiver and the Accommodation Party, the Accommodation Party will provide a lump sum certain to the Receivership which the Receiver shall utilize for payment of allowed claims and the costs and expenses of the Receivership related to Herndon Station. If for any reason the anticipated agreement is not reached between the Accommodation Party and the Receiver, then the

Accommodation Party will separately reimburse the Receiver for any costs of the Receivership related to Herndon Station.

- k. Upon receipt of the Woodfield Payment, Woodfield will execute such documents and agreements as is reasonably necessary or appropriate to eliminate any right of first refusal that it may have or claim concerning the development of multi-family or apartment units for HS, LLC.
- l. Woodfield will release the Receiver, Kiddar, TH, the Kiddar Entities and the Accommodation Party from any claims of any nature arising out of HS, LLC or the Office Building. Furthermore, Woodfield will cooperate with the Receiver and provide further assurances in the future as reasonably necessary to permit the Receiver to perform his duties concerning the Receivership.
- m. Glenn Ferguson will release the Receiver, Kiddar, TH, the Kiddar Entities and the Accommodation Party from any claims concerning HS, LLC and the Mosaic Notes. Ferguson will cooperate with the Receiver and provide further assurances in the future as reasonably necessary to permit the Receiver to perform his duties concerning the Receivership.
- n. Except for the Residual VR Claim, VR will release the Receiver, Kiddar, TH (except as described above), the Kiddar Entities and the Accommodation Party from any claims of any nature. Furthermore, VR will cooperate with the Receiver and provide further assurances in the future as reasonably necessary to permit the Receiver to perform his duties concerning the Receivership.
- o. After receipt of the VR Payment and the Woodfield Payment, respectively, Woodfield and HS, LLC may enter into any agreements they determine is appropriate concerning any future interest Woodfield may have in HS, LLC.
- p. To the extent that any party breaches the agreement (such as an investor attempts to assert a claim against the Receivership or any asset relating to the Receivership), the prevailing party in any such dispute will be entitled to a recovery of damages and costs, including attorney's fees. Notwithstanding the foregoing, it shall not be a breach of the agreement if VR pursues a claim to recover the \$4.4 million described above and the prevailing party provision described herein shall not apply to such cause of action by VR.
- q. All parties will agree that the Court will have jurisdiction to enforce compliance with the HS Settlement and that the Court will have jurisdiction to hear VR's claim, should it determine it is necessary to file it.
- r. After the filing of the HS Settlement Motion and pending a hearing to approve (the "Settlement Hearing") the HS Settlement, the parties agree to work expeditiously to complete any additional agreements, instruments and/or other documents as provided above to help in the implementation of the HS Settlement such that, to the extent

reasonably possible, they will be executed immediately prior to the Settlement Hearing.

- s. Except as provided above concerning the "prevailing party," all parties will bear their own costs and expenses, including all attorney fees.
- t. TH certifies, represents and warrants that the financial information he has provided to the SEC, a copy of which is incorporated into the agreement, is truthful, and complete and that there are no material omissions to the information. Any parties provided with access to such information agree to hold such information confidential and for use only in this matter.

6. Each counsel for the respective parties have acknowledged the parties agreement, as applicable, to the terms and conditions herein, all of which are subject to final documentation.

KIDDAR HERNDON STATION, LLC

By: 

James Sack, Counsel

James M. Sack
The Sack Law Firm, P.C.
8270 Greensboro Drive - #810
McLean, Virginia 22102

BRUCE H. MATSON, RECEIVER

By: _____

Michael Holm, Counsel

Michael W. Holm
Christopher L. Perkins
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919 East Main Street – Suite 2400
Richmond, VA 23219

reasonably possible, they will be executed immediately prior to the Settlement Hearing.

- s. Except as provided above concerning the “prevailing party,” all parties will bear their own costs and expenses, including all attorney fees.
- t. TH certifies, represents and warrants that the financial information he has provided to the SEC, a copy of which is incorporated into the agreement, is truthful, and complete and that there are no material omissions to the information. Any parties provided with access to such information agree to hold such information confidential and for use only in this matter.

6. Each counsel for the respective parties have acknowledged the parties agreement, as applicable, to the terms and conditions herein, all of which are subject to final documentation.

