

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

In re:

Case No. 17-18864-MAM

Chapter 7

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

Debtors.

**TRUSTEE'S MOTION (I) TO APPROVE AGREEMENT TO COMPROMISE
CONTROVERSY AND SETTLEMENT OF LENDER LIABILITY CLAIMS; AND (II)
FOR PAYMENT OF CONTINGENCY FEE TO BAST AMRON LLP FROM
SETTLEMENT FUNDS**

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

I. Summary of Requested Relief

1. By this Motion, the Trustee moves for the following: (a) approval by this Court of a settlement between, on the one hand, the Trustee and the Bankruptcy Estate, and on the other (i)

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

Czech Asset Management, L.P. (“CAM L.P.”) (ii) FSJC V, LLC (“FSJC”), (iii) and FSJC OCFV, LLC (“FSJC OCFV”),² on the terms and conditions set forth in the Settlement Agreement to Resolve and Release Claims (the “Agreement”),³ a true and correct copy of which is attached hereto as **Exhibit A** and incorporated by reference; (b) entry by this Court of the Approval Order, a proposed copy of which is attached hereto at **Exhibit B**; and (c) approving the payment of the contingency fee to Trustee’s Special Litigation Counsel, Bast Amron LLP (“Bast Amron”).

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

3. Among other things, the Agreement provides for the lump-sum payment of \$2,250,000 to the Trustee by the CAM Defendants’ insurer. As detailed below, the Trustee believes that the Settlement falls well above the lowest point in the range of reasonableness and

² CAM L.P., FSJC V, and FSJC OCFV may sometimes be collectively referred to jointly as the “CAM Defendants.” The CAM Defendants and the Trustee may sometimes be collectively referred to as the “Parties” or individually as a “Party.”

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

thus, meets the *Justice Oaks* standards. Moreover, the Settlement will increase the pool of funds available for distribution to creditors and allow the Trustee to administer this Estate effectively.

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

II. Facts Supporting Requested Relief

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

A. The Debtors’ Business

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

B. The Trustee’s Investigation of the Potential Claims

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

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

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

10. Based upon this investigation, the Trustee determined that Potential Claims existed against the CAM Defendants.

11. Accordingly, in correspondence dated November 30, 2018, the Trustee advised the CAM Defendants of certain claims the Estate intended to pursue, as detailed in a draft Adversary Complaint for Damages and Other Relief (the "Draft Complaint") accompanying the correspondence.

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

C. The Mediation

13. Notwithstanding the above, following the issuance of the Draft Complaint, the Parties engaged in pre-suit settlement discussions and discovery, and the Parties attended a formal full-day mediation on February 26, 2018, with Jeffrey Grubman as mediator, in an attempt to settle the Potential Claims asserted in the Draft Complaint as well as any and all other claims the Trustee may possess against the CAM Defendants.

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

III. The Settlement⁴

15. The significant provisions of the Settlement include the following:
- a. Within 10 calendar days following entry of the Final Order,⁵ the Insurer has agreed to pay the Trustee, and the Trustee has agreed to accept, the total sum of \$2,250,000 in immediately available funds (the “Settlement Amount”), in full and final settlement of any and all claims the Bankruptcy Estate and Trustee may have the right to assert against the CAM Defendants;
 - b. The CAM Defendants have agreed to subordinate their claims and claim rights that have been asserted or could have been asserted against the Estate and the Trustee, including, but not limited to, any claim rights under 11 U.S.C. §§ 502 and 503 and all proofs of claim the CAM Defendants and their affiliates have filed or could file against the Estate, to the other claims against the Bankruptcy Estate including without limitation to general unsecured creditors;⁶

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

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

⁶ The following Proofs of Claim have been filed by FSJC V on behalf of the CAM Defendants:

