

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

JONATHAN E. PERLMAN, Esq., as court
appointed Receiver of Creative Capital
Consortium, LLC, et al.,

CASE NO. 09-81221-CIV-HURLEY/HOPKINS

Plaintiff,

v.

MILLENIU EXECUTIVE REALTY, INC.,
and NILDA RIVERA-CRUZ,

Defendants.

JONATHAN E. PERLMAN, Esq., as court
Appointed Receiver of Creative Capital
Consortium, LLC, et al.,

CASE NO. 09-81224-CIV-HURLEY/HOPKINS

Plaintiff,

v.

DOLCE REGENCY SUITES, LLC,

Defendant.

JONATHAN E. PERLMAN, Esq., as court
appointed Receiver of Creative Capital
Consortium, LLC, et al.,

CASE NO. 09-81225-CIV-HURLEY/HOPKINS

Plaintiff,

v.

FIVE CORNERS INVESTORS I, LLC,
FIVE CORNERS INVESTORS II, LLC,
CFD-REGENCY I, LLC, CFD-REGENCY II, LLC,
and BW ASPIRE, LLC,

Defendants.

**RECEIVER'S MOTION FOR APPROVAL OF SETTLEMENT
AGREEMENT**

The Plaintiff, Jonthan E. Perlman, Esq., the court-appointed Receiver (the "Receiver") of Creative Capital Consortium, LLC and related receivership entities, hereby files this Motion for Approval of Settlement Agreement ("Motion"), with Defendants Millenium Executive Realty, Inc., Nilda Rivera-Cruz, Dolce Regency Suites, LLC, Five Corners Investors I, LLC, Five Corners Investors II, LLC, CFD-Regency I, LLC, CFD-Regency II, LLC, and BW Aspire, LLC (collectively the "Defendants").

BACKGROUND

1. On December 29, 2008, the Securities and Exchange Commission ("SEC") filed its Complaint for Injunctive and Other Relief (the "SEC Complaint") against George Theodule and certain of the Receivership Entities in an action styled: *SEC v. Creative Capital Consortium, LLC, A Creative Capital Concept\$, LLC and George L. Theodule*, Case No. 08-81565-CIV-HURLEY/HOPKINS, pending in the United States District Court, Southern District of Florida (the "SEC Receivership Action"). The SEC alleged that Theodule, through certain Receivership Entities, sold unregistered securities and violated various sections of the Securities Exchange Act of 1934 (the "Exchange Act"). More specifically, the SEC alleged that Creative Capital Consortium, LLC, A Creative Capital Concept\$, LLC and George L. Theodule (collectively, the "SEC Defendants") all violated section 10(b) of the Exchange Act. The SEC sought and obtained a permanent injunction against the SEC Defendants to restrain them from any further securities law violations.

2. On December 29, 2008, upon the request of the SEC, the Court entered an order appointing the Receiver as receiver over the SEC Defendants, their subsidiaries, successors and assigns, in the SEC Receivership Action (the "Receivership Order"). Thereafter, by orders dated

December 31, 2008 and September 21, 2009, respectively, the receivership was expanded to include United Investment Club, LLC, Reverse Auto Loan, LLC, Wealth Builders Circle, LLC, The Dream Makers Capital Investment, LLC, G\$ Trade Financial, Inc., and Unity Entertainment Group, Inc.

3. Under the terms of the Receivership Order, the Receiver is authorized to investigate the affairs of the Receivership Entities, to marshal and safeguard these entities' assets, and to institute legal proceedings for the benefit and on behalf of the Receivership Entities' investors and other creditors. Additionally, and pursuant to the Receivership Order, the Receiver is authorized and has standing to assert claims against third parties including but not limited to: (i) all legal and equitable claims available to the Receivership Entities prior to the institution of the SEC Receivership Action; and (ii) claims to avoid and recover fraudulent and preferential transfers received for the Receivership Entities and by virtue of his status as a joint lien creditor of the Receivership Entities pursuant to Florida Statutes, 671.201(13) and 679.1021(1)(zz).

4. In conjunction with the Receivership Order, the Receiver and his professionals have attempted to locate and secure money illegally raised (and any proceeds thereof) from investors by and through the Receivership Entities. To that extent, the Receiver has initiated various lawsuits seeking, among other relief, to avoid and recover assets fraudulently transferred from the possession of the Receivership Entities.

5. On August 21, 2009, the Receiver filed his complaint (the "Complaint") against the Defendants in the action styled *Jonathan E. Perlman, as Court-Appointed Receiver of Creative Capital Consortium, LLC, et al. v. Millennium Executive Realty, Inc., and Nilda Rivera-Cruz*, Case No. 09-81221-CIV-HURLEY/HOPKINS (the "Millennium Lawsuit"), currently

pending in the United States District Court for the Southern District of Florida (the “Court”).

6. On August 21, 2009, the Receiver filed his complaint (the “Complaint”) against the Defendant in the action styled *Jonathan E. Perlman, as Court-Appointed Receiver of Creative Capital Consortium, LLC, et al. v. Dolce Regency Suites, LLC*, Case No. 09-81224-CIV-HURLEY/HOPKINS (the “Dolce Lawsuit”), currently pending in the United States District Court for the Southern District of Florida (the “Court”).

7. On August 21, 2009, the Receiver filed his complaint (the “Complaint”) against the Defendants in the action styled *Jonathan E. Perlman, as Court-Appointed Receiver of Creative Capital Consortium, LLC, et al. v. Five Corners Investors I, LLC, Five Corners Investors II, LLC, CFD-Regency I, LLC, CFD-Regency II, LLC, and BW Aspire, LLC*, Case No. 09-81225-CIV-HURLEY/HOPKINS (the “Five Corners Lawsuit”) currently pending in the United States District Court for the Southern District of Florida (the “Court”).

8. On August 16, 2010 the Defendants and the Receiver (the “Settling Parties”) entered into a settlement to resolve and settle the Millenium Lawsuit, Dolce Lawsuit, and Five Corners Lawsuit (collectively the “Lawsuits”) on the terms and conditions contained therein (the “Settlement Agreement”).

SETTLEMENT AGREEMENT

9. The settlement is memorialized in the Stipulation of Settlement (the “Settlement Agreement”) attached hereto as Exhibit “A” and duly executed by the Defendants. In support of the underlying terms, the Receiver exercised his business judgment and determined that it is in the best interest of the Receivership Entities and their creditors to enter into the Settlement Agreement.