KIDDAR HERNDON STATION, LLC

By: _____
James Sack, Counsel

James M. Sack
The Sack Law Firm, P.C.
8270 Greensboro Drive - #810
McLean, Virginia 22102

BRUCE H. MATSON, RECEIVER

By: 
W. Michael Holm, Counsel

W. Michael Holm
Christopher L. Perkins
LeClairRyan PLLC
919 East Main Street, 24th Floor
Richmond, VA 23219

THE ACCOMMODATION PARTY:

THE HITT FAMILY

By: 

Barry Boss, Counsel

Barry Boss
Cozen O'Connor
1200 19th Street, NW, 3rd Floor
Washington D.C. 20036

WOODFIELD INVESTMENT COMPANY

By: _____

David Jones, Counsel

David H. Jones
Troutman Sanders
301 S. College St.
34th Floor
Charlotte North Carolina 28202

VR INVESTMENTS

By: _____

David Barger, Counsel

David G. Barger
Greenburg Traurig
1750 Tysons Boulevard
Suite 1000
McLean, VA 22102

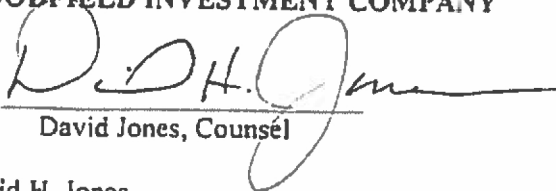
THE ACCOMMODATION PARTY:

THE HITT FAMILY

By: _____
Barry Boss, Counsel

Barry Boss
Cozen O'Connor
1200 19th Street, NW, 3rd Floor
Washington D.C. 20036

WOODFIELD INVESTMENT COMPANY

By:  _____
David Jones, Counsel

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THE ACCOMMODATION PARTY:

THE HITT FAMILY

By: _____
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WOODFIELD INVESTMENT COMPANY

By: _____
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34th Floor
Charlotte North Carolina 28202

VR INVESTMENTS

By: David G. Barger 2/13/2019
David Barger, Counsel

David G. Barger
Greenburg Traurig
1750 Tysons Boulevard
Suite 1000
McLean, VA 22102

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

)	
SECURITIES AND EXCHANGE)	
COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 1:18-cv-01262
)	
TODD ELLIOTT HITT, KIDDAR, ET AL.,)	
)	
Defendants.)	
)	
UNITED STATES OF AMERICA,)	
)	
v.)	Criminal No. 1:19-cr-43
)	
TODD ELLIOTT HITT,)	
)	
Defendant.)	
)	

ORDER ON CONSENT MOTION FOR AN ORDER CONFIRMING SETTLEMENT

This matter came before the Court upon the Consent Motion for an Order Confirming Settlement (the “**Motion**”), filed by Bruce H. Matson. The Court, having reviewed the Motion and having heard the statements of counsel in support of the relief requested therein at a hearing on the Motion (the “**Hearing**”) and the Court finding that (i) jurisdiction is proper pursuant to 28 U.S.C. § 959, (ii) notice of the Motion and Hearing was proper and sufficient; (iii) there are no objections to the Motion; and (iv) the settlement requested as allowed herein is reasonable; it is hereby

ORDERED as follows:

1. The Motion is GRANTED and the terms of the Settlement Agreement attached to the Motion as Exhibit A are approved and incorporated into this Order.

2. Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

3. Upon entry, the Clerk shall serve a copy of this Order on those parties on the attached Service List.

IT IS SO ORDERED, this ____ day of _____, 2019

UNITED STATES DISTRICT JUDGE

SERVICE LIST

Bruce H. Matson
LeClairRyan PLLC
919 East Main Street, 24th Floor
Richmond, VA 23219
Receiver and Special Master

W. Michael Holm
Christopher L. Perkins
LeClairRyan PLLC
919 East Main Street, 24th Floor
Richmond, VA 23219
Counsel to Receiver and Special Master

Barry Boss
Cozen O'Connor
1200 19th Street, NW, 3rd Floor
Washington, D.C. 20036
Counsel to the Hitt Family

EXHIBIT C

GENERAL RELEASE

WHEREAS, _____ (“Claimant”) is an Allowed Restitution Claimant in connection with a criminal action brought by the United States of America against Todd Hitt in the U. S. District Court for the Eastern District of Virginia at Criminal No. 1:19-CR-43 (the “Criminal Action”), and/or an investor victim in connection with a civil action brought by the U.S. Securities and Exchange Commission against Todd Hitt and others in the U.S. District Court for the Eastern District of Virginia at Civil No. 1:18-CV-01262 (the “Civil Action”);

WHEREAS, Bruce H. Matson, the Special Master appointed by the Court in the Criminal Action and appointed by the Court as Receiver in the Civil Action (collectively, the “Special Master”), has determined that Claimant is entitled to criminal restitution and/or compensation in the Civil Action in the amount of \$_____;