<u>Debtor Name</u>	<u>Case #</u>	<u>Claim #</u>	<u>Amount</u>	<u>Priority</u>
AA Florida Bridal Retail Company, LLC	17-18864	412-1	63,244,750.80	Secured
Alfred Angelo – The Bride’s Studio No. 3, Inc.	17-18871	19-1	63,244,750.80	Secured
AA Bridal Midwest, LLC	17-18873	22-1	63,244,750.80	Secured
AA Bridal Northeast, LLC	17-18874	136-1	63,244,750.80	Secured
AA Bridal, LLC	17-18877	182-1	63,244,750.80	Secured
BridesMart, LP	17-18879	108-1	63,244,750.80	Secured
Hacienda Brides	17-18881	60-1	63,244,750.80	Secured
AA Bridal Nebraska, LLC	17-18883	10-1	63,244,750.80	Secured
Alfred Angelo (Australia) Pty, Ltd.	17-18884	2-1	63,244,750.80	Secured
Alfred Angelo Canada ULC	17-18886	4-1	63,244,750.80	Secured
Piccione Fashions Ltd.	17-18892	5-1	63,244,750.80	Secured
Alfred Angelo Newco, Inc.	17-18900	844-1	63,244,750.80	Secured

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

Trustee to the CAM Defendants

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

Upon occurrence of the Effective Date, the Trustee, solely in her capacity as Trustee and on behalf of the Debtor and the Bankruptcy Estate of the Debtor, further fully releases all claims, rights, or title to any coverage, claims, or proceeds under the Policy which the Debtor, its estate, or the Trustee claims to have now or may have in

the future concerning the Policy and hereby gives the CAM Defendants' insurer a complete and full release under the Policy.

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

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

The CAM Defendants to Trustee

Upon occurrence of the Effective Date, except as specified below, the CAM Defendants remise, release, and forever discharge the Trustee (solely in her capacity as Trustee and on behalf of the Debtor and the Debtor's Bankruptcy Estate), the Debtor, and the Debtor's Bankruptcy Estate of and from any and all claims, sanctions, extra contractual claims, damages, demands, suits, debts, actions or causes of action of any kind relating to the Debtor, the Debtor's Bankruptcy Estate, the Bankruptcy Main Case, the Trustee Claims, or the Policy including, without limitation, claims sounding in contract, tort, violations of any federal or state statute or regulation, contribution, and/or indemnity, whether at law or in equity, direct or derivative, known or unknown, or suspected or unsuspected, that the CAM Defendants may now have or may have in the future by reason of any matter, cause or thing whatsoever from the beginning of the world to the Effective Date, whether such claim was made or could have been made; provided, however, that nothing contained herein shall release the Trustee from any obligations under this Settlement Agreement. The CAM Defendants do not waive their pre- or post-petition claims against the Bankruptcy Estate of the Debtor, but they

hereby agree that any and all such claims, to the extent they exist or are claimed to exist, including a claim against the Debtor's Bankruptcy Estate for payment of the Settlement Payment pursuant to 11 U.S.C. § 502(d) and (h), are subordinated to the other claims against the Bankruptcy Estate, including without limitation to general unsecured claims.

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

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

16. The proposed form of an order approving the Agreement is attached here at **Exhibit**

B.

IV. Legal Standard for Settlement

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

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

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

20. The test is whether the proposed settlement "falls below the 'lowest point in the range of reasonableness.'" *In re Arrow Air, Inc.*, 85 B.R. at 891 (quoting *Teltronics*, 762 F.2d at 189; *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983), cert. denied, 464 U.S. 822 (1983)).

21. According to the Eleventh Circuit Court of Appeals, when a bankruptcy court decides whether to approve or disapprove a proposed settlement, it must consider:

- (a) the probability of success in the litigation;
- (b) the difficulties, if any, to be encountered in the matter of collection;

- (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and
- (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

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

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

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

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

A. Probability of Success in Litigation

24. The Trustee believes that approving the Agreement is in the best interests of the Estate and believes that a payment from the Insurer in the gross amount of \$2,250,000 is reasonable and appropriate. This is particularly so given that the Trustee has not yet had to commence an adversary proceeding to obtain the recovery. Absent the Agreement, the Trustee would be required to commence litigation, and engage in extensive discovery, motion practice, evidentiary hearings, expert witnesses, and eventually a trial, and would result in significant expenses to be borne by the Estate, as well as significant delay. What's more, any protracted litigation would likely diminish the proceeds of the Policy; having been spent on defense costs and attorneys' fees.

25. While the Trustee is confident that she would prevail in asserting claims exceeding \$19,000,000 against the CAM Defendants, she understands and recognizes the potential defenses that will be asserted by the CAM Defendants, as well as any defenses which may be asserted by the Insurer as to coverage under the Policy.

26. Moreover, in the unlikely event of an adverse ruling against the Trustee, it is possible that all of the secured claims asserted by the CAM Defendants would be allowed against the Estate thereby diminishing any potential recovery.

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

B. Difficulties of Collection

28. The Policy is a ‘wasting’ policy and thus, is decreased by the costs of defense. Even though litigation has not yet commenced, a significant portion of the insurance limits will likely have been exhausted to cover attorneys’ fees and costs. Thus, if the Agreement isn’t approved and litigation ensues, the defense costs will substantially deplete the insurance funds available to cover any judgment obtained. And while preliminary information suggests that the CAM Defendants may be collectable, the Trustee would be required to engage in collection efforts against each of the CAM Defendants, at great expense to the Trustee and the Estate.

29. The Agreement, however, ensures a \$2,250,000 recovery for the benefit of the Estate’s creditors today.

B. Complexity, Expense, Inconvenience and Delay

30. The Potential Claims involve a complex series of facts, spanning an extended period of time, and involving a number of parties. There are 3 potential corporate defendants and

many, many more fact witnesses spread across many different counties and states. The costs attendant to litigation will be significant.

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

C. Paramount Interest of Creditors

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

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

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

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

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

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

36. If the Settlement is approved by this Court, Bast Amron is entitled to receive \$787,500 or 35% from the \$2,250,000 settlement for its contingency fee.

37. Accordingly, the Trustee seeks authority to disburse the sum of \$787,500 to Bast Amron upon approval of the Settlement and receipt of the Settlement Amount, without further order of the Court.

VI. Other Related Relief

A. Notice

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

B. Authority to Execute Necessary Documents

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

C. Retention of Jurisdiction

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

WHEREFORE, Margaret J. Smith, as Chapter 7 trustee of the bankruptcy estate of AA Florida Bridal Retail Company, LLC, et al., respectfully requests this Honorable Court enter an

Order: (1) granting the instant Motion; (2) approving the Settlement and the Agreement; (3) approving the payment of the contingency fee to Bast Amron in the amount of \$787,500; (4) authorizing the Trustee to disburse the contingency fee to Bast Amron in the amount of \$787,500 upon receipt of the Settlement Amount and without further order of this Court, and (5) granting such other and further relief as this Court deems just and proper.

Respectfully submitted,

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-and-

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on March 29, 2019, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day by transmission of Notices of Electronic Filing generated by CM/ECF to those parties registered to receive electronic notices of filing in this case as listed in the attached service list.

/s/ Eyal Berger
Eyal Berger, Esq.
Florida Bar Number: 0011069
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SERVICE LIST

17-18864-MAM Notice will be electronically mailed to:

Joaquin J Alemany on behalf of Creditor Brixmor Property Group
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Exhibit A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
(WEST PALM BEACH DIVISION)

www.flsb.uscourts.gov

In re:

Case No. 17-18864-MAM

Chapter 7

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

Debtors.

SETTLEMENT AGREEMENT TO RESOLVE AND RELEASE CLAIMS

This Settlement Agreement to Resolve and Release Claims (“Settlement Agreement”) is entered into by and among Margaret J. Smith, not individually but solely in her capacity as the Chapter 7 Trustee (the “Trustee”) for the bankruptcy estate (the “Bankruptcy Estate”) of AA Florida Bridal Retail Company, LLC, et al.¹ (collectively, the “Debtor”), and (a) Czech Asset Management, L.P. (“CAM, L.P.”), (b) FSJC V, LLC (“FSJC V”), and (c) FSJC OCFV, LLC (“FSJC OCFV,” and together with CAM L.P. and FSJC V, the “CAM Defendants”). From time to time in this Settlement Agreement, the Trustee and the CAM Defendants are referred to collectively as the “Parties.”

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

WHEREAS, the Trustee was authorized to retain Bast Amron LLP (ECF Nos. 158 and 184) to investigate and prosecute potential claims on behalf of the Estate; and the Trustee has conducted extensive discovery under Bankruptcy Rule 2004 of the Debtor and its affiliates, the CAM Defendants, and third parties.

WHEREAS, via correspondence on or about November 30, 2018, the Trustee advised the CAM Defendants of certain claims the Estate intended to assert against the CAM Defendants, as detailed in a draft Adversary Complaint for Damages and Other Relief accompanying the correspondence (the “Trustee Claims”).

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

WHEREAS, on February 26, 2019, the Trustee and counsel for the CAM Defendants attended and participated in a full-day mediation conference in Miami, FL. A settlement was reached shortly after the mediation, with the Parties having agreed that it was in the best interests of all involved to amicably resolve the Trustee Claims.

WHEREAS, the CAM Defendants deny any and all liability in connection with the Trustee Claims.

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

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

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

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

(A) the United States Bankruptcy Court for the Southern District of Florida, West Palm Beach Division (the “Bankruptcy Court”) has entered an order pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure approving this Settlement Agreement (the “9019 Order”);

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

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

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

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

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

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

The Trustee, solely in her capacity as Trustee and on behalf of the Debtor and the Bankruptcy Estate of the Debtor, represents and warrants to the CAM Defendants that: (a) she has all right, title, and authority necessary to provide the release given in this Settlement Agreement; (b) she has not assigned, conveyed, sold, or transferred or attempted to assign, convey, sell, or transfer any of the claims released pursuant to this Paragraph 3, including, without limitation, any claims arising out of, based upon, or in any way involving any circumstance, event, fact, or transaction alleged or that could have been alleged against the Released Parties; (c) she has not commenced and is not prosecuting any arbitration or proceeding against the Released Parties anywhere in the world other than the above captioned case (the

“Bankruptcy Main Case”); and (d) she has not, and upon occurrence of the Effective Date, will not in the future solicit or accept any assignment of a claim of *any kind* against the Released Parties.

4. **CAM Defendants’ Release to the Trustee, the Debtor, and the Debtor’s Bankruptcy Estate.** Upon occurrence of the Effective Date, except as specified below, the CAM Defendants remise, release, and forever discharge the Trustee (solely in her capacity as Trustee and on behalf of the Debtor and the Debtor’s Bankruptcy Estate), the Debtor, and the Debtor’s Bankruptcy Estate of and from any and all claims, sanctions, extra contractual claims, damages, demands, suits, debts, actions or causes of action of any kind relating to the Debtor, the Debtor’s Bankruptcy Estate, the Bankruptcy Main Case, the Trustee Claims, or the Policy including, without limitation, claims sounding in contract, tort, violations of any federal or state statute or regulation, contribution, and/or indemnity, whether at law or in equity, direct or derivative, known or unknown, or suspected or unsuspected, that the CAM Defendants may now have or may have in the future by reason of any matter, cause or thing whatsoever from the beginning of the world to the Effective Date, whether such claim was made or could have been made; provided, however, that nothing contained herein shall release the Trustee from any obligations under this Settlement Agreement. The CAM Defendants do not waive their pre- or post-petition claims against the Bankruptcy Estate of the Debtor, but they hereby agree that any and all such claims,² to the extent they exist or are claimed to exist, including a claim against the Debtor’s Bankruptcy Estate for payment of the Settlement Payment pursuant to 11 U.S.C. § 502(d) and (h), are subordinated to the other claims against the Bankruptcy Estate, including without limitation to general unsecured claims.

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

² Including without limitation the following Proofs of Claim (“POC”) filed by FSJC on behalf of the CAM Defendants:

<u>Debtor Name</u>	<u>Case #</u>	<u>Claim #</u>	<u>Amount</u>	<u>Priority</u>
AA Florida Bridal Retail Company, LLC	17-18864	412-1	63,244,750.80	Secured
Alfred Angelo – The Bride’s Studio No. 3, Inc.	17-18871	19-1	63,244,750.80	Secured
AA Bridal Midwest, LLC	17-18873	22-1	63,244,750.80	Secured
AA Bridal Northeast, LLC	17-18874	136-1	63,244,750.80	Secured
AA Bridal, LLC	17-18877	182-1	63,244,750.80	Secured
BridesMart, LP	17-18879	108-1	63,244,750.80	Secured
Hacienda Brides	17-18881	60-1	63,244,750.80	Secured
AA Bridal Nebraska, LLC	17-18883	10-1	63,244,750.80	Secured
Alfred Angelo (Australia) Pty, Ltd.	17-18884	2-1	63,244,750.80	Secured
Alfred Angelo Canada ULC	17-18886	4-1	63,244,750.80	Secured
Piccione Fashions Ltd.	17-18892	5-1	63,244,750.80	Secured
Alfred Angelo Newco, Inc.	17-18900	844-1	63,244,750.80	Secured

Trustee (solely in her capacity as Trustee and on behalf of the Debtor and the Debtor's Bankruptcy Estate), the Debtor, and the Debtor's Bankruptcy Estate as set forth herein.

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

5. **Settlement Payment.** For and in consideration of each of the terms set forth herein, the CAM Defendants shall cause their insurer to pay on their behalf the sum of \$2,250,000.00 (the "Settlement Payment"). The insurer will pay the Settlement Payment either by wire transfer directly to the Trustee or in the form of a check for good and collectable funds made payable to "Margaret J. Smith, Chapter 7 Trustee of the AA Florida Bridal Retail Company, LLC, et al. Bankruptcy Estate." Any check shall be tendered to the Trustee at her office address: c/o Margaret J. Smith, Chapter 7 Trustee of the AA Florida Bridal Retail Company, LLC, et al. Bankruptcy Estate, 1400 Centrepark Boulevard Suite 860. West Palm Beach, FL 33401, via Overnight directly to the Trustee. The insurer shall pay the Settlement Payment within 10 calendar days of the later of the following events: (i) the 9019 Order becomes a Final Order (satisfaction of each condition of Paragraph 2(A) and 2(B) of this Settlement Agreement); and (ii) receipt of both a W-9 for the Trustee and wiring instructions.

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

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

future by any of the Parties and any and all such Tolling Agreement(s) or amendments thereto shall remain valid and binding on the parties thereto.

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

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

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

- | | | |
|----|---|---|
| a. | Trustee: | Brett M. Amron, Esq.
Dana R. Quick, Esq.
BAST AMRON LLP
SunTrust International Center
One SE Third Avenue, Suite 1400
Miami, Florida 33131
Email: bamron@bastamron.com
Email: dquick@bastamron.com |
| b. | CAM L.P.,
FSJC V, and/or
FSJC OCFE: | Benjamin S. Kaminetzky, Esq.
Andrew S. Gehring, Esq.
Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017
Email: ben.kaminetzky@davispolk.com
Email: andrew.gehring@davispolk.com |

11. **Entire Agreement.** This Settlement Agreement constitutes the only existing and binding agreement of settlement among the Parties, and the Parties acknowledge that there are no other warranties, promises, assurances or representations of any kind, express or implied, upon which the Parties have relied in entering into this Settlement Agreement, unless expressly set

forth herein. This Settlement Agreement shall not be modified except by written agreement signed by the Party against whom modification is sought.

12. **Tolling.** The Parties agree that all applicable statutes of limitations as to the Trustee Claims or defenses to the Trustee Claims shall be tolled and suspended from March 4, 2019, until the later of the tenth business day following: (i) failure to timely tender the Settlement Payment to the Trustee pursuant to Paragraph 5 of the Agreement; or (ii) entry of final order denying approval of the Settlement Agreement.

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

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

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

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

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

18. **Severability.** If any term of this Settlement Agreement is deemed unenforceable, void or against public policy by a Court of competent jurisdiction, that term shall be severed without affecting the remainder of this Settlement Agreement.

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

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

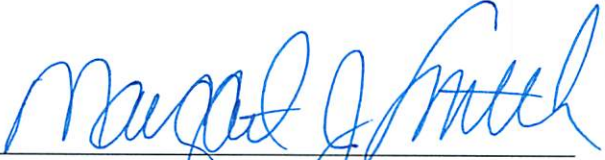
At any time and from time to time before and after the conclusion of the overall settlement provided for in this Agreement, the Parties shall promptly execute and deliver such further documents and instruments, and take such other actions as may be reasonable to carry out the purpose and intent of this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

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

[Signatures on following page]

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

Dated: 3-28-19


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

CZECH ASSET MANAGEMENT, L.P.:

Dated: _____

By: _____
Its: Stephen J. Czech
Managing Partner and Chief Investment
Officer

FSJC V, LLC:

Dated: _____

By: _____
Its: Stephen J. Czech
Executive Officer

FSJC OCFV, LLC:

Dated: _____

By: _____
Its: Stephen J. Czech
Executive Officer

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

Dated: _____

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

CZECH ASSET MANAGEMENT, L.P.:

Dated: 3/28/19

By: Stephen J. Czech
Its: Managing Partner and Chief Investment
Officer

FSJC V, LLC:

Dated: 3/28/19

By: Stephen J. Czech
Its: Executive Officer

FSJC OCFV, LLC:

Dated: 3/28/19

By: Stephen J. Czech
Its: Executive Officer

PROPOSED APPROVAL ORDER

Exhibit B

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

In re:

Case No. 17-18864-MAM

Chapter 7

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

Debtors.

**ORDER APPROVING AGREEMENT TO COMPROMISE CONTROVERSY AND
SETTLEMENT OF LENDER LIABILITY CLAIMS AND FOR PAYMENT OF
CONTINGENCY FEE TO BAST AMRON LLP**

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

The Court has reviewed the Motion and the Agreement attached to the Motion at **Exhibit A** thereto (the "Agreement"), and has considered the entire record in this case, the arguments of

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

counsel at the hearing on the Motion, and evidence adduced in support of the Motion (including any evidence offered by proffer and accepted by the Court without objection of any party). The Court finds that notice of the Motion and the hearing thereon is sufficient (*see* ECF No. ____ for the Certificate of Service of the Notice of Hearing on the Motion).

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

Based on the foregoing, it is

ORDERED:

1. The Motion is **GRANTED**. The settlement and compromise contained in the Agreement is approved in all respects.
2. The terms of the Agreement are approved and incorporated herein in their entirety. The Trustee is further authorized to take any action necessary to effectuate the terms of the Agreement.
3. Bast Amron LLP's ("Bast Amron") Contingency Fee is approved in the amount of \$787,500. The Trustee has the authority and is directed to make payment upon receipt of the Settlement Payment. The Trustee is further authorized and directed to make payment of 100% of Bast Amron's out-of-pocket expenses unpaid as of the date of this order, which total \$_____.

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

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Submitted by:

Brett M. Amron, Esq. (FBN 148342)
Dana R. Quick, Esq. (FBN 0074402)
BAST AMRON LLP
One Southeast Third Avenue, Suite 1400
Miami, FL 33131
Telephone: (305) 379-7904
Facsimile: (305) 379-7905
Email: bamron@bastamron.com
Email: dquick@bastamron.com

Copies provided to:

Brett M. Amron, Esq.

Attorney Amron is hereby directed to serve a conformed copy of the foregoing on all parties in interest and to file a Certificate of Service of same.