10. A summary of the *material* terms and conditions of the Settlement Agreement are as follows:¹

- The Defendants agree to pay the Receiver the sum of \$250,000.00.
- The Defendants agree to execute and deliver to the Receiver an assignment on a mortgage note in the amount of \$250,000.00.
- The Defendants agree to fully cooperate with any investigation conducted by the Receiver, and to provide testimony at any future deposition, hearing or trial, waving service by subpoena in connection therewith.
- The Defendants agree to the entry of a Default Judgment in the amount of \$2,000,000.00 in the event of a default as defined in the Settlement Agreement.
- The Settlement Agreement is contingent upon the approval by this Court of this Motion.

RELIEF REQUESTED AND MEMORANDUM OF LAW

11. The “All Writs Act,” 28 U.S.C. § 1651(a), provides a district court with the authority to enter orders that protect its jurisdiction and ensure enforcement of its orders. See 28 U.S.C. § 1651(a)(2003). Section 1651(a) provides:

The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principals of law.

Id. Section 1651(a) provides a district court with a “legislatively approved source of procedural instruments designed to achieve ‘rational ends of the law’.” See *United States v. New York Telephone Co.*, 434 U.S. 159, 172, 98 S.Ct. 364, 372, 54 L.Ed.2d 376 (1977). Pursuant to § 1651(a), a district court, unless specifically confined by Congress, “may avail itself of all auxiliary writs as aids in the performance of its duties, when the use of such historic aids is

¹ In the event of any inconsistency between the Motion and the Settlement Agreement, the terms of the Settlement Agreement shall control. As a result, all parties in interest are urged to read the Settlement Agreement in its entirety.

calculated in its sound judgment to achieve the ends of justice entrusted to it.” See *Id.* (quoting *Adams v. United States ex rel McCann*, 317 U.S. 269, 273, 63 S.Ct. 236, 238, 87 L.Ed. 268 (1942)). The authority granted to a district court under § 1651(a) should be applied flexibly where in conformity with these principals. See *Id.*

12. The Court’s utilization of the All Writs Act under the circumstance is particularly appropriate as the Settlement Agreement will implement this Court’s directive articulated in the Receivership Order. The Receivership Order authorizes the Receiver to “institute such actions and legal proceedings” against third parties on behalf of the Receivership Entities and to “compromise or settle [these] legal actions.” Receivership Order at ¶¶ 2, 6. Moreover, the Receiver may enter into “agreements as may be reasonable, necessary, and advisable in discharging the Receiver’s duties;” *Id.* at ¶ 8. The Settlement Agreement will enable the Receiver to discharge his duty to bring legal actions on behalf of the Receivership Entities in a just and efficient manner.

13. In considering whether to approve a settlement brokered by an equity receiver, a district court will examine the parameters of the receivership order’s mandate. In *SEC v. Credit Bancorp, Ltd.*, 2001 WL 1658200 at *2 (S.D.N.Y. Dec. 27, 2001), when faced with a federal equity receiver’s motion to approve a settlement with a creditor, the court held that “[i]t is enough that the Receiver’s request for settlement falls well within the broad discretion granted to him by the January 2000 Order and the ordinary powers of a receiver.” In that case, the January 2000 Order authorized the receiver to “investigate, prosecute, . . . compromise and adjust actions in any state, federal or foreign court or proceeding of any kind as may in his sole discretion be advisable to or proper to recover or conserve funds, assets, or property of Credit Bancorp” *Id.* at *1. The court reasoned that this comports with the ordinary practice of receivers: “[T]he

receiver has the power, when so authorized by the court, to compromise claims either for or against the receivership and whether in suit or not in suit.” *Id.* (quoting 3 Ralph Ewing Clark, *A Treatise on the Law and Practice of Receivers*, § 770 (3d ed. 1959)). Subsequently, in *SEC v. Bancorp, Ltd.*, 2002 WL 1792053 at *4 - *5 (S.D.N.Y. Aug. 2, 2002), the court approved another receiver settlement with broker-dealers because it was within the receiver’s discretion based on the January 2000 Order and the ordinary practice for receivers.

14. Similar to the *Credit Bancorp* receivership order, this Court’s Receivership Order empowered the Receiver to “...institute such actions and legal proceedings . . . [to recover] wrongfully, illegally or otherwise improperly misappropriated or transferred monies or other proceeds directly or indirectly traceable from investors in Creative Capital, including against Creative Capital, its officers, directors, employees, affiliates, subsidiaries, or any persons acting in concert or participation with them, or against any transfer of money or other proceeds directly or indirectly traceable from investors in Creative Capital” against third parties “as the Receiver deems necessary” and to “defend, compromise or settle legal actions...” Receivership Order at ¶¶ 2, 6. The Receivership Order also directs the Receiver to make “such agreements as may be reasonable, necessary, and advisable in discharging the Receiver’s duties;” *Id.* at ¶ 8. The Receiver has executed the Settlement Agreement as he deems it important to the resolution of the Receiver claims, and it comports with the ordinary practice of receivers. Therefore, the Settlement Agreement falls squarely within the Receiver’s mandate from this Court. Accordingly, the Court should approve the Settlement Agreement. See *SEC v. Credit Bancorp, Ltd.*, 2001 WL 1658200 at *2; see *SEC v. Bancorp, Ltd.*, 2002 WL 1792053 at *4 - *5.

15. In considering whether to approve a settlement agreement, a district court will also consider whether the agreement is fair. In *Sterling v. Stewart*, 158 F.3d 1199, 1203 (11th

Cir. 1998), the United States Court of Appeals for the Eleventh Circuit addressed the fairness of a receiver's settlement of claims. In *Sterling*, shareholders appealed the district court's approval of a settlement proposed by a receiver that terminated their derivative suit. *Id.* at 1200-1201. The shareholder argued that the district court erred because it did not apply "vigorous scrutiny" in evaluating the receiver's settlement as required by Delaware law, but instead relied on a less stringent mandate from *Cotton v. Hinton*, 559 F.2d 1326, 1330 (5th Cir. 1977) (stating that the "District Court must find that the settlement is fair, adequate, and reasonable") and the six-factor test for fairness under *Bennett v. Behring Corp.*, 737 F.2d 982 (11th Cir. 1984). In evaluating whether the settlement was fair, the district court examined: (1) the likelihood of success; (2) the range of possible discovery; (3) the point on or below the range of discovery at which settlement is fair, adequate, and reasonable; (4) the complexity, expense, and duration of the litigation; (5) the substance and amount of opposition to the settlement; and (6) the stage of proceedings at which the settlement is achieved. *Id.* at 1204 n.6 (citing *Bennett*, 737 F.2d at 986). The *Sterling* court upheld the receiver's settlement because the district court considered the extensive discovery conducted by the receiver, the receiver's analysis of the underlying facts, the defendants' defenses, and the shareholders' presentations at the fairness hearing to conclude the settlement was fair. *Id.*

16. In this case, the Settlement Agreement is equally fair, adequate, and reasonable. See *Cotton*, 559 F.2d at 1330. All applicable *Bennett* factors favor approval of the Settlement Agreement. The fraudulent transfer claims alleged in this case are factually and legally complex. Moreover, avoiding the complexity, expense and duration of the litigation against the defendants, whom are without sufficient assets to satisfy a substantial money judgment entered against them at a trial, will drastically reduce costs in this ancillary litigation.

17. In applying this standard, the probability of any litigation resulting in a similar outcome as that outlined in the Settlement Agreement weighs in favor of granting the Agreement. The transaction costs and attorneys' fees associated with litigation by the Settling Parties in any manner other than the one contemplated by the Settlement Agreement would be significantly greater. Absent the settlement contained in the Settlement Agreement, greater expense, inconvenience and delay will be needlessly incurred by all the Settling Parties.

WHEREFORE, the Receiver respectfully requests that the Court enter an order: (i) granting the relief requested by this Motion; (ii) approving the terms of the attached Settlement Agreement and (iii) granting the Receiver such other and further relief as the Court deems just and proper.

Dated: October 1st, 2010
Miami, Florida

Respectfully submitted,

By: /s/ David P. Lemoie

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Attorneys for Receiver

Jonathan E. Perlman, Esq.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on October 1st, 2010, the foregoing document was electronically filed with the Clerk of the Court using CM/ECF and is also being served on all counsel of record listed in the attached service list in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronic Notices of Electronic Filing.

s/ David Lemoie
David Lemoie, Esq.

SERVICE LIST

**JONATHAN E. PERLMAN, ESQ., as court appointed Receiver of
Creative Capital Consortium, LLC, et al.
v. DOLCE REGENCY SUITES, LLC. and FIVE CORNERS INVESTORS I, LLC, et al.
and MILLENIUM EXECUTIVE REALTY, INC., et al.
CASE NO. 09-81224-CIV-HURLEY/HOPKINS, 09-81225-CIV-HURLEY/HOPKINS, and
09-81221-CIV-HURLEY/HOPKINS
United States District Court, Southern District of Florida**

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Attorney for Defendant Dolce Regency Suites, LLC

Via CM/ECF

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

JONATHAN E. PERLMAN, Esq., as court
appointed Receiver of Creative Capital
Consortium, LLC, et al.,

CASE NO. 09-81221-CIV-HURLEY/HOPKINS

Plaintiff,

v.

MILLENIUM EXECUTIVE REALTY, INC.,
and NILDA RIVERA-CRUZ,

Defendants.

JONATHAN E. PERLMAN, Esq., as court
Appointed Receiver of Creative Capital
Consortium, LLC, et al.,

CASE NO. 09-81224-CIV-HURLEY/HOPKINS

Plaintiff,

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DOLCE REGENCY SUITES, LLC,

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JONATHAN E. PERLMAN, Esq., as court
appointed Receiver of Creative Capital
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CASE NO. 09-81225-CIV-HURLEY/HOPKINS

Plaintiff,

v.

FIVE CORNERS INVESTORS I, LLC,
FIVE CORNERS INVESTORS II, LLC,
CFD-REGENCY I, LLC, CFD-REGENCY II, LLC,
and BW ASPIRE, LLC,

Defendants.

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (the "Settlement Agreement") dated August 16, 2010 is made and entered into by the Plaintiff, JONATHAN E. PERLMAN, ESQ., the court-appointed Receiver (the "Receiver") of Creative Capital Consortium, LLC, A Creative Capital Concept\$, LLC, United Investment Club, LLC, Reverse Auto Loan, LLC, Wealth Builders Circle, LLC, The Dream Makers Capital Investment, LLC, G\$ Trade Financial, Inc. and Unity Entertainment Group, Inc.,¹ and the above referenced Defendants MILLENIUM EXECUTIVE REALTY, INC., NILDA RIVERA-CRUZ, DOLCE REGENCY SUITES, LLC, FIVE CORNERS INVESTORS I, LLC, FIVE CORNERS INVESTORS II, LLC, CFD-REGENCY I, LLC, CFD-REGENCY II, LLC, BW ASPIRE, LLC, and CB-DH, LLC (collectively the "Settling Defendants").

RECITALS

WHEREAS, on December 29, 2008, the Securities and Exchange Commission ("SEC") filed its Complaint for Injunctive and Other Relief (the "SEC Complaint") against George Theodule and certain of the Receivership Entities in an action styled: *SEC v. Creative Capital Consortium, LLC, A Creative Capital Concept\$, LLC and George L. Theodule*, Case No. 08-81565-CIV-HURLEY/HOPKINS, pending in the United States District Court, Southern District of Florida (the "SEC Receivership Action"). The SEC alleged that Theodule, through certain Receivership Entities, sold unregistered securities and violated various sections of the Securities Exchange Act of 1934 (the "Exchange Act"). More specifically, the SEC alleged that Creative Capital Consortium, LLC, A Creative Capital Concept\$, LLC and George L. Theodule (collectively, the "SEC Defendants") all violated section 10(b) of the Exchange Act. The SEC sought a permanent injunction against the SEC Defendants to restrain them from any further

¹ Creative Capital Consortium, LLC, A Creative Capital Concept\$, LLC, United Investment Club, LLC, Reverse Auto Loan, LLC, Wealth Builders Circle, LLC, The Dream Makers Capital Investment, LLC, G\$ Trade Financial, Inc. and Unity Entertainment Group, Inc. shall sometimes be collectively referred to as the "Receivership Entities."

securities law violations; and

WHEREAS, on December 29, 2008, upon the request of the SEC, the Court entered an order appointing the Receiver as receiver over the SEC Defendants, their subsidiaries, successors and assigns, in the SEC Receivership Action (the "Receivership Order"). Thereafter, by orders dated December 31, 2008 and September 21, 2009, respectively, the receivership was expanded to include United Investment Club, LLC, Reverse Auto Loan, LLC, Wealth Builders Circle, LLC, The Dream Makers Capital Investment, LLC, G\$ Trade Financial, Inc., and Unity Entertainment Group, Inc.; and

WHEREAS, under the terms of the Receivership Order, the Receiver is authorized to investigate the affairs of the Receivership Entities, to marshal and safeguard these entities' assets, and to institute legal proceedings for the benefit and on behalf of the Receivership Entities' investors and other creditors. Additionally, and pursuant to the Receivership Order, the Receiver is authorized and has standing to assert claims against third parties including but not limited to: (i) all legal and equitable claims available to the Receivership Entities prior to the institution of the SEC Receivership Action; and (ii) claims to avoid and recover fraudulent and preferential transfers received for the Receivership Entities and by virtue of his status as a joint lien creditor of the Receivership Entities pursuant to Florida Statutes, 671.201(13) and 679.1021(1)(zz); and

WHEREAS, in conjunction with the Receivership Order, the Receiver has initiated various lawsuits seeking, among other relief, to avoid and recover assets fraudulently transferred from the possession of the Receivership Entities; and

WHEREAS, the Receiver sued the Settling Defendants in the above referenced actions (the "Lawsuits") currently pending in the United States District Court for the Southern District of

Florida (the “Court”); and

WHEREAS, the Receiver’s Lawsuit against the Settling Defendants seeks: (i) to avoid and recover certain alleged fraudulent transfers pursuant to Chapter 726 of the Florida Statutes, (ii) unjust enrichment, and (iii) the imposition of a constructive trust or equitable lien; and

WHEREAS, the Receiver and the Settling Defendants engaged in settlement discussions with a mediator at a Court-ordered mediation conference; and

WHEREAS, as a result of the negotiations, the Receiver and the Settling Defendants have agreed to enter into this Settlement Agreement and to consummate the settlement and compromise contained herein; and

WHEREAS, the Settling Defendants have denied any liability in connection with the Lawsuit and have raised certain defenses thereto; and

WHEREAS, in recognition of the costs and uncertainties associated with litigation, the parties hereto desire to resolve and settle the Lawsuit on the terms and conditions contained herein

NOW THEREFORE, in consideration of the above, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Receiver and the Settling Defendants (hereinafter the “Parties”), by and through their counsel, subject to all of the terms and conditions set forth herein, and subject to Court approval and SEC approval,

HEREBY STIPULATE AND AGREE as follows:

1. Acknowledgement of Recitals. For purposes of this Agreement, the Parties agree and acknowledge that the foregoing recitals are true and correct and are hereby incorporated into and made a part of this Settlement Agreement.

2. The Settlement Payments. The Settlement Payments will be for a total of two hundred fifty thousand and 00/100 dollars (\$250,000.00 US). On or before September 3, 2010, the Settling Defendants shall deposit immediately available funds to the escrow account of the law firm of Genovese Joblove & Battista (the “Escrow Agent”) in the amount of fifty thousand and 00/100 dollars (\$50,000.00 US) for the benefit of the Receiver. The remainder of the Settlement Payments, two hundred thousand and 00/100 dollars (\$200,000.00 US), shall be paid to the Escrow Agent on or before September 15, 2010. Time is of the essence with regard to such payments. If the Settlement Payments are not timely received, then the Receiver shall be entitled to the immediate entry of a default judgment totaling two million and 00/100 dollars (\$2,000,000.00 US) against the Settling Defendants, upon the filing of a verified motion with the Court, in the following amounts in addition to retention of any amounts received:

<u>Defendant</u>	<u>Judgment Amount</u>
DOLCE REGENCY SUITES, LLC	\$1,600,000
FIVE CORNERS INVESTORS I, LLC and FIVE CORNERS INVESTORS II, LLC, jointly and severally	\$100,000
CFD-REGENCY I, LLC and CFD-REGENCY II, LLC, jointly and severally	\$100,000
BW ASPIRE, LLC	\$100,000
MILLENNIUM EXECUTIVE REALTY, INC. and NILDA RIVERA-CRUZ, jointly and severally	\$100,000

3. The Note Participation Assignment. In addition to the Settlement Payments, on or before September 3, 2010, the Settling Defendants shall execute and deliver to the Receiver an assignment (the “Note Assignment”) of the participation interest in the amount of two hundred fifty thousand dollars (\$250,000.00 US) under that certain Mortgage Note in the amount

of \$7,754,759.40 dated August 29, 2008, attached as Exhibit A (the "Note"), with any payments received thereunder to be paid first to the Receiver until his interest is paid in full, including interest from the date of the assignment. The Settling Defendants shall execute any documents as the Receiver may request to perfect his rights in the Note.

4. The Settling Defendants' Warranties and Representations. As a material inducement for the Receiver to execute this Settlement Agreement, the Settling Defendants warrant and represent each for themselves only that the funds comprising the Settlement Payments which each is contributing is from legal sources.

5. Default by Settling Defendants. Failure by the Settling Defendants to timely pay the Settlement Payments or timely execute and deliver the Note Assignment to the Receiver, for any reason whatsoever, shall be deemed a material breach and default of this Settlement Agreement ("Default").

6. Release of the Settling Defendants by the Receiver. Contingent upon timely payment by the Settling Defendants of the Settlement Payments and the execution and delivery of the Note Assignment, the Receiver hereby releases, covenants not to sue, and forever discharges the Settling Defendants, and their respective officers, directors, members, managers, agents and attorneys (except the law firm of Dean Mead Egerton Bloodworth Capouano & Bozarth PA and its individual attorneys) successors and assigns, from and against all claims, liabilities, causes of action, costs, expenses (including attorneys' fees and expenses) and other obligations that were or could have been raised in the Lawsuit. The Settling Defendants and Receiver shall have no further obligations or liabilities between them related to the Lawsuit, except as provided herein.

7. Release of the Receiver by the Settling Defendants. The Settling Defendants hereby release and forever discharge the Receiver and his agents, including the estate's professionals, from and against all claims, liabilities, causes of action, costs, expenses (including attorneys' fees and expenses) and other obligations that were or could have been raised in the Lawsuit. The Settling Defendants and Receiver shall have no further obligations or liabilities between them related to the Lawsuit, except as provided herein.

8. Cooperation. The Settling Defendants shall fully cooperate with any investigation conducted by the Receiver and provide honest and forthright testimony under oath to the Receiver or his attorneys concerning any matter within the Receivership, and shall thereafter agree to provide such cooperation related to the Receivership, as the Receiver or his attorneys reasonably request, including waiving objection to any geographical limitations of a subpoena served on the Settling Defendants resident in Florida for testimony, either at a deposition, hearing or trial.

9. Attorneys' Fees. The prevailing party or parties in any dispute between the Settling Parties hereto arising from this Settlement Agreement shall be entitled to reimbursement from the losing party or parties of all reasonable attorneys' fees, costs, and expenses incurred by the prevailing party in connection with the prosecution or defense of said dispute.

10. Dismissal/Retention of Jurisdiction. Upon approval of the Court, as provided hereafter, the Settling Parties hereto agree that the case shall be dismissed without prejudice with the Court retaining jurisdiction to enforce the terms and conditions of this Settlement Agreement and to otherwise resolve any disputes under or pertaining to this Settlement Agreement and all parties hereto consent and submit to the jurisdiction of this Court for all such matters.

11. Court Approval. This Settlement Agreement and the agreements and obligations herein are conditioned on and subject to the approval of the Court presiding over this matter. If such approval is denied or conditioned by the Court, this Settlement Agreement shall be void and of no legal effect and any escrowed funds to be immediately returned to the Settling Defendants. The Settling Parties shall fully cooperate in the pursuit of Court approval of the terms and conditions of this Settlement Agreement.

12. Motion for Approval. No later than ten (10) business days after execution of this Settlement Agreement, the Receiver shall submit to the Court a Motion for Approval of this Settlement Agreement.

13. Entire Agreement. This Settlement Agreement constitutes the entire agreement of the Settling Parties with respect to the matters stated herein and there are no other oral or written agreements between the parties which are supplementary or contrary to this Settlement Agreement. There are no contemporaneous oral promises, representations or agreements not set forth herein inducing this Settlement Agreement and all prior negotiations, discussions, statements and representations are merged herein. This Settlement Agreement may only be modified by a written modification signed by each party hereto. Reliance by any party on oral communications accordingly is unwarranted.

14. Governing Law. This Settlement Agreement shall be governed and construed in accordance with the laws of the State of Florida without regard to principles of conflicts of law.

15. Assignment. This Settlement Agreement is not assignable by the Settling Parties hereto, except pursuant to an order issued by the Court. The Settling Parties hereby represent and warrant to each other that they have not assigned, sold or transferred any of the claims or rights that are being released under this Settlement Agreement.

16. Authority. The Settling Parties acknowledge that they have the requisite authority to execute the Settlement Agreement, that they have carefully read the Settlement Agreement, that the Settlement Agreement has been fully explained to them, that they have had the opportunity to have the Settlement Agreement reviewed by an attorney of their own choice, and that they fully understand its final and binding effect.

17. No Admission of Liability. This Settlement Agreement, or compliance with this Agreement, shall not be construed as an admission of any violation of the rights or interests of the Receiver or any other individual or entity; nor shall this Settlement Agreement, or the compliance with this Agreement, be construed as an admission of a violation of any professional rule, professional standard, agency agreement, order, ruling, law, statute, regulations, contract or covenant, expressed or implied. The Settling Defendants disclaim and deny any said violation and any liability that would be incurred as a result, it being recognized and agreed that this is an agreed upon resolution of a contested series of legal disputes, settled for economic and related business reasons.

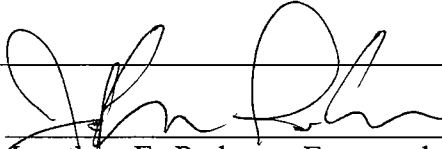
18. Fully Negotiated Agreement. This Settlement Agreement constitutes a fully negotiated agreement among commercially sophisticated parties and therefore shall not be construed or interpreted for or against any party, and any rule or maxim of construction to such effect shall not apply to this Agreement.

19. Execution by Counterpart. This Settlement Agreement may be executed in any number of counterparts; each of which when duly executed and delivered shall be an original, but all such counterparts shall constitute one and the same agreement. Any signature page of the Settlement Agreement may be detached from any counterpart without impairing the legal effect of any signatures, and may be attached to another counterpart, identical in form, but having

attached to it one or more additional signature pages. This Settlement Agreement may be executed by signatures provided by facsimile and such signatures shall be as binding and effective as original signatures.


IN WITNESS WHEREOF, intending to be legally bound hereby, the Settling Parties have executed this Settlement Agreement as of this 16 day of August, 2010.

By:


Jonathan E. Perlman, Esq., solely in his capacity as Court appointed Receiver for Creative Capital Consortium, LLC, A Creative Capital Concept\$, LLC, United Investment Club, LLC, Reverse Auto Loan, LLC, Wealth Builders Circle, LLC, The Dream Makers Capital Investment, LLC, G\$ Trade Financial, Inc. and Unity Entertainment Club, Inc.

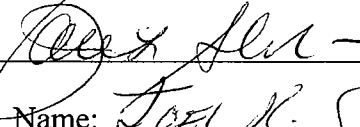
DOLCE REGENCY SUITES, LLC

By:


Name: Brad A. Patrick
Its: Attorney FA 529850

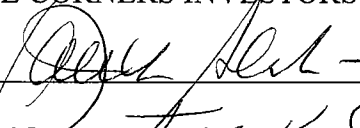
FIVE CORNERS INVESTORS I, LLC

By:


Name: Joel K. Slater
Its: Managing Member

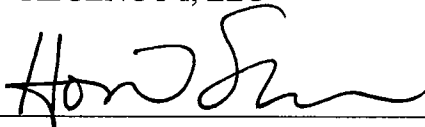
FIVE CORNERS INVESTORS II, LLC

By:


Name: Joel K. Slater
Its: Managing Member

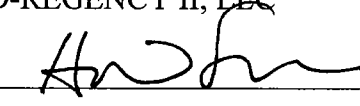
CFD-REGENCY I, LLC

By:



Name: HOWARD SHAPIRO
Its: MEMBER

CFD-REGENCY II, LLC

By:


Name: HOWARD SHAPIRO
Its: MEMBER

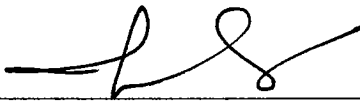
BW ASPIRE, LLC

By:  _____

Name: JOEL K. SLATER

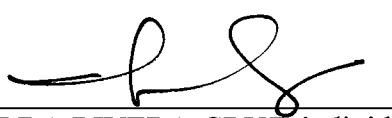
Its: AUTHORIZED REP.

MILLENIUM EXECUTIVE REALTY, INC.

By:  POA _____

Name: Ivan Cruz

Its: _____

 POA

NILDA RIVERA-CRUZ, individually

CB-DH, LLC

By:  _____

Name: CARLOS J. BONILLA

Its: MANAGER

EXHIBIT A

THE PRINCIPAL SUM SPECIFIED IN THIS MORTGAGE NOTE SHALL BE ADJUSTED UP OR DOWN IN ACCORDANCE WITH APPLICABLE PROVISIONS OF THE MEMBERSHIP INTEREST PURCHASE AND SALE AGREEMENT

MORTGAGE NOTE

\$7,754,759.40

August 29, 2008
Orlando, Florida

BEING INDEBTED FOR VALUE RECEIVED, the undersigned, DOLCE REGENCY SUITES, LLC, a Florida limited liability company ("Dolce") and REGENCY SUITES I, LLC, a Florida limited liability company ("Regency"), jointly and severally, promise to pay to FIVE CORNERS INVESTORS I, LLC, a Florida limited liability company ("Five Corners I"), FIVE CORNERS INVESTORS II, LLC, a Florida limited liability company ("Five Corners II"), CFD-REGENCY I, LLC, a Florida limited liability company ("CFD I"), CFD-REGENCY II, LLC, a Florida limited liability company ("CFD II"), and BW ASPIRE, LLC, a Nevada limited liability company ("BW Aspire"), or order, in the manner and at the times hereinafter specified, the principal sum of SEVEN MILLION SEVEN HUNDRED FIFTY-FOUR THOUSAND SEVEN HUNDRED FIFTY-NINE DOLLARS and FORTY CENTS (\$7,754,759.40), with interest as hereinafter specified. Dolce and Regency are herein collectively referred to as the "Makers" and singularly as a "Maker" and Five Corners I, Five Corners II, CFD I, CFD II and BW Aspire are hereinafter collectively referred to as the "Payees" and singularly as a "Payee". All principal and interest due hereunder shall be payable in lawful money of the United States of America. Principal and interest due hereunder shall be payable in the amounts, on the dates, and in the manner following:

1. If the principal indebtedness evidenced hereby is fully paid prior to the expiration of ninety (90) consecutive calendar days following the date of this Note, no interest shall accrue or be payable hereunder.

2. If the indebtedness evidenced by this Note is not fully paid prior to the expiration of the ninety (90) day period referred to in paragraph 1 above, then, if minimum monthly payments of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) of principal, plus accrued interest at five percent (5%) per annum on the principal balance from time to time outstanding, are timely paid on a monthly basis with the first such monthly installment of principal and interest being due on the ninetieth consecutive calendar day following the date hereof and subsequent such monthly payments being due on the same day of each consecutive month thereafter until the earlier of the Maturity Date or such earlier date as this Note is fully paid and satisfied, then, and in such event, interest on the principal balance from time to time outstanding shall accrue commencing on the date of this Note at the rate of five percent (5%) per annum.

3. In the event this Note is not fully paid within the ninety (90) day period referred to in paragraph 1 above and if any of the minimum monthly payments provided for in paragraph 2 above are not timely paid as provided in paragraph 2 above,

DOCUMENTARY STAMP TAX IN THE AMOUNT OF \$27,141.66 WAS PAID AS NOTED ON THE MORTGAGE SECURING THIS NOTE.

00432048v3

000195

then, and in such event, interest shall accrue from and after the date of this Note at the rate of ten percent (10%) per annum on the principal balance from time to time outstanding.

4. On August 29, 2009 (the "Maturity Date"), the unpaid principal balance, together with all accrued and unpaid interest, shall be due and payable in full without notice or demand.

Makers and Payees intend that Payees shall own and hold this Note and the indebtedness evidenced hereby as tenants-in-common in the percentages specified in a separate instrument executed by Payees which refers to this Note and specifies the respective percentage interest of each Payee in this Note and the proceeds thereof.

Payees hereby irrevocably authorize and direct the Makers to pay to Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A. (the "Escrow Agent"), in its capacity as Escrow Agent under that certain Escrow Agreement executed by the Escrow Agent and the Payees on even date herewith, the payments of principal and interest provided for in this Note. Upon receipt of such payments, the Escrow Agent shall hold, invest, disburse or otherwise deal with the proceeds of this Note received by the Escrow Agent in the manner provided for in the Escrow Agreement. The payments of principal and interest paid to the Escrow Agent shall be so paid by way of cashier's check or official check issued by a state or national banking institution or by way of wire transfer of immediately available federal funds to the account of the Escrow Agent described on the attached Exhibit "A". The address of the Escrow Agent is as follows:

Dean, Mead, Egerton, Bloodworth,
Capouano & Bozarth, P.A.
Attention: Stephen J. Bozarth, Esquire
Post Office Box 2346
Orlando, Florida 32802
Telephone: (407) 428-5133
Telefax: (407) 423-1831

Should the Makers (i) fail to pay any installment of principal or interest specified in paragraphs 2 or 4 above within five (5) days following the due date thereof, or (ii) fail to pay the unpaid principal balance, together with all accrued and unpaid interest thereon, on or before the Maturity Date, then, and in either such event, Makers further promise to pay a late payment charge to the Payees or holders in an amount equal to four percent (4%) of the amount of such delinquent payment; such late payment charge to be in addition to interest, costs and other expenses provided for herein, including attorneys' fees; provided that payment by the Makers, and acceptance by the Payees or holders, of such late payment charge shall not waive the rights and remedies of the Payees or holders as provided in any document or instrument securing or guaranteeing repayment of the loan evidenced by this Note, nor be a substitute for timely performance of the Makers' payment obligations hereunder.

On the date of execution and delivery of this Note, Dolce owns and holds all of the membership interests in Regency. George L. Theodule owns or controls some or all of the membership interests of Dolce and is the Managing Member of Dolce. By a separate Unconditional and Continuing Guaranty (the "Guaranty"), George L. Theodule unconditionally guaranteed the timely payment of the indebtedness evidenced by this Note. The Guaranty was given pursuant to a Membership Interest Purchase and Sale Agreement dated of even date herewith (the "Membership Interest Purchase Agreement"). Pursuant to the terms of the Membership Interest Purchase Agreement, this Note is secured by a collateral assignment and pledge agreement (the "Pledge Agreement") executed by Dolce of even date herewith, pledging and encumbering all of the membership interests of Regency and is secured by a second mortgage deed and security agreement (the "Mortgage") executed by Makers of even date herewith, encumbering certain real and personal property located in Orange County, Florida, all as more particularly described therein. The Makers and all persons liable or to become liable on this Note agree that this instrument, the Pledge Agreement and the Mortgage shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida. Any default under this Note shall likewise constitute a default under the Membership Interest Purchase Agreement, the Guaranty, the Mortgage and the Pledge Agreement, and any default under the Guaranty, the Pledge Agreement, the Mortgage or the Membership Interest Purchase Agreement shall likewise constitute a default under this Note. The indebtedness evidenced by this Note may be prepaid or paid in advance without premium or penalty if, but only if, Makers provide to the holders of this Note not less than ten (10) days' prior, written notice of Makers' intent to prepay any portion of principal due hereunder.

In the event (i) any payment of principal or interest due under this Note is not received by the Payees or holders on or before the due date thereof, or (ii) any default occurs in the performance or observance of any other covenant, obligation, provision, stipulation, condition or agreement contained in this Note, the Pledge Agreement, the Guaranty, the Mortgage, the Membership Interest Purchase Agreement or any other instrument or document evidencing or securing the Loan evidenced by this Note (this Note, the Pledge Agreement, the Mortgage, the Guaranty and such other instrument or document being herein and in the Mortgage referred to as a "Loan Document" and collectively as "Loan Documents"), and such default is not cured within ten (10) days following receipt by Makers of written notice of such default provided the character of the default is such that it can reasonably be cured within such ten (10) day period, or (iii) any default occurs in the performance or observance of any covenant, obligation, provision, stipulation or agreement referred to in (ii) above which is of such a nature or character as not to be susceptible of cure within ten (10) days following receipt by Makers of written notice of such default, and Makers either fails to commence, within ten (10) days following Makers' receipt of such written notice of Default, all actions and measures reasonably necessary to effect cure of such default as expeditiously as possible or, if having commenced such actions within said ten (10) day period, Makers fail to diligently and continuously prosecute such actions or measures to completion such that, in any event, the default is cured within twenty (20) days following the date Makers first received written notice of the existence of such default, then, and in any such event, the

entire unpaid principal balance together with all accrued and unpaid interest shall become immediately due and payable without notice, at the option of the holders hereof, anything herein or in the Mortgage or the Pledge Agreement to the contrary notwithstanding, and payment thereof may be enforced and recovered in whole or in part at any time by one or more of the remedies provided to the holders in this Note, the Mortgage and/or the Pledge Agreement. Upon such default, any unpaid portion of the principal, all accrued and unpaid interest, and any other sums due under this Note, the Pledge Agreement or the Mortgage, shall bear interest from the date of default until paid in full at the highest rate of interest allowable under the laws of the State of Florida.

This Note may not be amended, modified or changed, nor shall any waiver of any provision hereof be effective, except by an instrument in writing which is signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought. Time is of the essence with respect to this Note, the Guaranty, the Mortgage, the Pledge Agreement, the Membership Interest Purchase Agreement and each and every provision hereof and thereof.

All obligations of the Makers hereunder are the joint and several obligations of Dolce and Regency. The Makers and any other entities or persons liable or to become liable for all or any part of the indebtedness evidenced by this Note, whether as endorsers, guarantors or otherwise, jointly and severally waive presentment, protest and demand, and also notice of protest, of demand, of nonpayment, of dishonor and of maturity, and waive all suretyship defenses. In addition, they hereby also jointly and severally consent to any and all renewals, extensions or modifications of the terms hereof, including time for payment, and further agree that any such renewal, extension or modification of the terms hereof or the release or substitution of any security for the obligations evidenced hereby shall not affect the liability of any of said parties for the indebtedness evidenced by this Note. Any such renewals, extensions or modifications may be made without notice to any of said parties and without affecting their liability.

All agreements between the Makers and the Payees or holders hereof are expressly limited so that under no contingency or event whatsoever shall the amount paid or agreed to be paid for the use, forbearance, or detention of money advanced, or to be advanced, exceed the highest lawful rate permissible under prevailing law. If fulfillment of any provision hereof or the Mortgage referred to herein or pertaining hereto at the time performance of such provision shall be due shall involve transcending the limit of validity prescribed by statute or which a court of competent jurisdiction may deem applicable hereto, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any or circumstances any Payee or holder hereof shall receive as interest an amount which would exceed the highest lawful rate, such amount which would otherwise be excessive interest shall be refunded to the Makers or, at Makers' election, applied to the reduction of the unpaid balance due hereunder and not in the payment of interest. This provision shall control every other provision of all agreements by or among either of the Makers or any Payee or holder hereof.

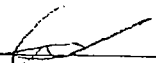
Makers hereby consent and agree that, in any actions predicated upon this Note, venue is properly laid in Orange County, Florida, and that (i) in the event action is commenced in State Court, the Circuit Court in and for Orange County, Florida, shall have full jurisdiction to determine all issues arising out of or in connection with the execution, delivery and/or enforcement of this Note, and (ii) in the event action is commenced in Federal Court, the Federal District Court for the Middle District of Florida (Orlando Division) shall have full jurisdiction to determine all issues arising out of or in connection with the execution, delivery and/or enforcement of this Note. **MAKERS, PAYEES AND ANY HOLDER OF THIS INSTRUMENT WAIVE TO THE FULLEST EXTENT PERMITTED UNDER THE LAWS OF THE STATE OF FLORIDA, ANY RIGHT, POWER, PRIVILEGE OR PREROGATIVE TO DEMAND A JURY TRIAL WITH RESPECT TO ANY AND ALL ISSUES ARISING OUT OF OR IN CONNECTION WITH THE EXECUTION, DELIVERY AND/OR ENFORCEMENT OF THIS NOTE OR THE TRANSACTIONS CONTEMPLATED IN ANY OTHER DOCUMENT OR INSTRUMENT EVIDENCING, SECURING OR RELATING TO THE LOAN EVIDENCED BY THIS NOTE (INCLUDING, BUT NOT LIMITED TO, ANY COUNTERCLAIMS, CROSS-CLAIMS OR THIRD PARTY CLAIMS).**

The Makers and all entities or persons liable or to become liable on this Note agree, jointly and severally, to pay all costs of collection, including reasonable attorneys' and paralegal fees and all costs of suit, in case all or any portion of the indebtedness required to be paid hereunder is not paid when due, or in case it becomes necessary to protect or foreclose the security for the indebtedness evidenced hereby, or in the event any Payee or holder of this instrument is made party to any litigation because of the existence of the indebtedness evidenced by this Note or any agreement executed by either or both of the Makers in connection with the loan evidenced hereby, whether suit be brought or not, and whether through courts of original jurisdiction, as well as in courts of appellate jurisdiction, or through a bankruptcy court or other legal proceedings.


This Note is payable in full on or before the Maturity Date. At maturity, Makers must repay the entire outstanding principal balance together with all accrued interest then due and unpaid. No Payee or holder of this instrument is under any obligation to refinance or otherwise extend the loan evidenced by this Note at maturity. Makers will, therefore, be required to make payment out of other assets Makers may own, or Makers will have to find a lender willing to lend the required funds at then prevailing market rates. No Payee or holder of this instrument shall have any obligation to assist Makers in locating a lender willing to loan the funds required to pay this Note at maturity.

DOLCE REGENCY SUITES, LLC
a Florida limited liability company

REGENCY SUITES I, LLC,
a Florida limited liability company

By: 
George L. Theodule, its sole
Managing Member

By: DOLCE REGENCY SUITES,
LLC, a Florida limited liability
company, its sole Member

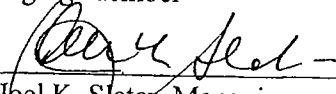
By: 
George L. Theodule, its sole
Managing Member

ENDORSEMENT

FOR VALUE RECEIVED, pay to the order of RS SALE HOLDINGS, LLC, a Florida limited liability company.

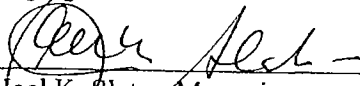
FIVE CORNERS INVESTORS I, LLC

By: ASI HOLDINGS, LLC, a Florida limited liability company, its Managing Member

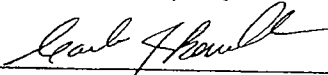
By: 
Joel K. Slater, Managing Member

FIVE CORNERS INVESTORS II, LLC

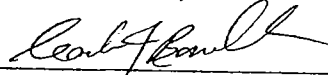
By: ASI HOLDINGS, LLC, a Florida limited liability company, its Managing Member

By: 
Joel K. Slater, Managing Member

CFD-REGENCY I, LLC

By: 
Carlos J. Bonilla, Manager

CFD-REGENCY II, LLC

By: 
Carlos J. Bonilla, Manager

BW ASPIRE, LLC

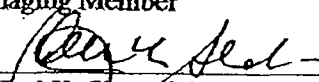
By: _____
David Brett-Williams, Manager

ENDORSEMENT

FOR VALUE RECEIVED, pay to the order of RS SALE HOLDINGS, LLC, a Florida limited liability company.

FIVE CORNERS INVESTORS I, LLC

By: ASI HOLDINGS, LLC, a Florida limited liability company, its Managing Member

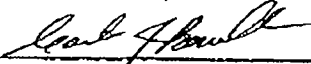
By: 
Joel K. Slater, Managing Member

FIVE CORNERS INVESTORS II, LLC

By: ASI HOLDINGS, LLC, a Florida limited liability company, its Managing Member

By: 
Joel K. Slater, Managing Member

CFD-REGENCY I, LLC

By: 
Carlos J. Bonilla, Manager

CFD-REGENCY II, LLC

By: 
Carlos J. Bonilla, Manager

BW ASPIRE, LLC

By: 
David Brett-Williams, Manager

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

JONATHAN E. PERLMAN, Esq., as court
appointed Receiver of Creative Capital
Consortium, LLC, et al.,

CASE NO. 09-81221-CIV-HURLEY/HOPKINS

Plaintiff,

v.

MILLENIUM EXECUTIVE REALTY, INC.,
and NILDA RIVERA-CRUZ,

Defendants.

JONATHAN E. PERLMAN, Esq., as court
Appointed Receiver of Creative Capital
Consortium, LLC, et al.,

CASE NO. 09-81224-CIV-HURLEY/HOPKINS

Plaintiff,

v.

DOLCE REGENCY SUITES, LLC,

Defendant.

JONATHAN E. PERLMAN, Esq., as court
appointed Receiver of Creative Capital
Consortium, LLC, et al.,

CASE NO. 09-81225-CIV-HURLEY/HOPKINS

Plaintiff,

v.

FIVE CORNERS INVESTORS I, LLC,
FIVE CORNERS INVESTORS II, LLC,
CFD-REGENCY I, LLC, CFD-REGENCY II, LLC,
and BW ASPIRE, LLC,

Defendants.

ORDER APPROVING SETTLEMENT AGREEMENT

This cause came before the Court on the Motion for Approval of Settlement Agreement (the “Motion”) [DE #___] filed by Jonathan E. Perlman, Esq., as court-appointed Receiver (the “Receiver”) of Creative Capital Consortium, LLC and related receivership entities, for the approval of a certain Settlement Agreement reached between the Receiver and above referenced Defendants Millenium Executive Realty, Inc., Nilda Rivera-Cruz, Dolce Regency Suites, LLC, Five Corners Investors I, LLC, Five Corners Investors II, LLC, CFD-Regency I, LLC, CFD-Regency II, LLC, and BW Aspire, LLC (collectively the “Defendants”).

The Settling Parties seek an Order from this Court approving the Settlement Agreement entered into between the Settling Parties. The Court having reviewed the Motion, the Settlement Agreement between the Settling Parties, the record in this action, and being otherwise duly advised in the premises, and finding it appropriate to approve the Motion, it is hereby

ORDERED AND ADJUDGED as follows:

1. The Motion is hereby **GRANTED**. The Settlement Agreement is approved.
2. The Settling Parties are authorized and directed to comply with the terms of the Settlement Agreement.
3. The Court shall retain jurisdiction to enforce the terms of said Settlement Agreement and this Order.

DONE and **ORDERED** in Chambers at West Palm Beach, Florida this ____ day of _____, 2010 in the Southern District of Florida.

DANIEL T.K. HURLEY
UNITED STATES DISTRICT COURT JUDGE