WHEREAS, the Hitt Family (“THF”) entered into a Settlement Agreement with the Special Master, which Settlement Agreement has been approved by the Court in the Criminal Action and the Civil Action;

WHEREAS, pursuant to that Settlement Agreement, THF has agreed to provide economic relief to those who were injured by Todd Hitt’s criminal and civil conduct, even though Claimant acknowledges and agrees that THF has engaged in no wrongdoing, did not benefit from Todd Hitt’s conduct, and is under no obligation (actual or alleged) to provide economic relief to those injured by Todd Hitt’s criminal conduct;

WHEREAS, the Special Master has determined that Claimant should be paid \$_____ out of the funds contributed by THF;

NOW, THEREFORE, for the mutual promises and consideration contained herein, including THF’s payment of the sum of \$_____, receipt of which is hereby acknowledged, and intending to be legally bound, Claimant agrees as follows:

1. The Settlement Agreement between the Special Master and THF is incorporated herein by reference, and Claimant acknowledges that it/he/she has read, or been given the opportunity to read and consult with legal counsel concerning, that Settlement Agreement.

2. Claimant acknowledges and agrees that his/her/its claims against Todd Hitt are limited to the dollar amount that the Special Master has determined Claimant is entitled to by way of restitution in the Criminal Action and/or compensation in the Civil Action.

3. Claimant, for himself/herself/itself and his/her/its heirs, executors, affiliates, partners, members, owners, shareholders, directors, officers, employees, agents, successors, assigns, and all others who could assert a claim through or on behalf of Claimant (“Releasers”), hereby releases and forever discharges all members and affiliates of the Hitt Family, including, but not limited to, (i) Russell and Joan Hitt, (ii) their children, (iii) their children’s spouses, (iv) their grandchildren, (v) their heirs, executors, successors, and assigns, (vi) all trusts established by Russell and/or Joan Hitt or any other member of the Hitt Family, and the trustees of such trusts, and (vii) all corporations, partnerships, limited liability companies, businesses, and other entities owned, directly or indirectly, by Russell or Joan Hitt or any other Hitt Family member (the “THF Released Parties”), from and against any and all actions, causes of action, claims, demands, suits, debts, obligations and any and all liabilities of any nature, past or present - - whether in contract or in tort or under any statute, or under any other legal theory, whether at law or in equity, matured or unmatured, fixed or contingent, known or unknown, suspected or unsuspected, foreseen or unforeseen, and whether asserted as part of any legal proceeding or not -- which the Releasers have or may have had against the THF Released Parties

arising out of, or based in any way on, any event, action, inaction or occurrence from the beginning of the world to the date of this Agreement.

4. The foregoing release does not release Claimant's claim against Todd Hitt to the extent that there is a shortfall between the restitution or compensation amount determined by the Special Master and the payment actually received by Claimant from THF. In addition, the Releasors maintain all rights that they have under the Crime Victims Rights Act, 18 U.S.C. Section 3771, or under the Mandatory Restitution to Victims Act, 18 U.S.C. Section 3663A et seq.. But, this Release does cover all other actions, causes of action, claims, demands, suits, debts, obligations, and liabilities, including any civil claims, that Claimant may have or have had against Todd Hitt arising from his criminal conduct.

5. Releasors warrant and represent that they have not assigned any right or claim against the HTF Released Parties to any other firm, person or entity..

6. While it is agreeing to provide economic relief to those injured by Todd Hitt's criminal and civil conduct, THF has no obligation (actual or alleged) to do so, and Claimant understands and agrees that by making payment pursuant to this General Release, THF does not admit otherwise. Nothing in this General Release shall constitute precedent or evidence in another proceeding, with the exception that this General Release may be introduced in any proceeding to enforce the terms hereof.

7. Claimant acknowledges that it/he/she has carefully read this General Release and (i) have had it explained to it/him/her by its/his/her attorney or (ii) had the opportunity to consult with legal counsel concerning same. Claimant warrants and represents that it/he/she relied upon its/his/her own judgment and that of its/his/her legal counsel regarding

the proper, sufficient, and agreed-upon consideration for the terms and provisions of this General Release and that no statement or representation by THF or anyone acting on behalf of THF has influenced or induced it/him/her to execute this General Release

8. [IF CLAIMANT IS AN ENTITY] The undersigned warrants that he/she is duly authorized to execute this General Release on behalf of Claimant..

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned has executed this General Release.

[name of person/entity]

Witness:

(signature)

By:
Title:

Date:

Date: